

SUPREME COURT OF THE STATE OF MONTANA

Swan Delavergn Smith v. State of Montana

2007 MT 88N (Supreme Court of the State of Montana 2007) · No. DA 06-0504 · Decided April 3, 2007

SUMMARY

The Montana Supreme Court affirmed the denial of Swan Delavergn Smith’s petition for post-conviction relief. The court held that Smith’s challenge to Montana’s prohibition on using intoxication to contest mental state was procedurally barred because it could have been raised on direct appeal and was not properly preserved in the trial court.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	W. William Leaphart; Brian Morris; John Warner; Patricia Cotter; James C. Nelson
JURISDICTION	Montana
DECIDED	April 3, 2007
DOCKET	DA 06-0504
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a petition for postconviction relief.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Swan Delavergn Smith v. State of Montana

TOPICS

- state post-conviction relief
- post-conviction relief
- preservation of error
- appellate procedure
- constitutional law

PRACTICE AREAS

- criminal law
- postconviction litigation
- criminal procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether Smith's Montana constitutional challenge to Montana Code § 45-2-203 was procedurally barred because it could have been raised on direct appeal.

2. Whether Smith's general trial-court assertion that the statute violated due process and inhibited his right to present a defense preserved a challenge under Article II, Sections 3, 4, and 24 of the Montana Constitution.

HOLDINGS

1. Montana Code § 46-21-105(2) bars postconviction review of claims that could have been raised on direct appeal, including issues that were not properly preserved at the trial level.
2. A vague statement that a statute violated due process because it inhibited the defendant's right to present a defense did not specifically preserve claims under Article II, Sections 3 and 4 of the Montana Constitution.

KEY QUOTATIONS

“Claims that could have been raised on direct appeal are barred from review under a petition for postconviction relief.” (¶7)

“It is manifest on the face of the briefs and the record before us that the appeal is procedurally barred pursuant to § 46-21-105(2), MCA.” (¶10)

FACTUAL BACKGROUND

Swan Smith was convicted of deliberate homicide and sentenced to life imprisonment. The underlying offense involved Smith beating the victim to death while intoxicated. In postconviction proceedings, Smith challenged Montana Code § 45-2-203, which prohibits reliance on intoxication concerning mental state, asserting for the first time that it violated Montana constitutional protections concerning the right to present a defense.

PROCEDURAL HISTORY

Smith was convicted of deliberate homicide and sentenced to life imprisonment, and the Montana Supreme Court affirmed the conviction on direct appeal. He later sought postconviction relief, arguing for the first time that Montana's statutory limitation on the intoxication defense violated his right to present a defense under the Montana Constitution. The District Court denied relief under the statutory procedural bar for claims that could have been raised on direct appeal, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Smith, 2005 MT 325, 329 Mont. 526, 127 P.3d 353
- Montana v. Egelhoff, 518 U.S. 37, 116 S. Ct. 2013 (1996)
- State v. Baker, 272 Mont. 273, 281, 901 P.2d 54, 58 (1995)

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