

SUPREME COURT OF MONTANA

State v. MacGregor

2013 MT 297 (2013) · No. DA 11-0498 · Decided November 26, 2013

SUMMARY

The Supreme Court of Montana issued an order amending paragraphs 24 and 50 of its opinion in State v. MacGregor after denying the defendant's petition for rehearing. The amendments addressed standby counsel and ineffective-assistance claims, as well as the defendant's contention that the jury should have considered mitigated deliberate homicide.

CASE DETAILS

COURT	Supreme Court of Montana
JURISDICTION	Montana
DECIDED	November 26, 2013
DOCKET	DA 11-0498
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed his criminal conviction and related rulings from the First Judicial District Court. After the Supreme Court affirmed in an October 15, 2013 opinion, the defendant petitioned for rehearing; the court denied rehearing but amended two paragraphs of its opinion and issued an amended opinion.
PRECEDENTIAL VALUE	published
PARTIES	Jeremy Steven MacGregor v. State of Montana

TOPICS

- right to counsel
- ineffective assistance
- sixth amendment
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether actions or inaction by standby counsel could establish a violation of the Sixth Amendment right to effective assistance of counsel.

2. Whether the district court erred by failing to conduct additional inquiry into MacGregor's complaints about representation while his request to represent himself was pending.
3. Whether MacGregor presented sufficient evidence of direct provocation or another mitigating factor to support submission of mitigated deliberate homicide to the jury.

HOLDINGS

1. Standby counsel does not constitute counsel for Sixth Amendment purposes and therefore cannot be the basis for a claim that counsel violated the right to effective assistance.
2. The district court did not err by failing to conduct additional inquiry into MacGregor's complaint concerning representation.
3. MacGregor did not establish a mitigating factor sufficient to support consideration of mitigated deliberate homicide because the circumstances he identified reflected accumulated stress, anger, and intoxication rather than direct provocation.

KEY QUOTATIONS

“Standby counsel does not constitute counsel for Sixth Amendment purposes.” (¶ 24)

“But mitigating factors arise from some sort of direct provocation, not simply the buildup of stress and anger.” (¶ 50)

FACTUAL BACKGROUND

MacGregor was evaluated for competency while he had requested permission to represent himself, and counsel was designated standby counsel during that period. He alleged that counsel failed to develop a strategy or contact him while he was hospitalized at the Montana State Hospital. He also argued that the jury should have been allowed to consider mitigated deliberate homicide based on intoxication, stress, family circumstances, employment difficulties, and other personal pressures, but the amended opinion states that he presented no evidence of direct provocation or corroboration of involuntary intoxication.

PROCEDURAL HISTORY

The First Judicial District Court entered the underlying decision against MacGregor. The Supreme Court of Montana issued an opinion affirming that decision on October 15, 2013. MacGregor filed a petition for rehearing, which the court denied, while ordering minor amendments concerning ineffective assistance and mitigation.

DISPOSITION

affirmed

CASES CITED

- Halley v. State, 2008 MT 193, ¶ 22, 344 Mont. 37, 186 P.3d 859
- United States v. Taylor, 933 F.2d 307, 313 (5th Cir. 1991)

- Hans v. State, 283 Mont. 379, 399, 942 P.2d 674, 686 (1997)
- State v. Goulet, 283 Mont. 38, 42, 938 P.2d 1330, 1333 (1997)
- State v. Martin, 2001 MT 83, ¶¶ 33-34, 305 Mont. 123, 23 P.3d 216

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