

SUPREME COURT OF THE STATE OF MONTANA

State v. McDonald

369 Mont. 483, 2013 MT 97 (2013) · No. DA 11-0779 · Decided April 10, 2013

SUMMARY

The Montana Supreme Court affirmed Ramah Irene McDonald’s felony conviction for assault on a peace officer. The Court held that the prosecutor’s comments during closing argument, including statements concerning witness credibility, did not warrant plain-error review or reversal when considered in context. Justice Cotter dissented, concluding that the prosecutor improperly vouched for witnesses and that the close evidentiary case required a new trial.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Jim Rice; Chief Justice Mike McGrath; Justice Michael E. Wheat; Justice Beth Baker
JURISDICTION	Montana
DECIDED	April 10, 2013
DOCKET	DA 11-0779
DISPOSITION	affirmed
PROCEDURAL POSTURE	McDonald appealed her felony conviction for assault on a peace officer, arguing that the prosecutor's closing-argument comments constituted plain error despite the absence of a contemporaneous objection.
STANDARD OF REVIEW	Unpreserved claims generally are not reviewed, but the court may exercise discretionary plain-error review when a fundamental constitutional right is implicated and failure to review could result in a manifest miscarriage of justice, leave the fundamental fairness of the proceedings unsettled, or compromise the integrity of the judicial process. Alleged improper closing-argument statements are considered in the context of the entire argument, and prejudice is not presumed.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Ramah Irene McDonald v. State of Montana

TOPICS

prosecutorial misconduct

appellate procedure

criminal procedure

sixth amendment

standard of review

PRACTICE AREAS

criminal procedure

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evidence

constitutional law

QUESTIONS PRESENTED

1. Whether the prosecutor's comments during closing argument constituted prosecutorial misconduct amounting to plain error requiring reversal of McDonald's conviction.

HOLDINGS

1. The prosecutor's comments, viewed in the context of the entire argument, did not constitute misconduct so serious as to require the Montana Supreme Court to exercise plain-error review to protect the fundamental fairness or integrity of the proceeding.
2. A prosecutor may comment on the evidence, conflicts and contradictions in testimony, witness credibility as submitted to the jury, and inferences supported by the evidence, but may not improperly substitute the prosecutor's personal opinion for the jury's credibility determination.

KEY QUOTATIONS

“Taken in isolation, the prosecutor’s comments that Pavalone was “completely believable” and that the State’s witnesses were “telling you the truth” raise facial concerns that the prosecutor was attempting to vouch for the witnesses and interject his personal opinion.” (369 Mont. at 489; ¶ 16)

“In consideration of these principles, we conclude that the challenged comments made in closing argument did not raise the specter of prosecutorial misconduct necessitating the exercise of plain error review to protect fundamental fairness of this proceeding.” (369 Mont. at 489; ¶ 17)

FACTUAL BACKGROUND

McDonald, an inmate at the Missoula County Detention Center, became involved in a dispute with detention officers after refusing an instruction concerning paper covering her cell window and then refusing to report to the maximum-security unit. During the ensuing physical altercation, Officer Paige Pavalone claimed that McDonald bit her arm, and two other officers testified that Pavalone yelled that she was being bitten. Another officer observed a red mark and apparent saliva on Pavalone's arm, while McDonald and another inmate denied that McDonald bit Pavalone. The prosecutor made several comments during closing argument concerning the credibility and truthfulness of the State's witnesses, but defense counsel did not object.

PROCEDURAL HISTORY

McDonald was charged under § 45-5-210, MCA, after an altercation with a detention officer. Her first trial ended in a mistrial when the jury could not reach a verdict. After a retrial, a jury found her guilty, and the Fourth Judicial District Court entered judgment. The Montana Supreme Court declined to invoke plain-error review and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hayden, 2008 MT 274, 345 Mont. 252, 190 P.3d 1091
- State v. Daniels, 2003 MT 247, 317 Mont. 331, 77 P.3d 224
- State v. Rosling, 2008 MT 62, 342 Mont. 1, 180 P.3d 1102
- Clausell v. State, 2005 MT 33, 326 Mont. 63, 106 P.3d 1175
- State v. Makarchuk, 2009 MT 82, 349 Mont. 507, 204 P.3d 1213
- State v. Roubideaux, 2005 MT 324, 329 Mont. 521, 125 P.3d 1114
- State v. St. Germain, 2007 MT 28, 336 Mont. 17, 153 P.3d 591
- State v. Green, 2009 MT 114, 350 Mont. 141, 205 P.3d 798
- State v. Staat, 251 Mont. 1, 822 P.2d 643 (1991)
- State v. Gladue, 1999 MT 1, 293 Mont. 1, 972 P.2d 827
- State v. Tadewaldt, 2010 MT 177, 357 Mont. 208, 237 P.3d 1273
- State v. Whitlow, 285 Mont. 430, 949 P.2d 239 (1997)
- State v. Stearns, 2008 MT 356, 346 Mont. 348, 195 P.3d 794
- State v. Stringer, 271 Mont. 367, 897 P.2d 1063 (1995)
- State v. Arlington, 265 Mont. 127, 875 P.2d 307 (1994)
- State v. McDonald, 2011 MT 259N, 363 Mont. 413