

SUPREME COURT OF MONTANA

State v. Montana Ninth Judicial District Court

375 Mont. 488 (2014) · Decided July 15, 2014

SUMMARY

The Montana Supreme Court granted the State’s petition for a writ of supervisory control concerning whether a criminal defendant could introduce his own unsworn, out-of-court statement to support a claim of justifiable use of force. The Court held that the statement, offered to establish what the defendant knew about the victim’s alleged violent conduct, was hearsay and was not admissible for the proposed purpose. The Court vacated the district court’s order permitting the defendant to use the statement in that manner.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Wheat; Justice Cotter; Justice Baker; Justice Rice; Justice McKinnon; District Court Judge Brown, sitting for Justice Laurie McKinnon; District Court Judge Gilbert, sitting for the vacant position
JURISDICTION	Montana
DECIDED	July 15, 2014
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The State petitioned the Montana Supreme Court for a writ of supervisory control over a pretrial evidentiary order of the Ninth Judicial District Court in Teton County Cause No. DC 12-009.
STANDARD OF REVIEW	Supervisory control is an extraordinary remedy appropriate when the normal appeal process is inadequate, purely legal questions are involved, and the lower court is proceeding under a mistake of law causing a gross injustice.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State of Montana v. Montana Ninth Judicial District Court

TOPICS

- criminal procedure
- evidence
- hearsay
- self defense
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Montana Supreme Court should exercise supervisory control over the district court's pretrial evidentiary ruling.
2. Whether Lau's unsworn out-of-court statement recounting what Pfeifer told him about Kline's alleged violence was admissible to establish Lau's knowledge in support of his self-defense claim.
3. Whether Montana's 2009 justifiable-use-of-force statutes displaced or altered the Montana Rules of Evidence.
4. Whether requiring Lau to present admissible evidence of his knowledge violated the statutory burden of proof or his constitutional right to present a defense and remain silent.

HOLDINGS

1. Supervisory control was appropriate because the State lacked an adequate ordinary appellate remedy, the evidentiary issue presented a purely legal question, and the district court was proceeding under a mistake of law causing a gross injustice.
2. Lau could not introduce his own statement to investigators, insofar as he offered it to prove that Pfeifer told him about Kline's violent acts, because the statement was hearsay and no recognized hearsay exception applied.
3. When justifiable use of force is placed at issue, evidence of specific instances of the victim's conduct may be offered under the Montana Rules of Evidence, but the defendant must establish through admissible evidence that he knew of the conduct and that the knowledge led to the use of force.
4. Sections 46-16-131 and 45-3-112, MCA, did not displace the Montana Rules of Evidence, require disclosure of investigative materials to the jury, or permit admission of otherwise inadmissible hearsay.
5. Requiring Lau to comply with established rules governing hearsay and character evidence did not violate his right to present a defense or his right to remain silent.

KEY QUOTATIONS

“Supervisory control is an extraordinary remedy that may be justified when the normal appeal process is inadequate, purely legal questions are involved, and the other court is proceeding under a mistake of law, causing a gross injustice.” (489)

“Evidence of the character of a victim of an assault is limited to what the defendant knew at the time [he] used force, and the defendant must show that this knowledge led to the use of force.” (490)

“The statute does not mandate disclosure of investigative materials to the jury.” (491)

“The admissibility of evidence is a separate issue from determining which party bears the burden of proof.” (492)

FACTUAL BACKGROUND

Lau was charged with deliberately killing Donald Kline by shooting him and claimed justifiable use of force in self-defense. During a 911 call shortly before the shooting, Lau referred to Kline as a man who had been abusing Susan Pfeifer and said that Kline was threatening Pfeifer and him. Four months later, Lau gave investigators a transcribed, unsworn statement, accompanied by counsel, in which he recounted what Pfeifer had allegedly told him about Kline's violent acts. Lau sought to introduce that statement to establish his knowledge of specific instances of Kline's conduct without testifying.

PROCEDURAL HISTORY

Lau was charged with deliberate homicide and asserted self-defense. The district court ruled that Lau could cross-examine witnesses about his knowledge of specific violent acts by the victim without testifying, and permitted an offer of proof, but the State sought supervisory control to challenge the ruling before trial. The Montana Supreme Court granted supervisory control and vacated the district court's January 21, 2014 order.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The district court's January 21, 2014 order was vacated. The opinion does not direct a further specific procedure beyond application of the Rules of Evidence consistent with the court's ruling.

CASES CITED

- Stokes v. Thirteenth Jud. Dist. Ct., 2011 MT 182, ¶ 5, 361 Mont. 279, 259 P.3d 754
- State v. Dist. Ct. of the Eighteenth Jud. Dist., 2010 MT 263, ¶¶ 30-31, 358 Mont. 325, 246 P.3d 415
- State v. Logan, 156 Mont. 48, 65, 473 P.2d 833, 842 (1970)
- State v. Henson, 2010 MT 136, ¶ 27, 356 Mont. 458, 235 P.3d 1274
- Deschon v. State, 2008 MT 380, ¶ 24, 347 Mont. 30, 197 P.3d 476
- City of Red Lodge v. Nelson, 1999 MT 246, ¶ 19, 296 Mont. 190, 989 P.2d 300
- State v. Montgomery, 2005 MT 120, ¶ 19, 327 Mont. 138, 112 P.3d 1014
- State v. Losson, 262 Mont. 342, 348, 865 P.2d 255, 258-59 (1993)
- State v. Hardman, 2012 MT 70, ¶ 31, 364 Mont. 361, 276 P.3d 839
- Murray v. Talmage, 2006 MT 340, ¶ 16, 335 Mont. 155, 151 P.3d 49
- Vincelette v. Metro. Life Ins. Co., 1998 MT 259, ¶¶ 19-21, 291 Mont. 261, 968 P.2d 275
- Riggs v. State, 2011 MT 239, ¶ 58, 362 Mont. 140, 264 P.3d 693
- State v. Daniels, 2011 MT 278, ¶¶ 23, 33, 362 Mont. 426, 265 P.3d 623
- State v. Mitchell, 2012 MT 227, ¶ 16, 366 Mont. 379, 286 P.3d 1196
- State v. Cooksey, 2012 MT 226, ¶ 37, 366 Mont. 346, 286 P.3d 1174
- State v. Ryan, 166 Mont. 419, 423, 533 P.2d 1076, 1079 (1975)

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