

SUPREME COURT OF THE STATE OF MONTANA

State v. Donald Wayne Pulst

379 Mont. 494, 2015 MT 184 (2015) · No. DA 13-0509 · Decided June 30, 2015

SUMMARY

The Montana Supreme Court reviewed Donald Wayne Pulst’s convictions for sexual assault, sexual intercourse without consent, and indecent exposure. The court upheld the admission of limited evidence concerning an uncharged assault and the exclusion of evidence of possible later physical abuse of a witness. It reversed and remanded only to correct written sentencing conditions that were inconsistent with the orally pronounced sentence.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Michael E. Wheat; Michael E. Wheat; Patricia Cotter; Beth Baker; Laurie McKinnon; Jim Rice
JURISDICTION	Montana
DECIDED	June 30, 2015
DOCKET	DA 13-0509
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from convictions and sentence entered by the Montana Twelfth Judicial District Court after a jury trial.
STANDARD OF REVIEW	Criminal sentences longer than one year are reviewed for legality. Evidentiary rulings are generally reviewed for abuse of discretion; de novo review applies when the district court's reasons are not apparent from the record.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Donald Wayne Pulst v. State of Montana

TOPICS

- criminal procedure
- evidence
- sentencing
- appellate procedure
- remedies

PRACTICE AREAS

- criminal procedure
- evidence
- sentencing
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- remedies

QUESTIONS PRESENTED

1. Whether the District Court abused its discretion by admitting evidence of an uncharged Washington sexual assault.
2. Whether the District Court abused its discretion by excluding evidence of possible physical abuse of K.S. by her husband several years after the alleged sexual assaults.
3. Whether the District Court erred by entering a written sentence inconsistent with the sentence orally pronounced in the defendant's presence.

HOLDINGS

1. The District Court did not abuse its discretion by admitting limited evidence of the Washington assault to explain the timing and circumstances of A.B.'s disclosure, while restricting the details and instructing the jury on the evidence's limited use.
2. The District Court did not abuse its discretion by excluding evidence of bruises observed on K.S. years later and testimony speculating that her husband caused them.
3. The oral pronouncement of sentence in the defendant's presence is the legally effective sentence and final judgment; a written judgment may not increase or materially alter that sentence. Conditions 4, 7, and 25 of Pulst's written judgment were inconsistent with the oral sentence and had to be corrected.

KEY QUOTATIONS

“The “oral pronouncement of a criminal sentence in the presence of the defendant is the legally effective sentence and valid, final judgment.”” (¶ 32)

FACTUAL BACKGROUND

Pulst was accused of sexually assaulting his niece A.B. during childhood visits to Montana and during a 1999 visit to Washington. A.B.'s disclosure led to K.S., another relative, reporting that Pulst had sexually assaulted her as a child. At trial, the court admitted limited evidence concerning the Washington assault to explain the timing and circumstances of A.B.'s disclosure, but excluded evidence consisting of bruises observed on K.S. years later and speculation that her husband caused them. The jury convicted Pulst, and the written sentence included conditions that improperly increased or altered portions of the sentence orally pronounced.

PROCEDURAL HISTORY

Pulst was charged with sexual assault, sexual intercourse without consent, and indecent exposure. After a jury convicted him on all charges, the District Court orally pronounced sentence and later entered a written judgment containing several conditions that differed from the oral sentence. Pulst appealed the evidentiary rulings and the inconsistency between the oral and written sentences.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for correction of conditions 4, 7, and 25 of the District Court's written judgment so that the written judgment conforms to the sentence orally pronounced.

CASES CITED

- State v. Greene, 2015 MT 1, ¶ 13, 378 Mont. 1, 340 P.3d 551
- State v. Berosik, 2009 MT 260, ¶ 28, 352 Mont. 16, 214 P.3d 776
- State v. Clifford, 2005 MT 219, ¶ 52, 328 Mont. 300, 121 P.3d 489
- State v. Stewart, 2012 MT 317, ¶¶ 58, 68, 367 Mont. 503, 291 P.3d 1187
- State v. Bieber, 2007 MT 262, ¶ 59, 339 Mont. 309, 170 P.3d 444
- State v. Franks, 2014 MT 273, ¶¶ 14-17, 376 Mont. 431, 335 P.3d 725
- State v. Hantz, 2013 MT 311, ¶ 44, 372 Mont. 281, 311 P.3d 800
- McDermott v. Carie, 2005 MT 293, ¶¶ 20-23, 329 Mont. 295, 124 P.3d 168
- State v. Passmore, 2010 MT 34, ¶ 64, 355 Mont. 187, 225 P.3d 1229
- Henricksen v. State, 2004 MT 20, ¶ 64, 319 Mont. 307, 84 P.3d 38

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