

SUPREME COURT OF SOUTH DAKOTA

State v. Miller

717 N.W.2d 614 (S.D. 2006), 2006 SD 54 · No. No. 23846 · Decided June 21, 2006

SUMMARY

The Supreme Court of South Dakota held that a defendant who pleads not guilty and proceeds to trial has no statutory or constitutional right to be advised by the court of applicable mandatory minimum sentences. The court concluded that the circuit court erred in refusing to impose the mandatory minimum sentences, but affirmed because Miller suffered no prejudice. The court did not reach the attorney-client privilege issue.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gilbertson, Chief Justice; Sabers, Justice; Konen kamp, Justice; Meierhenry, Justice; Zinter, Justice
JURISDICTION	South Dakota
DECIDED	June 21, 2006
DOCKET	No. 23846
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from criminal convictions and sentences after the circuit court denied Miller's motion for a new trial and ruled that due process required notice of the applicable mandatory minimum sentences.
STANDARD OF REVIEW	Constitutional-right claims are reviewed de novo. A direct appeal from a conviction receives greater scrutiny than a collateral habeas corpus challenge.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of South Dakota.
PARTIES	Myron Miller v. State of South Dakota

TOPICS

- criminal procedure
- due process
- sentencing
- arraignment
- statutory interpretation

PRACTICE AREAS

- criminal procedure
- constitutional law
- sentencing
- plea procedure

QUESTIONS PRESENTED

1. Whether a defendant who pleads not guilty and proceeds to trial has a statutory or Fifth Amendment due process right to be advised before or during trial of the mandatory minimum sentence applicable to the charged offense.
2. Whether the circuit court's failure to provide such an advisement warranted a new trial or otherwise invalidated the sentence.
3. Whether the attorney-client privilege barred testimony from Miller's counsel concerning whether Miller had received notice of the mandatory minimum penalties.

HOLDINGS

1. A defendant who pleads not guilty and proceeds to trial has no statutory or constitutional due process right to receive an advisement from the circuit court concerning the mandatory minimum sentence.
2. Any error in the circuit court's refusal to impose the mandatory minimum was harmless because Miller received an effective ten-year sentence, the same imprisonment term that would have resulted from two consecutive five-year mandatory minimum sentences.

KEY QUOTATIONS

“The language of SDCL 23A-7-4 makes it clear that the circuit court is required to give an advisement of any mandatory minimum sentence the defendant might face only when the defendant enters a plea of guilty or nolo contendere.” (at 620-621)

“Because we hold that the defendant was not entitled by statute or by the Due Process Clause of the Constitution to an advisement of the mandatory minimum upon a plea of not guilty, we do not need to address Miller’s claim that the attorney-client privilege prohibited the circuit court from requiring testimony from his arraignment and trial counsel concerning the advisement.” (at 623)

FACTUAL BACKGROUND

Miller was charged after an alleged sexual-molestation incident involving B.K., the eight- or nine-year-old daughter of his girlfriend. He pleaded not guilty and proceeded to trial after being advised of the maximum penalties but not the mandatory minimum penalties under SDCL 22-22-1.2. The jury acquitted him of two first-degree rape counts and convicted him of two counts of sexual contact with a child under sixteen; the circuit court imposed consecutive sentences resulting in an effective ten years of imprisonment.

PROCEDURAL HISTORY

Miller was indicted on three counts of first-degree rape and three alternative counts of sexual contact with a child under sixteen. After two counts were dismissed, a jury acquitted him of the remaining rape counts and convicted him of two counts of sexual contact with a minor. The circuit court denied his motion for a new trial, sustained his objection to imposition of the mandatory minimum sentences, and imposed consecutive sentences with suspensions. Miller appealed, and the South Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Dillon, 2001 SD 97, 632 N.W.2d 37
- State v. Stanga, 2000 SD 129, 617 N.W.2d 486
- State v. Moeller, 511 N.W.2d 803 (S.D. 1994)
- Boykin v. Alabama, 395 U.S. 238 (1969)
- Johnson v. Zerbst, 304 U.S. 458 (1938)
- Weatherford v. Bursey, 429 U.S. 545 (1977)
- State v. Richards, 2002 SD 18, 640 N.W.2d 480
- State v. Wilson, 459 N.W.2d 457 (S.D. 1990)
- McCarthy v. United States, 394 U.S. 459 (1969)
- United States v. Robertson, 698 F.2d 703 (5th Cir. 1983)
- City of Fargo v. Bommersbach, 511 N.W.2d 563 (N.D. 1994)
- State v. Crawford, 128 Wash. App. 376, 115 P.3d 387 (2005)
- State v. Heftel, 513 N.W.2d 397 (S.D. 1994)
- Duncan v. Louisiana, 391 U.S. 145 (1968)
- Pointer v. Texas, 380 U.S. 400 (1965)
- Malloy v. Hogan, 378 U.S. 1 (1964)
- Nguyen v. United States, 114 F.3d 699 (8th Cir. 1997)