

SUPREME COURT OF MONTANA

State v. Yorek

45 P.3d 872 (Mont. 2002) · No. No. 01-351 · Decided April 16, 2002

SUMMARY

The Supreme Court of Montana affirmed the dismissal of Terry Gene Yorek's petition for postconviction relief. The court held that a district court has statutory authority and subject matter jurisdiction to designate a defendant convicted of felony DUI as a persistent felony offender under Montana law, provided the statutory requirements and notice provisions are satisfied.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Patricia O. Cotter; Karla M. Gray; James C. Nelson; Terry N. Trieweiler; Jim Rice
JURISDICTION	Montana
DECIDED	April 16, 2002
DOCKET	No. 01-351
DISPOSITION	affirmed
PROCEDURAL POSTURE	Yorek appealed the dismissal of his petition for postconviction relief challenging the district court's subject matter jurisdiction to designate and sentence him as a persistent felony offender following his felony DUI conviction.
STANDARD OF REVIEW	The court reviewed the denial of postconviction relief for clearly erroneous factual findings and correct conclusions of law.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Montana; precedential under Montana law.
PARTIES	Terry Gene Yorek v. State of Montana

TOPICS

- state post-conviction relief
- sentencing
- statutory interpretation
- criminal procedure

PRACTICE AREAS

- criminal law
- postconviction relief
- sentencing

QUESTIONS PRESENTED

1. Whether a Montana district court possesses subject matter jurisdiction and statutory authority to designate and sentence a defendant as a persistent felony offender when the defendant is being sentenced for felony DUI.
2. Whether Yorek's guilty plea procedurally barred his postconviction challenge to the persistent felony offender designation.

HOLDINGS

1. A district court possesses subject matter jurisdiction and statutory authority to designate and sentence a defendant as a persistent felony offender when the underlying DUI conviction qualifies as a felony and the State satisfies the statutory notice requirements.
2. The court did not decide whether the guilty plea procedurally barred the claim because the jurisdictional issue was dispositive and the court concluded that the district court had subject matter jurisdiction.

KEY QUOTATIONS

"Moreover, 'a district court has no power to impose a sentence in the absence of specific statutory authority.'" (45 P.3d at 875)

"The persistent felony offender provision makes no distinction between or among the types of felonies to which it applies, nor does it exclude offenders convicted of DUI violations." (45 P.3d at 875)

FACTUAL BACKGROUND

Yorek was charged with felony DUI, his seventh offense, and three misdemeanors. After the State provided notice that it intended to seek persistent felony offender status based on Yorek's prior Texas felony DUI conviction, Yorek entered an open plea agreement and pleaded guilty. The district court designated him a persistent felony offender and imposed a fifteen-year sentence with ten years suspended, in addition to the felony DUI sentence and sentences on the misdemeanor counts.

PROCEDURAL HISTORY

Yorek pleaded guilty to felony DUI and three misdemeanor offenses. The district court designated him a persistent felony offender and imposed consecutive sentences. Yorek later petitioned for postconviction relief, asserting ineffective assistance of counsel and lack of subject matter jurisdiction; the district court dismissed the petition, concluding that it had jurisdiction and that the jurisdictional challenge was waived. On appeal, the Montana Supreme Court addressed the jurisdictional issue and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Charlo, 2000 MT 192, ¶ 7, 300 Mont. 435, 4 P.3d 1201

- State v. Moorman, 279 Mont. 330, 336, 928 P.2d 145, 149 (1996)
- State v. Nelson, 1998 MT 227, ¶ 24, 291 Mont. 15, 966 P.2d 133
- State v. Hatfield, 256 Mont. 340, 346, 846 P.2d 1025, 1029 (1993)
- State v. Wilson, 279 Mont. 34, 37, 926 P.2d 712, 714 (1996)

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