

SUPREME COURT OF THE STATE OF MONTANA

State v. Miller

2003 MT 311N (2003) · No. No. 02-318 · Decided November 13, 2003

SUMMARY

The Montana Supreme Court affirmed the denial of John O. Miller IV’s second petition for postconviction relief. Miller alleged ineffective assistance of counsel, mental disease or defect affecting his guilty pleas, improper additional punishment, and inability to timely file. The court held that the District Court properly applied the statutory filing requirements, did not abuse its discretion in denying an evidentiary hearing, and made no clearly erroneous findings or legal errors.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	W. William Leaphart; James C. Nelson; Jim Regnier; John Warner; Patricia Cotter
JURISDICTION	Montana
DECIDED	November 13, 2003
DOCKET	No. 02-318
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the District Court's denial, without an evidentiary hearing, of Miller's second petition for postconviction relief.
STANDARD OF REVIEW	The court reviews a district court's denial of postconviction relief for correctness of its conclusions of law and clear error in its findings of fact. Discretionary rulings, including whether to hold an evidentiary hearing, are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion
PARTIES	John O. Miller, IV v. State of Montana

TOPICS

- state post-conviction relief
- successive petitions
- ineffective assistance
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the District Court properly denied Miller's second petition for postconviction relief as barred by the applicable statutory time limit.
2. Whether the District Court abused its discretion by denying the second petition without holding an evidentiary hearing.
3. Whether the District Court's findings of fact were clearly erroneous or its conclusions of law incorrect.

HOLDINGS

1. The District Court followed the statutory guidelines governing postconviction-relief claims, and its denial of Miller's second petition was proper.
2. The District Court did not abuse its discretion in denying Miller's second postconviction petition without an evidentiary hearing.
3. The District Court's findings of fact were not clearly erroneous and its conclusions of law were correct.

KEY QUOTATIONS

“we determine that the legal issues raised in this appeal are clearly controlled by settled Montana law” (§ 1)

“We review a district court’s denial of a petition for postconviction relief to determine if the court’s conclusions of law are correct and whether its findings of fact are clearly erroneous.” (§ 5)

“Discretionary rulings in postconviction relief proceedings, including rulings relating to whether to hold an evidentiary hearing, are reviewed for abuse of discretion.” (§ 5)

FACTUAL BACKGROUND

Miller was charged with two deliberate homicides arising from events on or about September 14, 1990. He entered one Alford plea and one guilty plea, and the District Court imposed two concurrent life sentences. After his first postconviction petition was denied and affirmed on appeal, he filed a second petition alleging ineffective assistance, mental disease or defect affecting his pleas and sentence, and an inability to file timely because of that condition. The District Court denied the second petition without an evidentiary hearing after reviewing the submitted documentation.

PROCEDURAL HISTORY

Miller was convicted after entering one Alford plea and one guilty plea to two deliberate-homicide counts and received two concurrent life sentences. His first petition for postconviction relief was denied by the District Court, and the Montana Supreme Court affirmed in 1996. Miller filed a second petition in 2002, alleging ineffective assistance, mental disease or defect affecting the validity of his pleas and sentencing, and inability to file timely; the District Court denied the petition as barred and unsupported without an evidentiary hearing. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Miller (1996), 278 Mont. 231, 924 P.2d 690
- State v. Root, 2003 MT 28, ¶ 7, 314 Mont. 186, 64 P.3d 1035
- State v. Hanson, 1999 MT 226, ¶ 9, 296 Mont. 82, 988 P.2d 299

OPINION

PER CURIAM.

No. 02-318 IN THE SUPREME COURT OF THE STATE OF MONTANA 2003 MT 311N STATE OF MONTANA, Plaintiff and Respondent, v. JOHN O. MILLER, IV, Defendant and Appellant. APPEAL FROM: District Court of the Twenty-Second Judicial District, In and For the County of Stillwater, Cause No. DC 91-01, Honorable Russell C. Fagg, Presiding Judge COUNSEL OF RECORD: For Appellant: John O. Miller, IV, Pro Se, Deer Lodge, Montana For Respondent: Honorable Mike McGrath, Attorney General; Tammy K. Plubell, Assistant Attorney General; Helena, Montana John Petak III, Stillwater County Attorney, Columbus, Montana Submitted on Briefs: September 25, 2003 Decided: November 13, 2003 Filed: _____ Clerk Justice W. William Leaphart delivered the Opinion of the Court. ¶1 Pursuant to Section I, Paragraph 3(d)(i), Montana Supreme Court 1996 Internal Operating Rules (Memorandum Opinions), we determine that the legal issues raised in this appeal are clearly controlled by settled Montana law; that the issues are factual and there clearly is sufficient evidence to support the findings of fact below; and that the court's conclusions of law are correct.

The following decision shall not be cited as precedent but shall be filed as a public document with the Clerk of the Supreme Court and shall be reported by case title, Supreme Court cause number and result to the State Reporter Publishing Company and to West Group in the quarterly table of noncitable cases issued by this Court. ¶2 John O. Miller, IV (Miller), appeals the District Court's denial of his petition for postconviction relief.

We affirm. ¶3 Miller was charged with committing two counts of deliberate homicide occurring on or about September 14, 1990. On August 2, 1991, Miller entered one Alford plea and one guilty plea to the two counts at a district court change of plea hearing. Prior to sentencing, a presentence investigation and psychological evaluation were conducted.

The District Court then sentenced Miller to two concurrent life sentences. Miller filed a petition for postconviction relief in January of 1995 alleging he did not understand the maximum penalty possible, he was not aware his parole eligibility could be restricted, and the State breached the plea

agreement by making a recommendation regarding how many years Miller should serve before becoming eligible for parole.

Miller later amended his petition to include an ineffective assistance of counsel claim. The court denied Miller's petition and upheld his 2 conviction and sentence. On appeal, we affirmed the court's denial of Miller's petition for postconviction relief. *State v. Miller* (1996), 278 Mont. 231, 924 P.2d 690. ¶4 Miller filed a second petition for postconviction relief on February 6, 2002, well after the five-year statutory bar (in effect at the time of his conviction) for such petitions.

This second petition alleged that Miller was denied effective assistance of counsel, Miller suffered from a serious mental disease or defect that should have rendered his guilty pleas unacceptable, the District Court imposed additional punishment based on Miller's serious mental disease or defect, and Miller was unable to present the petition in a timely manner because of his alleged mental disease or defect.

After carefully reviewing the documents Miller submitted with his petition, the District Court denied Miller's petition without holding an evidentiary hearing. Miller presently appeals from this denial of his second petition for postconviction relief. ¶5 We review a district court's denial of a petition for postconviction relief to determine if the court's conclusions of law are correct and whether its findings of fact are clearly erroneous.

State v. Root, 2003 MT 28, ¶ 7, 314 Mont. 186, ¶ 7, 64 P.3d 1035, ¶ 7 (citation omitted). "Discretionary rulings in postconviction relief proceedings, including rulings relating to whether to hold an evidentiary hearing, are reviewed for abuse of discretion." *State v. Hanson*, 1999 MT 226, ¶ 9, 296 Mont. 82, ¶ 9, 988 P.2d 299, ¶ 9 (citation omitted). ¶6 The District Court followed the statutory guidelines for the filing of postconviction relief claims.

Section 46-21-105(1), MCA. The court also closely examined the documentation Miller provided concerning his claim of severe mental disease or defect. No abuse of discretion occurred. The court's findings of fact were not clearly erroneous.

The court's conclusions of law were correct. We affirm. /S/ W. WILLIAM LEAPHART We concur: /S/ JAMES C. NELSON /S/ JIM REGNIER /S/ JOHN WARNER /S/ PATRICIA COTTER 4