

SUPREME COURT OF MONTANA

Raugust v. State, 2003 MT 367

82 P.3d 890 (2003) · No. No. 02-065 · Decided December 23, 2003

SUMMARY

The Supreme Court of Montana affirmed the dismissal of Richard Raugust’s petition for postconviction relief as untimely. The court held that the petition was filed after the one-year statutory deadline and that the asserted newly discovered evidence did not satisfy the requirements for an exception to that deadline. The court also rejected related ineffective-assistance claims as untimely.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Jim Rice; Patricia Cotter; Jim Regnier; James C. Nelson
JURISDICTION	Montana
DECIDED	December 23, 2003
DOCKET	No. 02-065
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal of a petition for postconviction relief as untimely and from the dismissal of claims based on allegedly newly discovered evidence.
STANDARD OF REVIEW	The Court reviews denial of postconviction relief to determine whether the district court's findings of fact are clearly erroneous and whether its conclusions of law are correct.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion
PARTIES	Richard Raugust v. State of Montana

TOPICS

- state post-conviction relief
- post-conviction relief
- appellate procedure
- evidence
- criminal procedure

PRACTICE AREAS

- Montana postconviction relief
- criminal procedure
- appellate procedure
- newly discovered evidence

QUESTIONS PRESENTED

1. Whether Raugust's petition for postconviction relief was timely filed under § 46-21-102, MCA.
2. Whether alleged newly discovered evidence concerning the handling of a shotgun and an eyewitness's purported confession qualified for the statutory exception to the postconviction-relief limitations period.
3. Whether Raugust's ineffective-assistance claims could proceed when he knew or should have known of the alleged deficiencies at the time of trial or appeal.

HOLDINGS

1. A Montana postconviction petition must be filed within one year after the conviction becomes final, and when a direct appeal has been taken, finality occurs after the time for seeking United States Supreme Court review expires. Raugust's conviction became final on August 30, 2000, making August 30, 2001 the filing deadline; his petition was untimely whether measured by the September 14 attempted filing or the September 24 accepted filing.
2. Raugust's claims concerning allegedly mishandled shotgun evidence and an eyewitness's purported confession did not qualify for the newly discovered evidence exception to the one-year postconviction limitations period because he failed to establish timely discovery through diligence and failed to show that the evidence was sufficiently material to probably produce a different result at a new trial.
3. Raugust's ineffective-assistance claims were not newly discovered evidence because he knew or should have known of the alleged trial deficiencies at the time of trial, and therefore the claims were barred as untimely.

KEY QUOTATIONS

“This Court reviews a district court's denial of a petition for postconviction relief to determine whether the district court's findings of fact are clearly erroneous and whether its conclusions of law are correct.” (¶ 9)

“Although the District Court erred by calculating the one-year limitation period from the date remittitur was issued from this Court, it nonetheless reached the correct conclusion.” (¶ 16)

“All six of the above factors must be met.” (¶ 19)

FACTUAL BACKGROUND

Following a jury trial, Richard Raugust was convicted of deliberate homicide, attempted arson, and attempted tampering with or fabricating physical evidence arising from the shooting death of a man and the subsequent burning of their camp. Raugust later claimed that newly discovered evidence concerning the packaging of a shotgun and an alleged confession by an eyewitness warranted postconviction relief. He also asserted ineffective assistance of counsel based on counsel's failure to present impeachment evidence and request a mitigated deliberate-homicide instruction.

PROCEDURAL HISTORY

Raugust was convicted by a jury in 1998, and the Montana Supreme Court affirmed his convictions in 2000. He attempted to file a postconviction petition on September 14, 2001, but the clerk refused to file it for failure to

comply with formatting requirements; the amended petition was accepted on September 24, 2001. The Twentieth Judicial District Court summarily dismissed the petition as untimely, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Raugust, 2000 MT 146, 300 Mont. 54, 3 P.3d 115
- State v. Root, 2003 MT 28, 314 Mont. 186, 64 P.3d 1035
- State v. S.T.M., 2003 MT 221, 317 Mont. 159, 75 P.3d 1257
- State v. Abe, 2001 MT 260, 307 Mont. 233, 37 P.3d 77
- State v. Greeno, 135 Mont. 580, 342 P.2d 1052 (1959)
- State v. Cline, 275 Mont. 46, 909 P.2d 1171 (1996)
- State v. Sullivan, 285 Mont. 235, 948 P.2d 215 (1997)
- Petition of Gray, 274 Mont. 1, 908 P.2d 1352 (1995)
- State v. Redcrow, 1999 MT 95, 294 Mont. 252, 980 P.2d 622