

SUPREME COURT OF MONTANA

State v. Shegrud

374 Mont. 192, 2014 MT 63 (2014) · No. DA 13-0113 · Decided March 11, 2014

SUMMARY

The Montana Supreme Court held that negligent endangerment is a lesser included offense of criminal endangerment because it requires a lesser degree of culpability. The Court further held that the evidence supported Shegrud’s requested negligent-endangerment jury instruction, that the district court abused its discretion by refusing to give it, and that the error prejudiced Shegrud. The Court reversed the criminal-endangerment conviction and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Michael E. Wheat; Mike McGrath; Patricia Cotter; Beth Baker; Jim Rice
JURISDICTION	Montana
DECIDED	March 11, 2014
DOCKET	DA 13-0113
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from a judgment sentencing Shegrud after a jury convicted him of felony criminal endangerment and two misdemeanor offenses. Shegrud challenged the trial court's refusal to instruct the jury on negligent endangerment as a lesser included offense of criminal endangerment.
STANDARD OF REVIEW	The refusal to give a lesser-included-offense instruction is reviewed for abuse of discretion. Criminal instructional error is reviewed by considering whether the instructions as a whole fully and fairly instructed the jury on the applicable law, and reversal is warranted when the error prejudicially affects the defendant's substantial rights.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	William Grover Shegrud v. State of Montana

TOPICS

lesser included offense instructions

jury instructions

criminal procedure

appellate procedure

standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether negligent endangerment is a lesser included offense of criminal endangerment under Montana law.
2. Whether the evidence was sufficient to warrant a jury instruction on negligent endangerment.
3. Whether the District Court abused its discretion and prejudiced Shegrud by refusing the requested lesser-included-offense instruction.

HOLDINGS

1. Negligent endangerment is, by statutory definition, a lesser included offense of criminal endangerment because the offenses differ only in the required mental state, with negligence requiring a lesser degree of culpability than knowingly.
2. A lesser-included-offense instruction is warranted when the evidence could permit the jury to find the defendant guilty of the lesser offense, and the evidence in this case could support either a knowing or negligent mental state.
3. The District Court abused its discretion by refusing the requested negligent-endangerment instruction, and the error prejudiced Shegrud because he was convicted of a felony and sentenced as a persistent felony offender rather than having the jury consider the misdemeanor lesser offense.

KEY QUOTATIONS

“The only difference between criminal endangerment and negligent endangerment is the state of mind with which the accused person acts. Negligence, in this context, gives rise to a lesser culpability than does acting knowingly. We therefore hold that negligent endangerment is, by statutory definition, a lesser included offense of criminal endangerment.” (¶ 12)

“Where, as here, a jury could be warranted in finding a defendant guilty of a lesser included offense, the district court is required to give a lesser included offense instruction if requested by the parties.” (¶ 18)

FACTUAL BACKGROUND

A 911 caller reported an erratically driven maroon pickup truck. Officers later encountered Shegrud driving a red truck with his five-year-old daughter in a child safety seat. Officers observed signs of alcohol impairment, and Shegrud admitted consuming two beers and taking prescribed oxycodone, but his blood alcohol concentration was below the legal limit and his oxycodone level was within the therapeutic range. The evidence did not conclusively establish that Shegrud knowingly created a substantial risk of death or serious bodily injury, but it

could support an inference that he negligently disregarded such a risk by driving with his daughter after consuming alcohol and oxycodone.

PROCEDURAL HISTORY

Shegrud was tried twice after the first jury failed to reach unanimous verdicts on the felony charges. At the second trial, the District Court refused his requested negligent-endangerment instruction; the jury convicted him of criminal endangerment but again failed to reach a verdict on the DUI charge. The District Court sentenced him as a persistent felony offender to twenty years in the Department of Corrections with fifteen years suspended. The Montana Supreme Court reversed the criminal-endangerment conviction and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse Shegrud's conviction for criminal endangerment and remand to the District Court for further proceedings consistent with the opinion, including proceedings reflecting the required negligent-endangerment instruction.

CASES CITED

- State v. Feltz, 2010 MT 48, 355 Mont. 308, 227 P.3d 1035
- State v. Matz, 2006 MT 348, 335 Mont. 201, 150 P.3d 367
- State v. Martinosky, 1999 MT 122, 294 Mont. 427, 982 P.2d 440
- State v. Lambert, 280 Mont. 231, 929 P.2d 846 (1996)
- State v. Martinez, 1998 MT 265, 291 Mont. 265, 968 P.2d 705