

SUPREME COURT OF THE STATE OF MONTANA

State v. Pierce

2006 MT 76N (2006) · No. No. 05-141 · Decided April 18, 2006

SUMMARY

The Montana Supreme Court affirmed the District Court’s decision upholding Paula R. Pierce’s misdemeanor DUI conviction and sentence. The Court held that the arresting officer had particularized suspicion to stop Pierce’s vehicle based on a citizen informant’s tip and corroboration of the vehicle and occupants’ descriptions, and issued the decision as a noncitable memorandum opinion.

CASE DETAILS

|                       |                                                                                                                                                                                                          |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Montana                                                                                                                                                                    |
| WRITING FOR THE COURT | Karla M. Gray; W. William Leaphart; Patricia Cotter; John Warner; Jim Rice                                                                                                                               |
| JURISDICTION          | Montana                                                                                                                                                                                                  |
| DECIDED               | April 18, 2006                                                                                                                                                                                           |
| DOCKET                | No. 05-141                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Pierce appealed the District Court's order affirming the Bozeman Municipal Court's judgment and sentence following her guilty plea to misdemeanor DUI and the denial of her motion to suppress evidence. |
| STANDARD OF REVIEW    | The Montana Supreme Court reviewed whether the District Court correctly interpreted settled Montana law governing particularized suspicion for an investigatory stop based on a citizen informant's tip. |
| PRECEDENTIAL VALUE    | Nonprecedential memorandum decision                                                                                                                                                                      |
| PARTIES               | Paula R. Pierce v. State of Montana                                                                                                                                                                      |

TOPICS

- suppression of evidence
- probable cause
- criminal procedure
- appellate procedure

PRACTICE AREAS

- Criminal procedure
- Evidence
- Appellate procedure

## QUESTIONS PRESENTED

1. Whether the officer's observations sufficiently corroborated the citizen informant's information to satisfy the third factor of the particularized-suspicion test under *State v. Pratt*.
2. Whether the absence of a second officer questioning the informant made *State v. Pratt* distinguishable.

## HOLDINGS

1. The appeal was without merit because settled Montana law controlled and the District Court correctly affirmed the finding that the citizen informant's information was sufficiently corroborated.
2. The absence of a second officer questioning the informant did not make *Pratt* distinguishable where the arresting officer independently confirmed the vehicle and related details supplied by the informant.

## FACTUAL BACKGROUND

A citizen informant reported information concerning Pierce's vehicle and its direction of travel. The arresting officer confirmed the vehicle's make, model, license number, description, general location, direction of travel, and the presence of a female driver and male passenger, although the officer did not observe illegal driving or other direct signs of intoxication before stopping the vehicle.

## PROCEDURAL HISTORY

The Bozeman Municipal Court denied Pierce's motion to suppress, after which Pierce pleaded guilty to misdemeanor DUI. The Eighteenth Judicial District Court affirmed the municipal court's judgment and sentence. Pierce appealed to the Montana Supreme Court, which affirmed.

## DISPOSITION

affirmed

## CASES CITED

- *State v. Pratt*, 286 Mont. 156, 165, 951 P.2d 37, 42-43 (1997)

## OPINION

### PER CURIAM.

No. 05-141 IN THE SUPREME COURT OF THE STATE OF MONTANA 2006 MT 76N STATE OF MONTANA, Plaintiff and Respondent, v. PAULA R. PIERCE, Defendant and Appellant. APPEAL FROM: District Court of the Eighteenth Judicial District, In and For the County of Gallatin, Cause No. DC 04-207 Honorable Holly B. Brown, Presiding Judge COUNSEL OF RECORD: For Appellant: Kirsten Mull Core, Attorney at Law, Bozeman, Montana For Respondent: Hon. Mike McGrath, Attorney General; Micheal S. Wellenstein, Assistant Attorney General, Helena, Montana Susan Wordal, City Attorney's Office, Bozeman, Montana Submitted on Briefs: March 21, 2006 Decided: April 18, 2006 Filed:

---

Clerk Chief Justice Karla M. Gray delivered the Opinion of the Court. ¶1 Pursuant to Section I, Paragraph 3(d)(v), Montana Supreme Court 1996 Internal Operating Rules, as amended in 2003, the following memorandum decision shall not be cited as precedent.

It shall be filed as a public document with the Clerk of the Supreme Court and its case title, Supreme Court cause number and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports. ¶2 Paula R. Pierce appeals from the order entered by the Eighteenth Judicial District Court, Gallatin County, affirming the judgment and sentence entered by the Bozeman Municipal Court upon Pierce's plea of guilty to the misdemeanor offense of operating a motor vehicle while under the influence of alcohol or drugs (DUI).

Before Pierce pled guilty, the Municipal Court denied her motion to suppress evidence. Among other things, it reasoned that, the arresting officer had particularized suspicion to stop Pierce's vehicle based on a citizen informant's tip. See *State v. Pratt* (1997), 286 Mont. 156, 165, 951 P.2d 37, 42- 43.

The District Court affirmed the Bozeman Municipal Court. Pierce appeals. ¶3 Pierce asserts the third factor of the Pratt test—whether the officer's own observations corroborated the informant's information—was not satisfied here because the officer did not observe her driving in an illegal manner or any other indication of her intoxication. Pierce concedes that the third factor of the Pratt test may be satisfied if the officer finds the vehicle and vehicle's location substantially as described by the informant.

She also does not dispute that the officer here confirmed her vehicle's make, model, license number, description, general location, and direction of travel, as well as the presence of a female driver and a male 2 passenger. She contends, however, that Pratt is distinguishable because a second officer in that case questioned the citizen informant while the arresting officer investigated the defendant. ¶4 We have determined to decide this case pursuant to Section I, Paragraph 3(d), of our 1996 Internal Operating Rules, as amended in 2003, which provides for memorandum opinions.

It is manifest on the face of the briefs and the record that Pierce's appeal is without merit because the legal issues are clearly controlled by settled Montana law that the District Court correctly interpreted. ¶5 Affirmed. /S/ KARLA M. GRAY We concur: /S/ W. WILLIAM LEAPHART /S/ PATRICIA COTTER /S/ JOHN WARNER /S/ JIM RICE 3