

SUPREME COURT OF MONTANA

State v. Boese

2005 MT 31N (Mont. 2005) · No. No. 04-464 · Decided February 15, 2005

SUMMARY

The Montana Supreme Court affirmed the denial of Douglas R. Boese’s second petition for postconviction relief. The Court held that the petition was barred by the jurisdictional one-year limitation in § 46-21-102(1), MCA, because it was filed more than three years after his conviction became final. The Court also concluded that Boese failed to establish an applicable miscarriage-of-justice exception because he did not identify newly discovered evidence demonstrating actual innocence.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	James C. Nelson; John Warner; Patricia O. Cotter; W. William Leaphart; Jim Rice
JURISDICTION	Montana
DECIDED	February 15, 2005
DOCKET	No. 04-464
DISPOSITION	affirmed
PROCEDURAL POSTURE	Boese appealed the Eighth Judicial District Court's denial of his second petition for postconviction relief. The Montana Supreme Court affirmed, holding that the petition was barred by the jurisdictional one-year limitation period for postconviction petitions.
STANDARD OF REVIEW	The court reviews a district court's conclusions of law in denying a petition for postconviction relief to determine whether those conclusions are correct.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Douglas R. Boese v. State of Montana

TOPICS

- state post-conviction relief
- post-conviction relief
- successive petitions
- appellate procedure
- criminal procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether Boese's second petition for postconviction relief was barred by the jurisdictional one-year limitation period in § 46-21-102(1), MCA.
2. Whether any exception, including the miscarriage-of-justice or actual-innocence exception, excused the jurisdictional time bar.

HOLDINGS

1. A second petition for postconviction relief filed more than one year after the conviction became final is barred by the jurisdictional time limitation in § 46-21-102(1), MCA.
2. The narrow miscarriage-of-justice exception to the postconviction jurisdictional time bar applies only when newly discovered evidence establishes that the defendant did not commit the offense; Boese did not establish that exception.

KEY QUOTATIONS

“This time limitation is a jurisdictional limit on litigation, and failure to file within the allotted time defeats a court’s jurisdiction to hear a postconviction claim.” (§ 23)

“However, the miscarriage of justice exception is a narrow one and does not apply unless the defendant alleges newly discovered evidence which establishes that the defendant did not commit the offense.” (§ 28)

FACTUAL BACKGROUND

Boese was convicted by a jury of robbery, misdemeanor theft, and misdemeanor forgery arising from a purse-snatching and subsequent check-cashing incident in Great Falls. He received concurrent sentences, and the Sentence Review Division later added a condition barring parole or supervised release for the first fifteen years. After his direct appeal was dismissed and his first postconviction petition was denied, he filed a second petition challenging the jury-summoning procedure and alleging ineffective assistance of counsel.

PROCEDURAL HISTORY

Boese was convicted by a jury of robbery, misdemeanor theft, and misdemeanor forgery and sentenced in 1998. The Montana Supreme Court dismissed his direct appeal in 2000. His first postconviction petition, filed in 2001, was denied by the District Court and affirmed by the Montana Supreme Court in 2002. Boese filed a second postconviction petition on March 30, 2004; the District Court denied it as both time barred and procedurally barred, and the Montana Supreme Court affirmed on the jurisdictional time-bar ground without reaching the other arguments.

DISPOSITION

affirmed

CASES CITED

- Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967)
- State v. Robbins, 1998 MT 297, ¶ 51, 292 Mont. 23, 971 P.2d 359
- State v. LaMere, 2000 MT 45, ¶ 17, 298 Mont. 358, 2 P.3d 204
- Boese v. State, Cause No. 01-891
- State v. Root, 2003 MT 28, ¶ 7, 314 Mont. 186, 64 P.3d 1035
- Pena v. State, 2004 MT 293, ¶ 35, 323 Mont. 347, 100 P.3d 154
- Sanchez v. State, 2004 MT 9, ¶ 9, 319 Mont. 226, 86 P.3d 1
- State v. Gallagher, 1998 MT 70, ¶ 15, 288 Mont. 180, 955 P.2d 1371
- State v. Whitehorn, 2002 MT 54, 309 Mont. 63, 50 P.3d 121
- In re Petition of Gray, 274 Mont. 1, 908 P.2d 1352 (1995)
- State v. Wells, 2001 MT 55, ¶ 10, 304 Mont. 329, 21 P.3d 610