

SUPREME COURT OF MONTANA

Kevin Anthony Briggs v. State of Montana

2026 MT 47 (Mont. 2026) · No. DA 25-0323 · Decided March 10, 2026

SUMMARY

The Montana Supreme Court considers Kevin Anthony Briggs’s appeal from the denial of postconviction relief following his criminal convictions. Briggs alleged ineffective assistance based on retained trial counsel’s withdrawal while retaining a fixed fee and appellate counsel’s failure to challenge the absence of appointed counsel at the withdrawal hearing. The court concludes that the asserted circumstances did not establish constitutionally ineffective assistance and affirms the denial of postconviction relief.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Katherine M. Bidegaray; Justice Cory J. Swanson; Justice James Jeremiah Shea; Justice Laurie McKinnon; Justice Ingrid Gustafson
JURISDICTION	Supreme Court of Montana
DECIDED	March 10, 2026
DOCKET	DA 25-0323
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Gallatin County District Court's denial of Briggs's amended petition for postconviction relief alleging ineffective assistance of retained trial counsel and appellate counsel.
STANDARD OF REVIEW	The court reviews denial of postconviction relief for clear error in factual findings and correctness of legal conclusions. Ineffective-assistance claims, which involve mixed questions of law and fact, are reviewed de novo. The petitioner bears a heavy burden.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Kevin Anthony Briggs v. State of Montana

TOPICS

- post-conviction relief
- ineffective assistance
- right to counsel
- appellate procedure
- criminal procedure

PRACTICE AREAS

post-conviction relief

criminal procedure

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether retained trial counsel provided constitutionally ineffective assistance by seeking withdrawal while retaining payments made under a fixed-fee contract.
2. Whether appellate counsel provided constitutionally ineffective assistance by failing to argue that the trial court erred by not appointing separate counsel for Briggs at the hearing on retained counsel's motion to withdraw.

HOLDINGS

1. Briggs did not establish a structural denial of counsel or a complete and total failure of the adversarial process warranting a presumption of prejudice under *United States v. Cronin*. The trial court's appointment of new counsel after permitting withdrawal prevented the type of prejudice that results when a defendant is forced to proceed with constitutionally ineffective counsel.
2. Briggs failed to prove that the fixed-fee contract created an actual conflict of interest that adversely affected counsel's performance. He therefore did not establish conflict-based ineffective assistance under *Strickland*.
3. Briggs failed to establish either deficient performance or resulting prejudice under the ordinary two-part *Strickland* test.
4. Appellate counsel was not constitutionally ineffective because the omitted issue was not clearly stronger than the issues raised, and Briggs could not show a reasonable probability that raising it would have resulted in reversal.

KEY QUOTATIONS

“The ‘Cronic error’ exists in only narrow circumstances: (1) where there is a complete denial of counsel at a critical stage; (2) where counsel fails entirely to subject the prosecution’s case to meaningful adversarial testing; or (3) where counsel is called upon to provide assistance under circumstances where even competent counsel most likely could not.” (¶ 18)

“Only non-representation, not poor representation, triggers a presumption of prejudice.” (¶ 28)

“Briggs was not entitled to court-appointed counsel to advocate for continuation of an irretrievably broken attorney-client relationship solely to avoid a potential loss of payments made under the fixed-fee contract.” (¶ 48)

FACTUAL BACKGROUND

Briggs retained Chuck Watson, Ashley Whipple, and Todd Whipple under a \$150,000 fixed-fee contract paid in advance. After approximately ten months, counsel sought withdrawal because the attorney-client relationship had irretrievably broken down; Briggs opposed withdrawal primarily because he feared losing the advance payment and being unable to hire replacement counsel. The court permitted withdrawal and immediately

appointed counsel, who represented Briggs through trial, sentencing, and post-judgment proceedings. Briggs later pursued postconviction relief, claiming that the fixed-fee arrangement created a disabling conflict and that appellate counsel was ineffective for failing to challenge the absence of separate counsel at the withdrawal hearing.

PROCEDURAL HISTORY

Briggs was convicted by a jury in 2018, and the Montana Supreme Court affirmed his convictions on direct appeal; the United States Supreme Court denied certiorari. Briggs later filed a postconviction petition, followed by a 140-page amended petition asserting numerous claims. After a two-day evidentiary hearing, the District Court denied postconviction relief in April 2025. Briggs timely appealed pro se, raising only two ineffective-assistance claims.

DISPOSITION

affirmed

CASES CITED

- State v. Briggs, 2018 MT 261N, 394 Mont. 387, 429 P.3d 275
- Briggs v. Montana, 587 U.S. 992, 139 S. Ct. 2024 (2019)
- Hammer v. State, 2008 MT 342, 346 Mont. 279, 194 P.3d 699
- Whitlow v. State, 2008 MT 140, 343 Mont. 90, 183 P.3d 861
- Baca v. State, 2008 MT 371, 346 Mont. 474, 197 P.3d 948
- United States v. Cronin, 466 U.S. 648 (1984)
- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Cheetham, 2016 MT 151, 384 Mont. 1, 373 P.3d 45
- Rose v. State, 2013 MT 161, 370 Mont. 398, 304 P.3d 387
- City of Libby v. Hubbard, 2018 MT 2, 390 Mont. 108, 408 P.3d 532
- State v. Schowengerdt, 2018 MT 7, 390 Mont. 123, 409 P.3d 38
- Bell v. Cone, 535 U.S. 685 (2002)
- Cuyler v. Sullivan, 446 U.S. 335 (1980)
- State v. Deschon, 2002 MT 16, 308 Mont. 175, 40 P.3d 391
- State v. Christensen, 250 Mont. 351, 820 P.2d 1303 (1991)
- Frazer v. United States, 18 F.3d 778 (9th Cir. 1994)
- State v. Johnson, 2019 MT 34, 394 Mont. 245, 435 P.3d 64
- State v. Gallagher, 2001 MT 39, 304 Mont. 215, 19 P.3d 817
- State v. Hendershot, 2007 MT 49, 336 Mont. 164, 153 P.3d 619
- State v. Peart, 2012 MT 274, 367 Mont. 153, 290 P.3d 706
- People v. Doolin, 198 P.3d 11 (Cal. 2009)
- State v. Finley, 276 Mont. 126, 915 P.2d 208 (1996)

- State v. Ranta, 1998 MT 95, 288 Mont. 391, 958 P.2d 670
- State v. Dieziger, 200 Mont. 267, 650 P.2d 800 (1982)
- State v. Scheffer, 2010 MT 73, 355 Mont. 523, 230 P.3d 462
- State v. Gazda, 2003 MT 350, 318 Mont. 516, 82 P.3d 20
- State v. Farnsworth, 240 Mont. 328, 783 P.2d 1365 (1989)
- United States v. Gonzalez-Lopez, 548 U.S. 140 (2006)
- Luis v. United States, 578 U.S. 5 (2016)
- United States v. Moore, 159 F.3d 1154 (9th Cir. 1998)
- Brown v. Craven, 424 F.2d 1166 (9th Cir. 1970)
- United States v. Lii, 393 F. App'x 498 (9th Cir. 2010)

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