

SUPREME COURT OF THE STATE OF MONTANA

State v. Megard

332 Mont. 27, 2006 MT 84 (2006) · No. No. 04-858 · Decided April 25, 2006

SUMMARY

The Montana Supreme Court held that a district court improperly amended, nunc pro tunc, written judgments to reduce credit for time served approximately seventeen months after their entry. Because the original written judgments were not factually erroneous and did not conflict with the oral pronouncement, the amendments were outside the authority granted by Montana Code Annotated § 46-18-116(3). The Court vacated the amended judgments and remanded with instructions to reinstate the original judgments.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	John Warner; Karla M. Gray; James C. Nelson; W. William Leaphart; Jim Rice
JURISDICTION	Montana
DECIDED	April 25, 2006
DOCKET	No. 04-858
DISPOSITION	vacated
PROCEDURAL POSTURE	Megard appealed the District Court's nunc pro tunc judgments reducing the credit for prior incarceration awarded against two revoked suspended commitments.
STANDARD OF REVIEW	The Court reviews a district court's imposition of sentence for legality only; interpretation of the law is reviewed as a question of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Kelly Dee Megard v. State of Montana

TOPICS

- sentencing
- criminal procedure
- appellate procedure
- statutory interpretation
- post-conviction relief

PRACTICE AREAS

- criminal procedure
- sentencing
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the District Court could amend its written sentencing judgments nunc pro tunc, approximately seventeen months after entry, to reduce the credit for time served when the written judgments did not conflict with the oral pronouncement and were not factually erroneous on the face of the record.

HOLDINGS

1. The District Court could not amend the judgments nunc pro tunc to reduce Megard's credit for time served because the written judgments did not conflict with the oral pronouncement and were not factually erroneous within the meaning of Montana Code Annotated § 46-18-116(3).

KEY QUOTATIONS

“The court does not have the power to amend the record, in order that the record may show that which did not take place, thus exercising a revisory or appellate power over its own decisions. What the court always has is the power to make the record speak the truth.” (¶ 20)

FACTUAL BACKGROUND

Megard had three Lincoln County felony convictions and received suspended commitments that were later revoked after he entered another guilty plea and violated conditions of suspension. At the 2003 dispositional hearing, the District Court ordered credit for time actually served, and its written judgments awarded 763 days in DC-99-6 and 398 days in DC-01-29. More than a year later, the District Court concluded that the written judgments awarded too much credit and reduced those amounts through nunc pro tunc judgments.

PROCEDURAL HISTORY

The District Court entered written judgments on April 29, 2003, awarding Megard 763 days of credit in Cause No. DC-99-6 and 398 days in Cause No. DC-01-29. After the State moved to correct the judgments approximately seventeen months later, the District Court entered nunc pro tunc judgments reducing the credits to 89 and 47 days, respectively. The Montana Supreme Court vacated the later judgments and remanded with instructions to reinstate the April 29, 2003 judgments.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the October 29, 2004 judgments in Lincoln County Cause Nos. DC-99-6 and DC-01-29 and reinstate the judgments entered April 29, 2003.

CASES CITED

- State v. Kroll, 2004 MT 203, ¶ 12, 322 Mont. 294, 95 P.3d 717
- State v. Fertterer, 260 Mont. 397, 400, 860 P.2d 151, 154 (1993)

- State v. Winterrowd, 1998 MT 74, ¶ 14, 288 Mont. 208, 957 P.2d 522
- State v. Christianson, 1999 MT 156, ¶ 25, 295 Mont. 100, 983 P.2d 909
- State v. Owens, 230 Mont. 135, 138, 748 P.2d 473, 474 (1988)
- Fredericks v. Davis, 6 Mont. 460, 463, 13 P. 125, 127 (1887)
- State v. Lane, 1998 MT 76, ¶ 38, 288 Mont. 286, 957 P.2d 9
- Territory v. Clayton, 8 Mont. 1, 16-17, 19 P. 293, 300 (1888)
- State v. Megard, 2004 MT 67, 320 Mont. 323, 87 P.3d 448

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