

SUPREME COURT OF MONTANA

State v. Miller, 2008 MT 106

181 P.3d 625, 342 Mont. 355 (2008) · No. DA 07-0140 · Decided April 1, 2008

SUMMARY

The Supreme Court of Montana considered whether a jury instruction permitting an inference of intoxication from a defendant's refusal to submit to breath, blood, or physical testing violated due process or shifted the burden of proof. The court held that the instruction, read together with the other jury instructions, permissibly stated Montana law and did not unconstitutionally shift the burden to the defendant. The court affirmed Miller's convictions.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	James C. Nelson; Karla M. Gray; Brian Morris; Patricia Cotter; Jim Rice
JURISDICTION	Montana
DECIDED	April 1, 2008
DOCKET	DA 07-0140
DISPOSITION	affirmed
PROCEDURAL POSTURE	Miller appealed his convictions after the district court overruled his objection to a jury instruction concerning the evidentiary effect of refusing breath, blood, or physical testing in a DUI prosecution.
STANDARD OF REVIEW	District courts have broad discretion in formulating jury instructions, but instructions must fully and fairly state the applicable law. Whether the instructions violated due process was reviewed as a question of law de novo.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Garry Russell Miller v. State of Montana

TOPICS

- jury instructions
- burden of proof instructions
- due process
- criminal procedure
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court erred by giving Instruction No. 12, which stated that a defendant's refusal to submit to physical, breath, or blood testing was admissible and that the jury could infer the defendant was under the influence.
2. Whether Montana Code Annotated § 61-8-404(2), as applied through the instruction, unconstitutionally shifted the burden of proof or violated Miller's due process rights and presumption of innocence.

HOLDINGS

1. Instruction No. 12, considered together with the other jury instructions, fully and fairly instructed the jury regarding the applicable law.
2. As applied to Miller, § 61-8-404(2), MCA, did not unconstitutionally shift the burden of proof to him.

KEY QUOTATIONS

“Reviewing the instructions as a whole, as the court specifically directed the jury to do, we conclude that they fully and fairly instructed the jury regarding the applicable law and did not unconstitutionally shift the burden of proof to Miller.” (181 P.3d at 631)

“Based on these instructions, we conclude that while Instruction No. 12 did not inform the jurors that proof of Miller's refusal to submit to a blood, breath, physical, psychomotor, or physiological test does not, in itself, prove that he was under the influence of a drug or drugs at the time he was in control of a motor vehicle, the other instructions sufficiently compensated for this omission by requiring the jury to consider "all the evidence" and by instructing them that Miller was not required to present any evidence.” (181 P.3d at 631)

FACTUAL BACKGROUND

A deputy observed Miller driving irregularly, weaving and nearly striking a parked vehicle, and later driving straight through an intersection from a right-turn-only lane. During the stop, Miller exhibited slurred speech, red and glossy eyes, difficulty concentrating, diminished motor skills, poor balance, and difficulty following field-sobriety-test instructions; he also admitted drinking beer at a bar. Miller refused field sobriety testing and preliminary and evidentiary breath tests, and the deputy arrested him for DUI.

PROCEDURAL HISTORY

Miller was charged in Montana district court with felony DUI, fourth or subsequent offense, driving while his license was suspended or revoked, and driving without liability insurance. He pleaded not guilty, was tried before a jury, and was convicted on all three counts. After sentencing, he appealed, challenging Instruction No. 12.

DISPOSITION

affirmed

CASES CITED

- State v. Archambault, 2007 MT 26, 336 Mont. 6, 152 P.3d 698
- State v. Michaud, 2008 MT 88, 342 Mont. 244, 180 P.3d 636
- Carella v. California, 491 U.S. 263, 265 (1989)
- State v. McCaslin, 2004 MT 212, 322 Mont. 350, 96 P.3d 722
- State v. Ariegwe, 2007 MT 204, 338 Mont. 442, 167 P.3d 815
- City of Great Falls v. Morris, 2006 MT 93, 332 Mont. 85, 134 P.3d 692
- In re Marriage of McMahon, 2002 MT 198, 311 Mont. 175, 53 P.3d 1266
- State v. Rosling, 2008 MT 62, 342 Mont. 1, 180 P.3d 1102

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