

SUPREME COURT OF THE STATE OF MONTANA

State v. Root

381 Mont. 314, 2015 MT 310 (2015) · No. DA 13-0667 · Decided October 27, 2015

SUMMARY

The Montana Supreme Court affirmed Michael Root’s conviction for attempted deliberate homicide. The court held that trial counsel was not ineffective for failing to request an accomplice instruction because the instruction would have conflicted with Root’s defense. The court also held that the late disclosure of a witness’s recorded statement did not prejudice Root or constitute a Brady violation warranting dismissal.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Mike McGrath; Michael E. Wheat; Beth Baker; Jim Rice; Patricia Cotter; Laurie McKinnon; James Jeremiah Shea
JURISDICTION	Montana
DECIDED	October 27, 2015
DOCKET	DA 13-0667
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a February 2013 jury conviction for attempted deliberate homicide. Root challenged the conviction on ineffective-assistance and Brady disclosure grounds.
STANDARD OF REVIEW	Claims of ineffective assistance of counsel and denial of a motion to dismiss in a criminal case are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Jeffery Root v. State of Montana

TOPICS

ineffective assistance right to counsel due process discovery criminal appellate procedure

PRACTICE AREAS

criminal procedure constitutional law criminal defense appellate procedure

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for failing to request an accomplice instruction concerning S.R.
2. Whether the District Court erred by denying Root's motion to dismiss based on the State's late disclosure of a recorded witness statement under *Brady v. Maryland*.

HOLDINGS

1. Counsel was not ineffective for failing to request an accomplice instruction because the instruction would have conflicted with Root's defense that he did not stab Lee and was therefore a reasonable tactical choice; Root also failed to establish prejudice.
2. The State's late disclosure of the recorded Boyd statement did not violate *Brady* because Root received the recording before the end of trial, presented Boyd's substantially impeaching testimony to the jury, and failed to show that the timing of disclosure undermined confidence in the verdict.

KEY QUOTATIONS

"It is not proper to give an accountability/accomplice instruction where it is unsupported by the evidence and is inconsistent with the defendant's claim of innocence." (¶ 15)

"We conclude that the late disclosure of the Boyd statement was not prejudicial to Root's defense." (¶ 30)

FACTUAL BACKGROUND

On July 27, 2012, Michael Root and a juvenile identified as S.R. entered Lawrence Lee's pickup truck after asking for a ride in Butte, Montana. Lee and S.R. testified that Root stabbed and cut Lee with a knife, while Root testified that S.R. committed the stabbing and that Root intervened in a fight after Lee attacked S.R. During trial, the State disclosed a recorded police interview of Lonnie Boyd in which Boyd recounted S.R.'s alleged admission that S.R., not Root, stabbed Lee.

PROCEDURAL HISTORY

A jury convicted Root of attempted deliberate homicide in the Second Judicial District Court, Silver Bow County. The District Court denied Root's motion to dismiss based on the State's late disclosure of a witness's recorded statement. Root appealed, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *State v. Green*, 2009 MT 114, ¶ 14, 350 Mont. 141, 205 P.3d 798
- *State v. Meredith*, 2010 MT 27, ¶ 24, 355 Mont. 148, 226 P.3d 571
- *Strickland v. Washington*, 466 U.S. 668 (1984)
- *Whitlow v. State*, 2008 MT 140, 343 Mont. 90, 183 P.3d 861

- State v. Kogl, 2004 MT 243, 323 Mont. 6, 97 P.3d 1095
- State v. Johnson, 257 Mont. 157, 848 P.2d 496 (1993)
- State v. Hall, 2003 MT 253, 317 Mont. 356, 77 P.3d 239
- State v. Sheppard, 270 Mont. 122, 890 P.2d 754 (1995)
- State v. Morsette, 2013 MT 270, 372 Mont. 38, 309 P.3d 978
- Bomar v. State, 2012 MT 163, 365 Mont. 474, 285 P.3d 396
- Brady v. Maryland, 373 U.S. 83 (1963)
- State v. Fish, 2009 MT 47, 349 Mont. 286, 204 P.3d 681
- Kyles v. Whitley, 514 U.S. 419 (1995)
- State v. Timblin, 254 Mont. 48, 834 P.2d 927 (1992)

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