

SUPREME COURT OF THE STATE OF MONTANA

State v. Bruce

2001 MT 3N (2001) · No. No. 00-192 · Decided January 11, 2001

SUMMARY

The Montana Supreme Court affirmed the denial of Wyatt Jon Bruce’s motion challenging his sentence and convictions for two felony theft counts. The court held that the motion was properly treated as a petition for post-conviction relief and was barred by the one-year statute of limitations. The court also concluded that the miscarriage-of-justice exception did not apply because Bruce did not claim actual innocence.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Jim Regnier; Jim Regnier; Karla M. Gray; Terry N. Triewweiler; James C. Nelson; W. William Leaphart
JURISDICTION	Montana
DECIDED	January 11, 2001
DOCKET	No. 00-192
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bruce appealed the denial of his motion for correction of an illegal sentence, which the District Court characterized as a petition for postconviction relief.
STANDARD OF REVIEW	The court reviews the denial of a petition for postconviction relief to determine whether the trial court's findings of fact are clearly erroneous and whether its conclusions of law are correct.
PRECEDENTIAL VALUE	Noncitable; the court expressly stated that the decision shall not be cited as precedent.
PARTIES	Wyatt Jon Bruce v. State of Montana

TOPICS

- state post-conviction relief
- post-conviction relief
- criminal procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

criminal procedure

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court properly characterized Bruce's motion for correction of an illegal sentence as a petition for postconviction relief.
2. Whether Bruce's petition for postconviction relief was barred by Montana's one-year statute of limitations.
3. Whether the miscarriage-of-justice exception to the postconviction-relief limitations period applied to Bruce's claims concerning alleged guilty-plea improprieties.

HOLDINGS

1. A motion challenging the legality of a conviction is properly treated as a petition for postconviction relief, even when styled as a motion for correction of an illegal sentence.
2. Bruce's petition was untimely and procedurally barred because it was filed more than one year after the time for appealing his conviction expired.
3. The miscarriage-of-justice exception to the postconviction-relief limitations bar did not apply because Bruce alleged guilty-plea improprieties rather than newly discovered evidence establishing that he was factually innocent.

KEY QUOTATIONS

“Because Bruce’s petition was not filed until November 10, 1999, it was not timely filed within the one year statute of limitations. Thus, Bruce’s petition is procedurally barred pursuant to § 46-21-102(1)(a).” (¶ 8)

“We have previously held that the “miscarriage of justice” exception does not apply to postconviction claims unless they allege newly discovered evidence which would establish that the defendant did not commit a particular offense, and shows that the defendant is likely to be actually innocent of criminal conduct, rather than legally innocent.” (¶ 9)

FACTUAL BACKGROUND

Bruce was charged with two counts of felony theft under section 45-5-301, MCA. He initially pleaded not guilty, but pursuant to a plea agreement he later pleaded guilty to both counts, was sentenced, and had judgment entered on May 8, 1998. On November 10, 1999, he filed a motion challenging the legality of his conviction and guilty pleas, but he did not claim that he was factually innocent of the charged conduct.

PROCEDURAL HISTORY

Bruce pleaded guilty to two counts of felony theft and was sentenced in the Montana District Court for Missoula County. More than one year after the time for taking a direct appeal expired, he filed a pro se motion challenging the legality of his conviction and guilty pleas. The District Court treated the motion as a petition for postconviction relief and denied it as untimely; the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hanson, 1999 MT 226, 296 Mont. 82, 988 P.2d 299
- In re Gray, 274 Mont. 1, 908 P.2d 1352 (1995)
- Hawkins v. Mahoney, 1999 MT 82, 294 Mont. 124, 979 P.2d 697
- State v. Redcrow, 1999 MT 95, 294 Mont. 252, 980 P.2d 622

OPINION

PER CURIAM.

file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/00-192%20Opinion.htm No. 00-192 IN THE SUPREME COURT OF THE STATE OF MONTANA 2001 MT 3N STATE OF MONTANA, Plaintiff and Respondent, v. WYATT JON BRUCE, Defendant and Appellant. APPEAL FROM: District Court of the Fourth Judicial District, In and for the County of Missoula, The Honorable John S. Henson, Judge presiding.

COUNSEL OF RECORD: For Appellant: Wyatt Jon Bruce (pro se), Deer Lodge, Montana For Respondent: Hon. Joseph P. Mazurek, Attorney General; Cregg W. Coughlin, Assistant Attorney General, Helena, Montana Fred R. Van Valkenburg, Missoula County Attorney, Missoula, Montana Submitted on Briefs: October 26, 2000 Decided: January 11, 2001 Filed: file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/00-192%20Opinion.htm (1 of 4)3/27/2007 2:16:22 PM file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/00-192%20Opinion.htm _____ Clerk Justice Jim Regnier delivered the opinion of the Court. ¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court 1996 Internal Operating Rules, the following decision shall not be cited as precedent but shall be filed as a public document with the Clerk of the Supreme Court and shall be reported by case title, Supreme Court cause number and result to the State Reporter Publishing Company and to West Group in the quarterly table of noncitable cases issued by this Court. ¶2 Wyatt Jon Bruce pleaded guilty to two counts of felony theft on March 17, 1998.

Judgment was entered on May 8, 1998. On November 10, 1999, Bruce filed a "Motion for Correction of Illegal Sentence" with the District Court. On February 3, 2000, the District Court denied the motion. Bruce appeals.

We affirm. BACKGROUND ¶3 On December 19, 1997, Wyatt Jon Bruce was charged by Information with two counts of felony theft, in violation of § 45-5-301, MCA. On December 23, 1997, Bruce appeared in court with counsel, was advised of his rights, and entered pleas of "not

guilty" to both counts. Subsequently, pursuant to a plea agreement, Bruce withdrew his earlier pleas of "not guilty" and entered pleas of "guilty" to both counts.

On March 17, 1998, Bruce filed a "Plea of Guilty and Waiver of Rights" form with the District Court, and also appeared before the District Court in person and with counsel and entered his pleas of "guilty." The District Court orally pronounced Bruce's final sentence on April 21, 1998. Judgment by the Court was entered on May 8, 1998. ¶4 On November 10, 1999, Bruce filed pro se a "Motion for Correction of Illegal Sentence" with the District Court.

The State filed its response on January 5, 2000. On February 3, 2000, the District Court entered an Opinion and Order, determining that Bruce's motion was in fact a petition for postconviction relief because he was challenging the legality of his conviction.

The District Court concluded that a petition for postconviction relief was time-barred under the statute of limitations. Bruce appeals. DISCUSSION
file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/00-192%20Opinion.htm (2 of 4)3/27/2007 2:16:22 PM file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/00-192%20Opinion.htm ¶5 Did the District Court properly deny Bruce's petition? ¶6 We review the denial of a petition for postconviction relief to determine whether the trial court's findings of fact are clearly erroneous and whether its conclusions of law are correct.

State v. Hanson, 1999 MT 226, ¶ 9, 296 Mont. 82, ¶ 9, 988 P.2d 299, ¶ 9. ¶7 Section 46-21-102(1), MCA, provides that a petition for postconviction relief may be filed at any time within one year of the date that the conviction becomes final. If a direct appeal is not pursued, a conviction becomes final when the time for an appeal to this Court expires. Section 46-21-102(1)(a), MCA.

Since Bruce's petition challenged the legality of his conviction, the District Court's characterization of Bruce's motion as a motion for postconviction relief is correct. See § 46-21-102(1), MCA. ¶8 The District Court then concluded that Bruce's petition was untimely under the statute of limitations for postconviction relief.

We agree. Pursuant to § 46-21-102(1), MCA, a petitioner has one year from the time for appeal to the Montana Supreme Court expires to file a motion for postconviction relief. Judgment was entered against Bruce on May 8, 1998. Bruce's right to appeal to this Court expired 60 days later, on July 7, 1998. See Rule 5(b), M.R.App.P.

Because Bruce's petition was not filed until November 10, 1999, it was not timely filed within the one year statute of limitations. Thus, Bruce's petition is procedurally barred pursuant to § 46-21-102(1)(a), MCA. ¶9 We have held that a waiver of the statute of limitations for postconviction relief petitions can only be justified by a "clear miscarriage of justice, one so obvious that the judgment is rendered a complete nullity."

In *Re Gray* (1995), 274 Mont. 1, 1, 908 P.2d 1352, 1352. We have previously held that the "miscarriage of justice" exception does not apply to postconviction claims unless they allege newly discovered evidence which would establish that the defendant did not commit a particular offense, and shows that the defendant is likely to be actually innocent of criminal conduct, rather than legally innocent.

Hawkins v. Mahoney, 1999 MT 82, ¶ 12, 294 Mont. 124, ¶ 12, 979 P.2d 697, ¶ 12. See also *State v. Redcrow*, 1999 MT 95, ¶ 33, 294 Mont. 252, ¶ 33, 980 P.2d 622, ¶ 33. In the case at hand, Bruce makes no claim that he did not engage in the conduct which resulted in the charges, but instead claims improprieties relating to his guilty pleas.

Thus, we conclude that the District Court properly applied the procedural bar of § 46-21-102(1), MCA. ¶10 Affirmed. file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/00-192%20Opinion.htm (3 of 4)3/27/2007 2:16:22 PM
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JIM REGNIER We Concur: /S/ KARLA M. GRAY /S/ TERRY N. TRIEWEILER /S/ JAMES C.
NELSON /S/ W. WILLIAM LEAPHART
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