

SUPREME COURT OF MONTANA

State v. Notti

2003 MT 170 (Mont. 2003) · No. No. 02-320 · Decided June 19, 2003

SUMMARY

The Supreme Court of Montana affirmed the denial of Tony Notti's motion to dismiss a deliberate homicide charge. The court held that Notti waived a reasonable expectation of privacy in a DNA profile created from a blood sample he voluntarily provided during an unrelated investigation, and that comparing the profile with forensic databases did not constitute a subsequent search or seizure. The court also concluded that, even if the profile had been improperly stored, the match would have been inevitably discovered after Notti's felony conviction.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Jim Regnier; Karla M. Gray; Patricia Cotter; W. William Leaphart; Jim Rice
JURISDICTION	Montana
DECIDED	June 19, 2003
DOCKET	No. 02-320
DISPOSITION	affirmed
PROCEDURAL POSTURE	Notti pleaded guilty to deliberate homicide after the District Court denied his motion to dismiss based on an alleged violation of his right to privacy arising from the State's use of his DNA profile in an unrelated homicide investigation. He appealed the denial of the motion to dismiss.
STANDARD OF REVIEW	The court reviews factual findings on a motion to suppress for clear error and conclusions of law for correctness.
PRECEDENTIAL VALUE	published opinion
PARTIES	Tony Ray Notti v. State of Montana

TOPICS

- suppression of evidence
- criminal procedure
- evidence
- statutory interpretation
- constitutional law

PRACTICE AREAS

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether the State violated Notti's right to privacy under Article II, Section 10 of the Montana Constitution by using a DNA profile lawfully created from a blood sample obtained with his consent in an unrelated criminal investigation.
2. Whether the evidence was admissible under the inevitable-discovery doctrine even if the State's storage or use of Notti's DNA profile had been improper.

HOLDINGS

1. Notti waived any reasonable expectation of privacy in the DNA profile created from his blood sample when he voluntarily consented to the blood draw. The State's later comparison of the numerical DNA profile with profiles in its forensic-unknown database was not a subsequent search or seizure of Notti's person and did not violate his constitutional right to privacy.
2. The court declined to consider whether Notti's profile had actually been improperly placed in the State DNA Identification Index because the record did not establish that this occurred. In any event, the evidence was admissible under the inevitable-discovery doctrine because Notti's felony conviction would have required inclusion of his DNA profile in the index, which would have led to the same match.

KEY QUOTATIONS

"After the initial withdrawal of blood, obtained pursuant to the initial sexual assault investigation, there was simply no subsequent search or seizure of Notti's person such that Notti could invoke a privacy interest or right." (71 P.3d at 1238)

"Therefore, we conclude that the District Court did not err when it denied Notti's motion to dismiss on the basis of the allegation that the State had improperly placed Notti's DNA profile in the State's DNA Identification Index." (71 P.3d at 1239)

FACTUAL BACKGROUND

Notti voluntarily provided a blood sample, after consulting with his attorney, during an unrelated sexual-assault investigation. The Crime Lab created a DNA profile from that sample and later matched it to DNA recovered from a cigarette butt found near the victim of an unrelated homicide. The State also obtained corroborating evidence, including a handgun matching shell casings at the homicide scene and Notti's confession.

PROCEDURAL HISTORY

The State charged Notti with deliberate homicide. The District Court denied his motion to dismiss after concluding that he had consented to the initial blood draw and that the DNA match also would have been discovered under the inevitable-discovery doctrine. Notti pleaded guilty and was sentenced to 80 years in prison, then appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Reesman, 2000 MT 243, ¶ 18, 301 Mont. 408, 10 P.3d 83
- State v. Therriault, 2000 MT 286, ¶ 33, 302 Mont. 189, 14 P.3d 444
- State v. Rodgers (1993), 257 Mont. 413, 419-20, 849 P.2d 1028, 1032-1033
- People v. Baylor (2002), 97 Cal.App.4th 504, 118 Cal. Rptr. 2d 518
- Wilson v. State (Md. 2000), 132 Md. App. 510, 752 A.2d 1250
- Bickley v. State (1997), 227 Ga. App. 413, 489 S.E.2d 167
- State v. King (1997), 232 A.D.2d 111, 117-18, 663 N.Y.S.2d 610
- Washington v. State (Fla. 1994), 653 So. 2d 362
- Smith v. State (Ind. 2001), 744 N.E.2d 437
- State ex rel. Booth v. Montana, 1998 MT 344, ¶ 35, 292 Mont. 371, 972 P.2d 325
- State v. New (1996), 276 Mont. 529, 536, 917 P.2d 919, 923
- State v. Pearson (1985), 217 Mont. 363, 704 P.2d 1056

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