

SUPREME COURT OF WYOMING

Amber Rae MacKenzie v. State of Wyoming

MacKenzie, 2014 WY 130 (Wyo. 2014) · No. S-14-0157 · Decided October 16, 2014

SUMMARY

The Wyoming Supreme Court affirmed the district court's order of disposition and probation following Amber Rae MacKenzie's guilty plea to burglary and the revocation of her probation. The court remanded for review of credit for time served and directed the district court to amend the order to include the required firearms advisement.

CASE DETAILS

COURT	Supreme Court of Wyoming
JURISDICTION	Wyoming
DECIDED	October 16, 2014
DOCKET	S-14-0157
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the district court's April 18, 2014, Order of Disposition and Order of Probation following revocation of probation. Appellate counsel filed an Anders motion to withdraw, and the appellant did not file a pro se brief after receiving notice.
STANDARD OF REVIEW	The court reviewed the record and the Anders brief to determine whether the appeal was frivolous and whether the district court's order should be affirmed. The opinion does not identify a separate formal standard of review.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion
PARTIES	Amber Rae MacKenzie v. State of Wyoming

TOPICS

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QUESTIONS PRESENTED

1. Whether the district court's Order of Disposition and Order of Probation should be affirmed after appointed appellate counsel filed an Anders motion to withdraw and the appellant filed no pro se brief.
2. Whether the district court was required to examine and correct the amount of credit awarded for time served.
3. Whether the district court's order was required to include a statement reflecting the firearms advisement required by statute and rule.

HOLDINGS

1. The district court's April 18, 2014, Order of Disposition and Order of Probation was affirmed, subject to the corrections and remand instructions stated by the Supreme Court.
2. The matter was remanded for the district court to examine whether MacKenzie was entitled to additional credit for time served, including the apparent discrepancy between the 44 days referenced at the deferral hearing and the 33 days awarded in the later order.
3. The amended Order of Disposition and Order of Probation must include a statement that the required firearms advisement was given.

KEY QUOTATIONS

“ORDERED that the district court’s April 18, 2014, “Order of Disposition and Order of Probation” be, and the same hereby is, affirmed, subject to the corrections noted below” (¶ 4)

“ORDERED that this matter is remanded to the district court for that court to examine the question of credit for time served, as noted above” (¶ 5)

“ORDERED that the district court shall enter an amended “Order of Disposition and Order of Probation,” which shall include the firearms advisement required by Wyo. Stat. Ann. § 7-11-507(a) and W.R.Cr.P. 32(b)(1) (E).” (¶ 6)

FACTUAL BACKGROUND

MacKenzie pleaded guilty to one count of burglary in 2013 and initially received probation under Wyo. Stat. Ann. § 7-13-301. Her probation was later revoked, and the district court awarded her 33 days of credit for time served. The prosecuting attorney had previously stated that MacKenzie was entitled to 44 days of credit, and the district court's order did not include the required statement that an adequate firearms advisement had been given.

PROCEDURAL HISTORY

MacKenzie entered an unconditional guilty plea to burglary in 2013 and was placed on probation. After probation was revoked, the district court entered an April 18, 2014, Order of Disposition and Order of Probation awarding 33 days of credit for time served. Appointed appellate counsel filed a motion to withdraw under *Anders v. California*, the Wyoming Supreme Court granted permission to withdraw, and MacKenzie did not file a pro se brief. The Supreme Court affirmed subject to correction of the time-served credit and firearms-advisement provisions.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The district court must examine whether MacKenzie is entitled to additional credit for time served and enter an amended Order of Disposition and Order of Probation that includes the firearms advisement required by Wyo. Stat. Ann. § 7-11-507(a) and W.R.Cr.P. 32(b)(1)(E).

CASES CITED

- Anders v. California, 386 U.S. 738, 744, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967)
- Starrett v. State, 2012 WY 133, ¶¶ 11-12, 19, 286 P.3d 1033, 1037-38, 1040 (Wyo. 2012)

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