

SUPREME COURT OF MONTANA

State v. Bryson

2009 MT 213N (Mont. 2009) · No. DA 08-0416 · Decided June 23, 2009

SUMMARY

The Montana Supreme Court affirmed Dale Alan Bryson’s conviction for first-offense driving under the influence. The court held that Montana Drive, a private subdivision road with public access, was a “way of this state open to the public” under Montana’s DUI statutes. The court also rejected Bryson’s argument that deciding this issue as a matter of law denied him a jury trial.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Mike McGrath; John Warner; W. William Leaphart; Brian Morris; James C. Nelson
JURISDICTION	Montana
DECIDED	June 23, 2009
DOCKET	DA 08-0416
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bryson appealed his jury conviction and judgment for first-offense driving under the influence from the Fourth Judicial District Court, Missoula County.
STANDARD OF REVIEW	The determination whether a particular place is a way of the state open to the public is a legal conclusion reviewed de novo or plenary review.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Dale Alan Bryson v. State of Montana

TOPICS

- criminal procedure
- statutory interpretation
- standard of review
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- DUI
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether Montana Drive, a private road in the Double Arrow Ranch subdivision, was a way of the state open to the public under §§ 61-8-401(1)(a) and 61-8-101(1), MCA.
2. Whether the District Court improperly decided the public-way issue as a matter of law and thereby denied Bryson his right to a jury trial.

HOLDINGS

1. A private road may constitute a way of the state open to the public when it is fitted and adapted for public travel and is in common use by the public. Montana Drive satisfied that definition despite being located in a private subdivision and bearing private-property and no-trespassing signs.
2. The District Court did not deny Bryson his right to a jury trial by deciding whether Montana Drive was a way of the state open to the public as a matter of law.

KEY QUOTATIONS

"The statutory phrase "ways of this state open to the public" is defined as "any highway, road, alley, lane, parking area, or other public or private place adapted and fitted for public travel that is in common use by the public."" (§ 5)

"Based on the facts of this case, the judge correctly decided the question of whether Montana Drive is a "way of this state open to the public."" (§ 10)

FACTUAL BACKGROUND

On August 9, 2006, Bryson operated a four-wheeled ATV involved in an accident on Montana Drive in the Double Arrow Ranch subdivision near Seeley Lake. The subdivision was private, but its roads had public access, and witnesses testified that nonresidents frequently traveled on Montana Drive. Although signs identified the subdivision as private property and stated no trespassing and no hunting, the District Court found that Montana Drive was fitted and adapted for public travel.

PROCEDURAL HISTORY

After a jury found Bryson guilty of first-offense DUI, the District Court determined as a matter of law that the private road where the incident occurred was a way of the state open to the public under Montana's DUI statute. Bryson appealed, arguing that the road did not satisfy the statutory definition and that the District Court improperly resolved factual issues and denied him a jury trial. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Schwein, 2000 MT 371, 303 Mont. 450, 16 P.3d 373
- State v. Weis, 285 Mont. 41, 945 P.2d 900 (1997)
- City of Billings v. Peete, 224 Mont. 158, 729 P.2d 1268 (1986)

- Santee v. State, Department of Justice, Motor Vehicle Division, 267 Mont. 304, 883 P.2d 829 (1994)
- State v. Blalock, 232 Mont. 223, 756 P.2d 454 (1998)
- State v. Trujillo, 2008 MT 101, 342 Mont. 319, 180 P.3d 1153

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