

SUPREME COURT OF MONTANA

State v. LeDeau, 2009 MT 276

215 P.3d 672 (Mont. 2009) · No. DA 08-0349 · Decided August 18, 2009

SUMMARY

The Supreme Court of Montana affirmed the revocation of Adam LeDeau’s suspended sentence following violations of parole conditions. The court declined to review his double-jeopardy claim, raised for the first time on appeal, and held that the district court had statutory authority to revoke the suspended sentence before LeDeau began serving it.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice John Warner; Chief Justice Mike McGrath; Justice Brian Morris; Justice Jim Rice
JURISDICTION	Montana
DECIDED	August 18, 2009
DOCKET	DA 08-0349
DISPOSITION	affirmed
PROCEDURAL POSTURE	LeDeau appealed the revocation of the suspended portion of his criminal sentence after the district court denied his motion to dismiss and imposed a ten-year Department of Corrections commitment with five years suspended.
STANDARD OF REVIEW	Plenary review applies to constitutional questions and to the question whether the district court acted within its statutory authority. Under plenary review, the Court determines whether the district court’s conclusions of law are correct. Constitutional claims raised for the first time on appeal may be reviewed for plain error, but such review is invoked sparingly.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Adam LeDeau, Jr. v. State of Montana

TOPICS

- parole
- sentencing
- double jeopardy
- statutory interpretation
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

sentencing

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether revoking both LeDeau's parole and his suspended sentence based on the same conduct violated the constitutional protection against double jeopardy.
2. Whether the district court had statutory authority to revoke LeDeau's suspended sentence before he began serving the suspended portion.

HOLDINGS

1. The Court declined to conduct a complete review of LeDeau's double-jeopardy claim because discretionary plain-error review was not warranted; failure to review the claim would not result in a manifest miscarriage of justice, unsettle fundamental fairness, or compromise the integrity of the judicial process.
2. A district court has statutory authority to revoke a suspended sentence before the defendant actually begins serving the suspended portion of the sentence.

KEY QUOTATIONS

“A revocation proceeding is not a criminal adjudication, does not require proof of a criminal offense, does not impose punishment for any new offense, and is an act in the performance of the duty of supervision of an offender.” (215 P.3d at 674)

“Double Jeopardy is not applicable to revocation of suspended sentences.” (215 P.3d at 674)

FACTUAL BACKGROUND

LeDeau pleaded guilty to sexual assault in 2004 and was sentenced to fifteen years with all but five years suspended. While on parole, he violated multiple conditions, including failing to report an employment change, having unapproved contact with his daughter, living with his girlfriend, permitting his daughter to stay with him, and being suspended from sex-offender treatment. The parole board revoked his parole based on those violations, and the State later sought revocation of the suspended portion of his sentence based on the same conduct.

PROCEDURAL HISTORY

LeDeau pleaded guilty to sexual assault and received a fifteen-year sentence with all but five years suspended. After his parole was revoked based on admitted violations, the State petitioned to revoke the suspended portion of his sentence based on the same conduct. The District Court denied his motion to dismiss, revoked the suspended sentence, and imposed a modified sentence; the Supreme Court of Montana affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Martinez, 2008 MT 233, 344 Mont. 394, 188 P.3d 1034
- State v. Smith, 2000 MT 57, 299 Mont. 6, 997 P.2d 768
- State v. Taylor, 2009 MT 161, 350 Mont. 447, 208 P.3d 422
- State v. Van Haele, 2005 MT 153, 327 Mont. 400, 114 P.3d 225
- State v. Anderson, 2008 MT 116, 342 Mont. 485, 182 P.3d 80
- In re J.D.L., 2008 MT 445, 348 Mont. 1, 199 P.3d 805
- State v. Lacey, 2009 MT 62, 349 Mont. 371, 204 P.3d 1192
- State v. English, 2006 MT 177, 333 Mont. 23, 140 P.3d 454
- McDermott v. McDonald, 2001 MT 89, 305 Mont. 166, 24 P.3d 200
- Christofferson v. State, 272 Mont. 518, 901 P.2d 588 (1995)
- State v. Oppelt, 184 Mont. 48, 601 P.2d 394 (1978)
- State v. Eckley, 34 Or. App. 563, 579 P.2d 291 (1978)
- State v. Brister, 2002 MT 13, 308 Mont. 154, 41 P.3d 314
- State v. Lange, 237 Mont. 486, 775 P.2d 213 (1989)
- State v. Walker, 2001 MT 170, 306 Mont. 159, 30 P.3d 1099
- State v. Morrison, 2008 MT 16, 341 Mont. 147, 176 P.3d 1027
- State v. Sullivan, 197 Mont. 395, 642 P.2d 1008 (1982)
- Matter of Ratzlaff, 172 Mont. 439, 564 P.2d 1312 (1977)
- State v. Kirkbride, 2008 MT 178, 343 Mont. 409, 185 P.3d 340
- Sampson v. Nat'l Farmers Union Prop. & Cas. Co., 2006 MT 241, 333 Mont. 541, 144 P.3d 797

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