

SUPREME COURT OF MONTANA

State v. Matz, 2006 MT 348, 335 Mont. 201

150 P.3d 367 (2006) · No. No. 05-345 · Decided December 27, 2006

SUMMARY

The Montana Supreme Court affirmed Steven Leo Matz's conviction for felony aggravated assault and the additional five-year weapon-use sentence enhancement. The court held that Matz, having raised justifiable use of force as an affirmative defense, bore the burden of producing sufficient evidence to raise a reasonable doubt; that the weapon enhancement did not violate double jeopardy because weapon use was not an element of aggravated assault; that alternative definitions of serious bodily injury did not require a specific-unanimity instruction; and that evidence of the victim's marijuana possession was properly excluded absent a showing that he was under its influence.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Jim Rice; Chief Justice Karla M. Gray; Justice Patricia Cotter; Justice W. William Leaphart; Justice John Warner
JURISDICTION	Montana
DECIDED	December 27, 2006
DOCKET	No. 05-345
DISPOSITION	affirmed
PROCEDURAL POSTURE	Matz appealed his felony aggravated-assault conviction and sentence from the Thirteenth Judicial District Court, challenging a jury instruction concerning justifiable use of force, a weapon-based sentence enhancement, the unanimity instruction concerning serious bodily injury, and the exclusion of marijuana-related evidence.
STANDARD OF REVIEW	Instructional-error claims are reviewed to determine whether the instructions, considered as a whole, fully and fairly instructed the jury on the applicable law; reversible error requires prejudice to the defendant's substantial rights. Sentences are reviewed for legality, and constitutional sentencing issues are reviewed de novo. Evidentiary rulings are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.

TOPICS

criminal procedure

jury instructions

self defense

double jeopardy

evidence

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court erred by refusing to instruct the jury that the State had to prove beyond a reasonable doubt that Matz did not act with justifiable use of force.
2. Whether imposing a five-year weapon-use sentence enhancement for aggravated assault violated the double-jeopardy protections of the Montana Constitution.
3. Whether the jury instructions were constitutionally deficient because they did not identify which statutory form of serious bodily injury supported the aggravated-assault charge.
4. Whether the district court abused its discretion by excluding evidence that the alleged victim possessed marijuana and a marijuana pipe at the time of the altercation.

HOLDINGS

1. When a defendant raises justifiable use of force as an affirmative defense, the defendant bears the burden of producing sufficient evidence to raise a reasonable doubt of guilt; the State is not required to prove beyond a reasonable doubt that justification or self-defense does not exist.
2. Applying the weapon-use enhancement statute to a sentence for aggravated assault does not violate double jeopardy when use of a weapon is not an element of the aggravated-assault offense charged.
3. A specific-unanimity instruction is not required when alternative statutory definitions of serious bodily injury are merely different means of satisfying a single element of aggravated assault rather than separate offenses or separate elements.
4. The district court did not abuse its discretion by excluding evidence that the victim possessed marijuana and a marijuana pipe where the defendant failed to establish that the victim was under the influence of marijuana when the events occurred and did not offer the evidence to prove a pertinent character trait.

KEY QUOTATIONS

“Azure's statement, quoted above, approving a jury instruction which placed the burden upon the State to establish the absence of justification for use of force, is no longer good law.” (¶16)

“Matz's use of a weapon was not an element of the offense of aggravated assault.” (¶25)

“This case requires the same outcome because the alternative definitions set forth in § 45-2-101(66), MCA, merely describe different ways or means of seriously injuring another while committing the offense, and do not define different offenses or different elements of one offense.” (¶32)

FACTUAL BACKGROUND

Matz was confronted by Steve Andersen and Amber Andersen while retrieving discarded pizza from a dumpster behind the Village Inn Pizza Parlor. The parties gave conflicting accounts of the ensuing altercation: Matz claimed Andersen attacked him and that he drew his firearm in self-defense, while Andersen testified that Matz approached him with the firearm and initiated the confrontation. During the struggle, Matz fired the gun twice, seriously injuring Andersen, and the jury convicted Matz of aggravated assault and found that he had used a weapon.

PROCEDURAL HISTORY

The State charged Matz with aggravated assault. His first jury trial ended in a mistrial. A second trial in January 2005 resulted in a conviction. The district court denied Matz's motion to strike and dismiss the weapon-enhancement allegation and sentenced him to fifteen years in prison plus five additional years under § 46-18-221, MCA. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. DuBray, 2003 MT 255, 317 Mont. 377, 77 P.3d 247
- State v. Long, 274 Mont. 228, 907 P.2d 945 (1995)
- State v. Maloney, 2003 MT 288, 318 Mont. 66, 78 P.3d 1214
- State v. Strauss, 2003 MT 195, 317 Mont. 1, 74 P.3d 1052
- State v. Azure, 181 Mont. 47, 591 P.2d 1125 (1979)
- State v. Daniels, 210 Mont. 1, 682 P.2d 173 (1984)
- State ex rel. Kuntz v. Thirteenth Judicial District Court, 2000 MT 22, 298 Mont. 146, 995 P.2d 951
- State v. Graves, 191 Mont. 81, 622 P.2d 203 (1981)
- State v. Gratzner, 209 Mont. 308, 682 P.2d 141 (1984)
- State v. Mason, 2003 MT 371, 319 Mont. 117, 82 P.3d 903
- State v. Bedwell, 1999 MT 206, 295 Mont. 476, 985 P.2d 150
- State v. Guillaume, 1999 MT 29, 293 Mont. 224, 975 P.2d 312
- State v. Whitehorn, 2002 MT 54, 309 Mont. 63, 50 P.3d 121
- State v. Keith, 2000 MT 23, 298 Mont. 165, 995 P.2d 966
- State v. Weldy, 273 Mont. 68, 902 P.2d 1 (1995)
- Schad v. Arizona, 501 U.S. 624, 111 S. Ct. 2491, 115 L. Ed. 2d 555 (1991)
- Kills on Top v. State, 273 Mont. 32, 901 P.2d 1368 (1995)
- State v. Hicks, 2006 MT 71, 331 Mont. 471, 133 P.3d 206
- State v. Flowers, 2004 MT 37, 320 Mont. 49, 86 P.3d 3

- State v. Riggs, 2005 MT 124, 327 Mont. 196, 113 P.3d 281
- State v. Weldele, 2003 MT 117, 315 Mont. 452, 69 P.3d 1162
- State v. Gleim, 17 Mont. 17, 41 P. 998 (1895)
- State v. Sorenson, 190 Mont. 155, 619 P.2d 1185 (1980)

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