

SUPREME COURT OF NORTH DAKOTA

Gonzalez v. State

2019 ND 47 · No. 20180188 · Decided February 21, 2019

SUMMARY

The North Dakota Supreme Court reviewed Garron Gonzalez’s appeal from the summary denial of his seventh application for post-conviction relief. The court held that the district court erred by sua sponte denying the application after the State had responded without providing notice and an opportunity to address summary disposition, and that the error was not shown to be harmless because the court failed to consider whether alleged newly discovered DNA evidence would have affected Gonzalez’s decision to plead guilty. The court reversed and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers, Justice; Lisa Fair McEvers; Daniel J. Crothers; Jerod E. Tufte; Jon J. Jensen; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	February 21, 2019
DOCKET	20180188
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Gonzalez appealed from an order summarily denying his seventh application for post-conviction relief and from an order denying his motion for reconsideration and motion for leave to conduct discovery.
STANDARD OF REVIEW	The Supreme Court reviewed the denial of post-conviction relief for legal error and reviewed the denial of motions under N.D.R.Civ.P. 59(j) and 60(b) for abuse of discretion. A district court abuses its discretion when it acts arbitrarily, unreasonably, or unconscionably, misinterprets or misapplies the law, or fails to make a rational, reasoned determination.
PRECEDENTIAL VALUE	Published and precedential North Dakota Supreme Court opinion
PARTIES	Garron Gonzalez v. State of North Dakota

TOPICS

state post-conviction relief

successive petitions

appellate procedure

standard of review

civil procedure

PRACTICE AREAS

post-conviction criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court could sua sponte summarily deny Gonzalez's post-conviction application after the State had responded without providing notice and an opportunity to submit an answer with supporting materials.
2. Whether the district court's later consideration of the merits on reconsideration cured the procedural error.
3. Whether the district court abused its discretion by denying reconsideration without addressing whether the alleged newly discovered evidence would have been material to Gonzalez's decision to plead guilty.
4. Whether the denial of leave to conduct discovery required reversal.

HOLDINGS

1. A district court may not sua sponte summarily deny an application for post-conviction relief alleging newly discovered evidence after the State has responded unless the applicant receives notice and an opportunity to submit an answer with supporting materials showing a genuine issue of material fact.
2. The procedural error was not shown to be harmless because the district court did not address whether the alleged DNA evidence would have been material to Gonzalez's decision to plead guilty rather than proceed to trial.
3. The district court's denial of reconsideration could not stand because it failed to address Gonzalez's argument that the newly discovered DNA evidence would have been material to his decision to plead guilty.

KEY QUOTATIONS

“The district court may only grant summary disposition sua sponte under N.D.C.C. § 29-32.1-09 before the State responds.” (¶ 13)

“Without the court addressing this argument, we cannot conclude Gonzalez was not prejudiced by the court’s error in initially summarily denying his application.” (¶ 19)

“We reverse the order denying the application for post-conviction relief and remand for further proceedings.” (¶ 21)

FACTUAL BACKGROUND

Garron Gonzalez pleaded guilty in 2004 to two counts of gross sexual imposition. In his seventh post-conviction application, he alleged newly discovered DNA results, a related police report, and physical-examination results had been withheld and that the evidence would have led him to proceed to trial rather than plead guilty. The

State answered, but the district court sua sponte denied the application for misuse of process without giving Gonzalez notice and an opportunity to respond with supporting materials. On reconsideration, the court considered whether the evidence affected probable cause but did not consider whether it would have affected Gonzalez's decision to plead guilty.

PROCEDURAL HISTORY

Gonzalez pleaded guilty in 2004 to two counts of gross sexual imposition. In 2018, after six prior post-conviction applications, he filed a seventh application alleging newly discovered evidence. The State answered and raised several affirmative defenses but did not move for summary disposition. The district court then sua sponte summarily denied the application for misuse of process, later denied reconsideration on the merits of only the probable-cause issue, and did not address whether the alleged DNA evidence would have affected Gonzalez's decision to plead guilty. The Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must conduct further proceedings on Gonzalez's application for post-conviction relief, including addressing whether the alleged newly discovered evidence would have been material to his decision to plead guilty rather than proceed to trial.

CASES CITED

- Johnson v. State, 2005 ND 188, ¶ 6, 705 N.W.2d 830
- Ourada v. State, 2019 ND 10, ¶¶ 3-6, 921 N.W.2d 677
- Comes v. State, 2018 ND 54, ¶ 6, 907 N.W.2d 393
- Chisholm v. State, 2014 ND 125, ¶¶ 8-12, 16, 18, 848 N.W.2d 703
- Overlie v. State, 2011 ND 191, ¶ 7, 804 N.W.2d 50
- State v. Bender, 1998 ND 72, ¶ 19, 576 N.W.2d 210
- State v. Holkesvig, 2015 ND 105, ¶ 9, 862 N.W.2d 531
- Chase v. State, 2017 ND 192, ¶¶ 6-7, 899 N.W.2d 280
- First W. Bank of Minot v. Wickman, 464 N.W.2d 195, 196 (N.D. 1990)
- State v. Acker, 2015 ND 278, ¶ 12, 871 N.W.2d 603
- Hamilton v. State, 2017 ND 54, ¶ 8, 890 N.W.2d 810
- Syvertson v. State, 2000 ND 185, ¶ 37, 620 N.W.2d 362
- Flaten v. Couture, 2018 ND 136, ¶ 27, 912 N.W.2d 330