

SUPREME COURT OF WYOMING

Doles v. State

55 P.3d 29 (Wyo. 2002) · No. No. 01-172 · Decided October 1, 2002

SUMMARY

The Wyoming Supreme Court affirmed Jeffrey Doles's conviction for conspiring to deliver a controlled substance. The court held that any claim concerning denial of counsel at the preliminary hearing was waived by the guilty plea, that the district court properly denied his motion to withdraw the plea, and that imposition of a consecutive sentence did not breach the plea agreement.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Lehman, Justice; Hill, C.J.; Golden, J.; Lehman, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	October 1, 2002
DOCKET	No. 01-172
DISPOSITION	affirmed
PROCEDURAL POSTURE	Doles appealed his conviction and sentence after pleading guilty pursuant to a plea agreement. He challenged the alleged denial of counsel at the preliminary-hearing stage, denial of his presentence motion to withdraw the guilty plea, and imposition of a consecutive sentence.
STANDARD OF REVIEW	The court reviewed the alleged denial of counsel under the rule that a guilty plea waives nonjurisdictional claims. It reviewed denial of the presentence motion to withdraw the guilty plea for abuse of discretion, asking whether the district court could reasonably have concluded as it did. It gave great deference to the district court's factual findings concerning the existence and terms of the plea agreement and would not second-guess findings supported by substantial evidence.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	Jeffrey Doles v. The State of Wyoming

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QUESTIONS PRESENTED

1. Whether the alleged denial of counsel during the circuit-court preliminary-hearing proceedings was reversible error after Doles pleaded guilty.
2. Whether the district court abused its discretion by denying Doles's presentence motion to withdraw his guilty plea based on alleged ineffective assistance and coercion.
3. Whether imposing a consecutive sentence breached the plea agreement.

HOLDINGS

1. Any error concerning denial of counsel at the preliminary hearing was waived by Doles's guilty plea because the claim was nonjurisdictional; the record also did not affirmatively establish that counsel had been denied.
2. The district court properly denied Doles's motion to withdraw his guilty plea because he failed to establish a fair and just reason for withdrawal, and the record showed compliance with W.R.Cr.P. 11.
3. The consecutive sentence did not breach the plea agreement because the agreement neither required concurrent sentences nor prohibited the prosecutor from recommending consecutive service.

KEY QUOTATIONS

“Denial of the right to representation does not implicate “the very power of the state to bring the defendant into court to answer the charge brought against him,”” (¶ 6)

“Under the two-prong standard articulated in Strickland and Frias, an appellant claiming ineffective assistance of counsel must demonstrate on the record that counsel's performance was deficient and that prejudice resulted.” (¶ 8)

“A defendant has no absolute right to withdraw a plea of guilty before sentence is imposed, and where the strictures of W.R.Cr.P. 11 have been met, and the defendant intelligently, knowingly, and voluntarily entered into his plea of guilty, the district court's decision to deny such a motion is within its sound discretion.” (¶ 11)

FACTUAL BACKGROUND

Doles was charged with conspiring to deliver methamphetamine and appeared without counsel when he waived his preliminary hearing. Counsel was later appointed in district court, and Doles entered a guilty plea under a plea agreement on the day set for trial. He was released on bond, disappeared for about two years, and then sought to withdraw his plea before sentencing, alleging ineffective assistance and coercion. The district court denied withdrawal and imposed a sentence consecutive to another sentence after determining that the plea agreement did not require concurrent sentencing or prohibit the State from recommending consecutive service.

PROCEDURAL HISTORY

Doles was charged with conspiring to deliver methamphetamine and waived his preliminary hearing while apparently appearing pro se. Counsel was later appointed in district court, and Doles eventually pleaded guilty pursuant to a plea agreement. After being released on bond and disappearing for approximately two years, he moved to withdraw his plea before sentencing; the district court denied the motion and imposed a consecutive sentence. The Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Gregory v. Sanders, 635 P.2d 795, 801 (Wyo. 1981)
- Bird v. State, 901 P.2d 1123, 1132 (Wyo. 1995)
- Davila v. State, 831 P.2d 204, 206 (Wyo. 1992)
- Duffy v. State, 837 P.2d 1047, 1051 (Wyo. 1992)
- Blackledge v. Perry, 417 U.S. 21, 30 (1974)
- Reyna v. State, 2001 WY 105, ¶ 19, 33 P.3d 1129, ¶ 19 (Wyo. 2001)
- Herdt v. State, 891 P.2d 793, 796 (Wyo. 1995)
- Starr v. State, 888 P.2d 1262, 1266-67 (Wyo. 1995)
- Arner v. State, 872 P.2d 100, 104 (Wyo. 1994)
- Frias v. State, 722 P.2d 135, 145 (Wyo. 1986)
- Strickland v. Washington, 466 U.S. 668, 686-89, 104 S. Ct. 2052, 2064-65 (1984)
- King v. State, 810 P.2d 119, 125 (Wyo. 1991)
- Campbell v. State, 728 P.2d 628, 629 (Wyo. 1986)
- Lower v. State, 786 P.2d 346, 349 (Wyo. 1990)
- Chapman v. State, 2001 WY 25, ¶ 6, 18 P.3d 1164, ¶ 6 (Wyo. 2001)
- Grainey v. State, 997 P.2d 1035, 1038-39 (Wyo. 2000)
- Stout v. State, 2001 WY 114, ¶ 15, 35 P.3d 1198, ¶ 15 (Wyo. 2001)
- Frame v. State, 2001 WY 72, ¶ 7, 29 P.3d 86, ¶ 7 (Wyo. 2001)
- Burdine v. State, 974 P.2d 927, 929-30 (Wyo. 1999)
- United States v. Black, 201 F.3d 1296, 1299-1300 (10th Cir. 2000)
- People v. Navarroli, 121 Ill. 2d 516, 521 N.E.2d 891, 893 (Ill. 1987)
- Richardson v. Green, 644 P.2d 778, 779 (Wyo. 1982)
- Anderson v. Bauer, 681 P.2d 1316, 1319 (Wyo. 1984)
- Clouse v. State, 809 P.2d 791, 794 (Wyo. 1991)
- Tilley v. State, 912 P.2d 1140, 1142 (Wyo. 1996)
- Loper v. Shillinger, 772 P.2d 552, 553 (Wyo. 1989)

- Kennedy v. State, 595 P.2d 577, 577 (Wyo. 1979)
- Pearson v. State, 866 P.2d 1297, 1299 (Wyo. 1994)

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