

SUPREME COURT OF THE STATE OF MONTANA

Kingman v. Weightman

2017 MT 224, 388 Mont. 481 (Mont. 2017) · No. DA 17-0106 · Decided September 12, 2017

SUMMARY

The Montana Supreme Court affirmed summary judgment for Thomas Weightman on Miles Kingman’s conversion claim concerning a wristwatch held as evidence by the Bozeman Police Department. The court held that the claim accrued no later than May 1, 2012, six months after completion of Kingman’s criminal case, and was barred by Montana’s two-year statute of limitations when filed in July 2015.

CASE DETAILS

|                       |                                                                                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Montana                                                                                                                                                                                        |
| WRITING FOR THE COURT | Justice Jim Rice; Jim Rice; James Jeremiah Shea; Beth Baker; Laurie McKinnon; Dirk M. Sandefur                                                                                                                               |
| JURISDICTION          | Montana                                                                                                                                                                                                                      |
| DECIDED               | September 12, 2017                                                                                                                                                                                                           |
| DOCKET                | DA 17-0106                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Kingman appealed the Eighteenth Judicial District Court's grant of summary judgment to Weightman on Kingman's conversion claim.                                                                                              |
| STANDARD OF REVIEW    | Summary judgment is reviewed de novo under the same Montana Rule of Civil Procedure 56 criteria applied by the district court. The application of a statute of limitations is reviewed as a question of law for correctness. |
| PRECEDENTIAL VALUE    | Published Montana Supreme Court opinion; precedential.                                                                                                                                                                       |
| PARTIES               | Miles Kingman v. Thomas Weightman                                                                                                                                                                                            |

TOPICS

- conversion
- statute of limitations
- summary judgment
- standard of review
- appellate procedure

PRACTICE AREAS

- torts
- civil procedure
- appellate procedure
- statutory interpretation

## QUESTIONS PRESENTED

1. Whether the District Court erred by holding that the statute of limitations had run on Kingman's conversion claim.
2. Whether the claim accrued no later than six months after completion of Kingman's criminal case under Montana's accrual and seized-property statutes.
3. Whether Kingman could invoke the longer statute of limitations for contract claims when that theory was raised for the first time on appeal.

## HOLDINGS

1. Kingman's allegation that Weightman exercised unauthorized dominion over the watch was properly treated as a conversion claim, and conversion claims are subject to Montana's two-year limitations period for property torts under section 27-2-207, MCA.
2. Kingman's conversion claim accrued, at the latest, on May 1, 2012, six months after completion of his criminal case, because all elements of conversion were then present.
3. The conversion claim was time-barred because the two-year limitations period expired on May 1, 2014, more than a year before Kingman filed suit on July 9, 2015.
4. The Court declined to consider Kingman's argument for a longer contract limitations period because it was a new theory raised for the first time on appeal.

## KEY QUOTATIONS

*“The elements of conversion are: (1) the plaintiff’s ownership and right of possession of the personal property; (2) its conversion by the defendant, meaning a “distinct act of dominion wrongfully exerted over one’s property in denial of, or inconsistent with, the owner’s right,” or an “unauthorized assumption of dominion over [personal property] in hostility to the right of the owner”; and (3) resulting damages.” (§ 12)*

*“We conclude that Kingman’s claim accrued, at the latest, six months after the completion of Kingman’s case, or May 1, 2012, because all three elements of conversion were then present.” (§ 14)*

*“Statutes of limitation, prescribed by the Legislature, serve the important purpose of suppressing stale claims that make mounting a defense difficult due to the passage of time.” (§ 16)*

## FACTUAL BACKGROUND

Police seized Kingman's personal property, including a wristwatch, after his 2008 arrest. His criminal case was completed when the Montana Supreme Court affirmed his conviction on November 1, 2011. Kingman did not apply for return of the property during or after the criminal case, although the statutory period for claiming seized evidence expired six months after completion of the case. He filed suit against Weightman on July 9, 2015, alleging that Weightman wrongfully failed to return the watch.

## PROCEDURAL HISTORY

Kingman was convicted of aggravated assault arising from a 2008 altercation, and the Montana Supreme Court affirmed his conviction on November 1, 2011. After correspondence concerning the return of a wristwatch held

as evidence, Kingman filed this conversion action on July 9, 2015. The District Court treated his theft claim as conversion, granted Weightman's motion for summary judgment on statute-of-limitations grounds, and the Montana Supreme Court affirmed.

#### DISPOSITION

affirmed

#### CASES CITED

- State v. Kingman, 2011 MT 269, 362 Mont. 330, 264 P.3d 1104
- Belanus v. Potter, 2017 MT 95, ¶¶ 13-14, 387 Mont. 298, 394 P.3d 906
- Ehrman v. Kaufman, 2010 MT 284, ¶ 10, 358 Mont. 519, 246 P.3d 1048
- Johnson Farms, Inc. v. Halland, 2012 MT 215, ¶ 19, 366 Mont. 299, 291 P.3d 1096
- Gebhardt v. D.A. Davidson & Co., 203 Mont. 384, 389, 661 P.2d 855, 858 (1983)
- Action Enters. by & Through Lindeman v. McCalla, 259 Mont. 167, 170, 855 P.2d 111, 113 (1993)
- In re C.B., 2017 MT 83, ¶ 16, 387 Mont. 231, 392 P.3d 598
- E.W. v. D.C.H., 231 Mont. 481, 484, 754 P.2d 817, 818-19 (1988)