

SUPREME COURT OF RHODE ISLAND

Rose v. State

994 A.2d 662 (R.I. 2010) · No. No. 2009-58-Appeal · Decided May 27, 2010

SUMMARY

The Supreme Court of Rhode Island affirmed the denial of Bruce Rose's application for postconviction relief challenging his 1997 nolo contendere plea. The court held that the plea colloquy satisfied Rule 11 and that the later Social Security disability determination did not establish that the plea court should have conducted a more searching inquiry into Rose's mental capacity.

CASE DETAILS

COURT	Supreme Court of Rhode Island
JURISDICTION	Rhode Island
DECIDED	May 27, 2010
DOCKET	No. 2009-58-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rose appealed the denial and dismissal of his application for postconviction relief challenging his 1997 nolo contendere plea and conviction.
STANDARD OF REVIEW	The Supreme Court affords great deference to findings in a postconviction-relief proceeding and will not disturb them absent clear error or a showing that the hearing justice overlooked or misconceived material evidence.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential.
PARTIES	Bruce Rose v. State of Rhode Island

TOPICS

- post-conviction relief
- criminal procedure
- plea bargaining
- right to counsel
- standard of review

PRACTICE AREAS

- criminal law
- postconviction relief
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the 1997 plea proceeding complied with Rule 11 of the Rhode Island Superior Court Rules of Criminal Procedure.
2. Whether Rose's later Social Security disability determination required the postconviction-relief justice to apply the competency-related factors identified in *State v. Chabot*.
3. Whether the Superior Court clearly erred in denying Rose's application for postconviction relief.

HOLDINGS

1. The plea proceeding complied with Rule 11 because the plea justice explained the nature and consequences of the nolo contendere plea, advised Rose of the charges, rights, and potential sentence, inquired into his understanding, and found a factual basis and capacity to understand the plea.
2. The postconviction-relief justice was not required to apply the factors from *State v. Chabot* because Rose was represented by counsel, the record contained no indication that either the plea justice or violation-hearing justice should have been alerted to the disability determination, and no expert testimony established that Rose lacked capacity to plead.
3. The Superior Court did not clearly err or overlook material evidence in denying and dismissing Rose's postconviction-relief application.

KEY QUOTATIONS

*"Post-conviction relief is available to any person in this state pursuant to G.L. 1956 chapter 9.1 of title 10, who, after having been convicted of a crime, claims, `inter alia, that the conviction violated [his or her] constitutional rights * * *.'" (994 A.2d at 663)*

"The hearing justice then found that "there is a factual basis for the plea" and that Rose had "the capacity to understand the nature and consequences of his plea including but not limited to the waiver of those rights reviewed with him."'" (994 A.2d at 664)

"In Chabot, this Court held that if a defendant waives his right to counsel and, in doing so, creates a legitimate doubt about his mental condition, then "it [is] incumbent upon the trial justice to conduct a more searching inquiry of defendant's then existing mental health and physical condition[.]'" (994 A.2d at 664)

FACTUAL BACKGROUND

Rose entered a nolo contendere plea in 1997 to breaking and entering with intent to commit larceny. At the time, he had a pending Social Security disability application based on head injuries, but that circumstance was not disclosed to the plea justice; the application was granted in 1998. Rose was represented by counsel at both the plea proceeding and the later probation-violation hearing. In postconviction proceedings, he argued that his disability determination demonstrated that he lacked the capacity to enter a knowing and intelligent plea.

PROCEDURAL HISTORY

In 1997, Rose pleaded nolo contendere to breaking and entering with intent to commit larceny and received a ten-year sentence, with eighteen months to serve and the balance suspended with probation. After a 2004 probation-violation proceeding, he was ordered to serve seven years of the suspended sentence. Rose filed a pro

se postconviction-relief application in 2005; the Superior Court denied and dismissed it on September 27, 2006. The Supreme Court of Rhode Island affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The appeal was denied and dismissed, and the record was remanded to the Superior Court.

CASES CITED

- Powers v. State, 734 A.2d 508, 513-514 (R.I. 1999)
- Mastracchio v. Moran, 698 A.2d 706, 710 (R.I. 1997)
- State v. Thomas, 794 A.2d 990, 993 (R.I. 2002)
- Rodrigues v. State, 985 A.2d 311, 313-314 (R.I. 2009)
- Moniz v. State, 933 A.2d 691, 694 (R.I. 2007)
- Ouimette v. State, 785 A.2d 1132, 1135 (R.I. 2001)
- State v. Frazar, 822 A.2d 931, 936 (R.I. 2003)
- Tavarez v. State, 826 A.2d 941, 943 (R.I. 2003)
- State v. Chabot, 682 A.2d 1377, 1378, 1380-1381 (R.I. 1996)
- State v. Holdsworth, 798 A.2d 917, 925 (R.I. 2002)