

SUPREME COURT OF MONTANA

State v. Otto

366 Mont. 209, 2012 MT 199 (2012) · No. DA 11-0582 · Decided September 5, 2012

SUMMARY

The Montana Supreme Court affirmed the denial of Chris Otto's motion to dismiss a felony DUI charge enhanced based on three prior DUI-related convictions. The court held that Montana's statutory plea advisement requirements were satisfied and that prior decisions did not require advisement of additional rights, such as the right to appeal, the right to a speedy and public trial, or the right to object to unlawfully obtained evidence.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Patricia O. Cotter; James C. Nelson; Beth Baker; Michael E. Wheat; Jim Rice
JURISDICTION	Montana
DECIDED	September 5, 2012
DOCKET	DA 11-0582
DISPOSITION	affirmed
PROCEDURAL POSTURE	Otto appealed the Twelfth Judicial District Court's denial of his motion to dismiss a felony DUI charge enhanced on the basis of three prior DUI-related convictions.
STANDARD OF REVIEW	The denial of a criminal motion to dismiss and whether a prior conviction may be used for sentence enhancement are reviewed de novo for correctness; factual findings concerning the circumstances of prior convictions are reviewed for clear error.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; binding precedent except for the separate concurrence.
PARTIES	Chris R. Otto v. State of Montana

TOPICS

- criminal procedure
- sentencing
- statutory interpretation
- appellate procedure
- constitutional law

PRACTICE AREAS

criminal law

criminal procedure

DUI

sentencing enhancement

statutory interpretation

QUESTIONS PRESENTED

1. Whether Otto's three prior DUI-related convictions supported enhancement of his most recent DUI offense to a felony.
2. Whether Montana law or the Montana Constitution required guilty-plea defendants to be advised of a right to appeal, a right to a speedy and public trial, and a right to object to evidence obtained in violation of law before the convictions could be used for DUI enhancement.
3. Whether language in *State v. Knox* describing those additional rights was part of the holding or merely dicta.

HOLDINGS

1. Section 46-12-210, MCA, requires the court to determine that a defendant understands the rights listed in the statute before accepting a guilty or nolo contendere plea; it does not require advisement of a right to appeal, a right to a speedy and public trial, or a right to object to evidence obtained in violation of law.
2. Otto's three prior DUI-related convictions supported enhancement of his subsequent DUI offense to a felony because he had been advised of all rights required by § 46-12-210, MCA.

KEY QUOTATIONS

"We take this opportunity to correct any misimpression left by Knox, and to clarify that Knox does not stand for the proposition that § 46-12-210, MCA, is constitutionally insufficient or that the advisement of rights set forth in Knox, ¶ 9, is required." (¶ 18)

"Section 46-12-210, MCA, is not constitutionally deficient in light of Knox, nor does Knox expand the statutory advisement of rights requirement." (¶ 20)

FACTUAL BACKGROUND

Otto had prior misdemeanor DUI-related convictions from 2003, 2005, and 2007, entered after he received written advisements of rights. In 2010, he was charged with another DUI, which was enhanced to a felony as a fourth DUI offense. Otto argued that the prior convictions could not support enhancement because the advisements did not include a right to appeal, a right to a speedy and public trial, or a right to object to unlawfully obtained evidence.

PROCEDURAL HISTORY

Otto was charged with felony DUI as a fourth or subsequent DUI offense. He moved to dismiss, arguing that his three prior DUI convictions were constitutionally infirm because he had not been advised of several rights identified in *State v. Knox*. The District Court denied the motion, Otto pleaded guilty, and he appealed the denial of the motion to dismiss. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Allen, 2009 MT 124, ¶ 9, 350 Mont. 204, 206 P.3d 951
- State v. Walker, 2008 MT 244, ¶ 9, 344 Mont. 477, 188 P.3d 1069
- State v. Knox, 2001 MT 232, ¶¶ 9, 11-12, 25-26, 307 Mont. 1, 36 P.3d 383
- State v. Yother, 253 Mont. 128, 130, 137, 831 P.2d 1347, 1348, 1352-53 (1992)
- State v. Bowley, 282 Mont. 298, 304, 938 P.2d 592, 595 (1997)
- State v. Gopher, 193 Mont. 189, 194, 631 P.2d 293, 296 (1981)
- State v. Marble, 2005 MT 208, ¶ 26, 328 Mont. 223, 119 P.3d 88
- State v. Maine, 2011 MT 90, 360 Mont. 182, 255 P.3d 64
- State v. Burns, 2011 MT 167, 361 Mont. 191, 256 P.3d 944
- State v. Weber, 90 P.3d 314, 320-21 (Idaho 2004)

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