

SUPREME COURT OF COLORADO

In re People v. Sir Mario Owens

2018 CO 55 (Colo. 2018) · No. 18SA19 · Decided June 11, 2018

SUMMARY

The Colorado Supreme Court considered whether the public has a constitutional right of access to records sealed in a capital murder post-conviction proceeding. The court held that neither the First Amendment nor Article II, section 10 of the Colorado Constitution guarantees unfettered access to criminal justice records. It affirmed the denial of The Colorado Independent’s motion to unseal the records and discharged the rule.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Hart
JURISDICTION	Colorado
DECIDED	June 11, 2018
DOCKET	18SA19
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Colorado Independent sought extraordinary relief under C.A.R. 21 after the Arapahoe County District Court denied its motion to unseal records maintained under seal in a capital murder post-conviction proceeding.
STANDARD OF REVIEW	De novo review applies to constitutional challenges concerning alleged First Amendment and Article II, section 10 violations. The exercise of original jurisdiction under C.A.R. 21 is discretionary.
PRECEDENTIAL VALUE	Published Colorado Supreme Court opinion; precedential
PARTIES	The Colorado Independent v. The District Court for the Eighteenth Judicial District of Colorado

TOPICS

[constitutional law](#)[first amendment](#)[appellate jurisdiction](#)[appellate procedure](#)[post-conviction relief](#)

PRACTICE AREAS

constitutional law

criminal procedure

public access to court records

appellate procedure

post-conviction relief

QUESTIONS PRESENTED

1. Whether the First Amendment guarantees the public a presumptive right of access to all court records filed in criminal cases.
2. Whether Article II, section 10 of the Colorado Constitution guarantees the public a presumptive right of unfettered access to sealed criminal justice records.
3. Whether the district court erred by denying The Colorado Independent's motion to unseal the records.

HOLDINGS

1. The First Amendment does not establish a general constitutional right of public access to any and all court records in criminal cases, including the sealed records at issue.
2. Article II, section 10 of the Colorado Constitution does not guarantee a sweeping or unfettered public right of access to criminal justice records.
3. The district court did not err in denying The Colorado Independent's motion to unseal the records.

KEY QUOTATIONS

“We decline to conclude here that such unfettered access to criminal justice records is guaranteed by either the First Amendment or Article II, section 10 of the Colorado Constitution.” (§ 1)

“there is no general First Amendment right in the public to access criminal justice records.” (§ 7)

“We affirm the denial of The Colorado Independent’s motion to unseal the subject records and, consequently, discharge the rule.” (§ 10)

FACTUAL BACKGROUND

Sir Mario Owens was convicted of first-degree murder and sentenced to death in 2008. During post-conviction proceedings, Owens alleged that the district attorney had failed to disclose favorable defense evidence, and the trial court issued a protective order sealing portions of the post-conviction motions practice. The Colorado Independent sought public access to those sealed records, asserting constitutional, common-law, and statutory rights of access.

PROCEDURAL HISTORY

Sir Mario Owens was convicted of first-degree murder and sentenced to death in 2008. In 2017, the trial court denied Owens's post-conviction motion and related motion to disqualify the district attorney's office, while maintaining a protective order sealing portions of the post-conviction filings. The Colorado Independent moved to unseal the records, was denied by the district court, and petitioned the Colorado Supreme Court under C.A.R. 21. The supreme court accepted original jurisdiction, affirmed the denial of the motion to unseal, and discharged the rule.

DISPOSITION

affirmed

CASES CITED

- People v. Darlington, 105 P.3d 230, 232 (Colo. 2005)
- Fognani v. Young, 115 P.3d 1268, 1271 (Colo. 2005)
- People v. Bryant, 94 P.3d 624, 625-26 (Colo. 2004)
- Times-Call Publ'g Co. v. Wingfield, 410 P.2d 511, 511-13 (Colo. 1966)
- Cotter v. Bd. of Trustees of Univ. of N. Colo., 971 P.2d 687, 690 (Colo. App. 1998)
- Melton v. City of Oklahoma City, 879 F.2d 706 (10th Cir. 1989), modified on other grounds, 928 F.2d 920 (10th Cir. 1991)
- Kemp v. State Bd. of Agric., 803 P.2d 498 (Colo. 1990)
- Robertson v. Westminster Mall Co., 43 P.3d 622, 625 (Colo. App. 2001)
- Lewis v. Colo. Rockies Baseball Club, Ltd., 941 P.2d 266, 271 (Colo. 1997)
- Lanphere & Urbaniak v. Colorado, 21 F.3d 1508, 1512 (10th Cir. 1994)
- United States v. Hickey, 767 F.2d 705, 709 (10th Cir. 1985)