

SUPREME COURT OF THE STATE OF MONTANA

State of Montana v. Christina Louise Harrison

State v. Harrison, 387 Mont. 52, 2017 MT 60 (2017) · No. DA 14-0799 · Decided March 14, 2017

SUMMARY

The Montana Supreme Court held that a person's blood and blood alcohol level, while still inside the body, do not constitute physical evidence subject to tampering under Montana's tampering-with-evidence statute. Applying State v. Peplow, the court reversed Christina Harrison's tampering conviction and remanded for entry of judgment consistent with the opinion.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Beth Baker; James Jeremiah Shea; Dirk M. Sandefur; Jim Rice; Michael E. Wheat
JURISDICTION	Montana
DECIDED	March 14, 2017
DOCKET	DA 14-0799
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from a criminal conviction and sentence for tampering with or fabricating physical evidence.
STANDARD OF REVIEW	De novo review applies to a district court's decision on a motion to dismiss in a criminal case; statutory interpretation is reviewed for correctness as a matter of law.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Christina Louise Harrison v. State of Montana

TOPICS

- criminal procedure
- evidence
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether blood and blood alcohol content remaining inside a person's body, before a sample is obtained or collected for analysis, constitute physical evidence subject to the Montana tampering-with-evidence statute.
2. Whether amendments to Montana's implied-consent and search-warrant statutes displaced or limited *State v. Peplow*.

HOLDINGS

1. Blood and blood alcohol content remaining inside a person's body do not constitute physical evidence or a thing presented to the senses under Montana's tampering-with-evidence statute until the blood, breath, or urine has been obtained or collected for analysis.

KEY QUOTATIONS

“Until Harrison’s blood was “obtained or collected for analysis, it simply [could not] be considered ‘physical evidence’ as set forth in § 45-7-207, MCA, or a ‘thing presented to the senses,’ as explained in § 26-1-101(2), MCA.”” (¶ 17)

“We conclude that the District Court erred in denying Harrison’s motion to dismiss when it determined that Harrison’s blood, “while still within [her] body, constituted physical evidence subject to illegal tampering.”” (¶ 19)

FACTUAL BACKGROUND

A police officer stopped Christina Harrison after observing her driving at night without headlights and then observed signs of intoxication and failed field sobriety tests. Harrison refused a preliminary breath test, was arrested, and was taken to a hospital for a blood draw pursuant to a telephonic search warrant. After the officer removed her handcuffs to facilitate the draw, Harrison fled before any blood sample was obtained and was not located until the next day.

PROCEDURAL HISTORY

The Missoula County District Court denied Harrison's motion to dismiss the tampering-with-evidence charge and renewed motion after the State presented its evidence. A jury convicted her of tampering with evidence, driving under the influence, and escape. Harrison appealed only the tampering conviction and sentence; the Montana Supreme Court reversed that conviction and remanded for entry of judgment consistent with its opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse Harrison's conviction for tampering with evidence and remand for entry of judgment consistent with the opinion.

CASES CITED

- State v. Peplow, 2001 MT 253, 307 Mont. 172, 36 P.3d 922
- State v. Nelson, 2014 MT 135, ¶ 16, 375 Mont. 164, 334 P.3d 345
- State v. Plouffe, 2014 MT 183, ¶ 27, 375 Mont. 429, 329 P.3d 1255
- State v. Clary, 2 P.3d 1255 (Ariz. Ct. App. 2000)
- Botka v. Secretary, Department of Corrections, 2012 U.S. Dist. LEXIS 139062, 2012 WL 4466489 (M.D. Fla. 2012)

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