

SUPREME COURT OF MONTANA

Alan Michael Plackiewicz v. State of Montana

182 P.3d 762 (Mont. 2008) · No. DA 07-0265 · Decided March 4, 2008

SUMMARY

The Supreme Court of Montana affirmed the dismissal of Alan Michael Plackiewicz's petition for postconviction relief. The court held that his guilty pleas were knowing, intelligent, and voluntary, and that he failed to establish ineffective assistance of counsel concerning the investigation of evidentiary issues.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Jim Rice; Chief Justice Karla M. Gray; Justice W. William Leaphart; Justice John Warner; Justice Brian Morris
JURISDICTION	Montana
DECIDED	March 4, 2008
DOCKET	DA 07-0265
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plackiewicz appealed the Eighteenth Judicial District Court's dismissal of his petition for postconviction relief, which sought to set aside his convictions and withdraw his guilty pleas.
STANDARD OF REVIEW	The denial of postconviction relief is reviewed for clearly erroneous factual findings and correct conclusions of law. Denial of a motion to withdraw a guilty plea and ineffective-assistance claims are reviewed de novo as mixed questions of law and fact. The district court's interpretation and application of law are reviewed for correctness.
PRECEDENTIAL VALUE	Noncitable memorandum decision; not precedent under Montana Supreme Court Internal Operating Rules.
PARTIES	Alan Michael Plackiewicz v. State of Montana

TOPICS

- post-conviction relief
- ineffective assistance
- plea bargaining
- criminal procedure
- appellate procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

ineffective assistance of counsel

plea bargaining

QUESTIONS PRESENTED

1. Whether Plackiewicz's guilty pleas were not knowing, intelligent, and voluntary because the district court allegedly misled him about the relationship between his case and the Keeney case.
2. Whether trial counsel provided ineffective assistance by failing adequately to investigate whether evidentiary problems underlying the Keeney dismissal affected Plackiewicz's case.

HOLDINGS

1. The guilty pleas were knowing, intelligent, and voluntary, and the district court did not clearly err in finding them voluntary.
2. Plackiewicz failed to establish ineffective assistance of counsel because counsel's investigation and advice fell within the accepted range of professional conduct, and the postconviction petition was properly dismissed.

KEY QUOTATIONS

"The voluntariness of a guilty plea is reviewed pursuant to the well-established Brady standard, which considers a guilty 'plea voluntary only when the defendant is 'fully aware of the direct consequences, including the actual value of any commitments made to him by the court, prosecutor, or his own counsel'" (¶ 9)

"With respect to the first prong, there is a 'strong presumption' that counsel's actions represent trial strategy and are within the broad scope of reasonable professional conduct." (¶ 12)

FACTUAL BACKGROUND

Plackiewicz faced drug-related charges in two causes arising from the sale and possession of dangerous drugs. After learning that another defendant's case had been dismissed because of evidence-handling problems involving the Belgrade Police Department, Plackiewicz and his counsel investigated whether similar problems affected his case. Counsel concluded that the evidence in Plackiewicz's case had been photographed and documented and that the Keeney dismissal did not provide a basis for dismissal. During the plea colloquy, Plackiewicz acknowledged discussing the issue with counsel, stated that he understood the differences between the cases, and proceeded to plead guilty.

PROCEDURAL HISTORY

Plackiewicz was charged in two criminal causes, entered guilty pleas, withdrew the initial pleas after the State withdrew its sentencing recommendation, and then entered a second plea agreement covering four drug offenses. He later sought postconviction relief, arguing that the pleas were involuntary and resulted from misinformation and ineffective assistance of counsel. After a hearing, the District Court denied relief and dismissed the petition; the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Garrett v. State, 2005 MT 197, ¶ 10, 328 Mont. 165, 119 P.3d 55
- State v. Warclub, 2005 MT 149, ¶¶ 17-18, 23, 327 Mont. 352, 114 P.3d 254
- State v. Meyers, 2007 MT 230, ¶ 5, 339 Mont. 160, 168 P.3d 645
- State v. Morgan, 2003 MT 193, ¶ 9, 316 Mont. 509, 74 P.3d 1047
- State v. Lone Elk, 2005 MT 56, ¶ 21, 326 Mont. 214, 108 P.3d 500
- Brady v. United States, 397 U.S. 742, 755, 90 S. Ct. 1463, 1472 (1970)
- State v. Muhammad, 2005 MT 234, ¶¶ 14, 24, 328 Mont. 397, 121 P.3d 521
- Hans v. State, 283 Mont. 379, 410-11, 942 P.2d 674, 693 (1997)
- State v. Hendricks, 2003 MT 223, ¶ 7, 317 Mont. 177, 75 P.3d 1268