

SUPREME COURT OF MONTANA

State of Montana v. Barry Allan Beach

State v. Barry Allan Beach, 2013 MT 130 (2013) · No. DA 11-0723 · Decided May 14, 2013

SUMMARY

The Montana Supreme Court reversed a district court order granting Barry Allan Beach a new trial based on actual innocence evidence. The court held that the district court conflated freestanding Herrera claims with Schlup gateway claims, failed to apply the required evidentiary standard, and did not evaluate the new evidence against the evidence presented at trial.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Jim Rice; Beth Baker; Laurie McKinnon; Richard A. Simonton
JURISDICTION	Montana
DECIDED	May 14, 2013
DOCKET	DA 11-0723
DISPOSITION	reversed
PROCEDURAL POSTURE	The State appealed from the Fifteenth Judicial District Court's order granting Barry Allan Beach a new trial based on newly discovered evidence and actual innocence.
STANDARD OF REVIEW	Post-conviction factual findings are reviewed for clear error and legal conclusions for correctness. The ultimate determination of actual innocence is reviewed de novo because it presents a mixed question of law and fact. The reviewing court must assess the reliability of new evidence in light of the pre-existing trial record and determine what a reasonable jury would do based on the combined evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State of Montana v. Barry Allan Beach

TOPICS

- state post-conviction relief
- actual innocence
- post-conviction relief
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the District Court erred by finding that Beach demonstrated actual innocence sufficient to overcome the procedural bar to his post-conviction petition.
2. Whether a court evaluating an actual-innocence claim must consider new evidence together with all evidence presented at the original trial.
3. Whether Beach's new testimonial evidence was sufficiently reliable and compelling that no reasonable jury would likely convict him under either a Herrera freestanding claim or a Schlup gateway claim.

HOLDINGS

1. A court evaluating an actual-innocence claim must determine whether the new evidence is reliable both on its own and in light of the pre-existing trial evidence, and then assess the combined record to determine whether a reasonable jury would likely convict.
2. Beach failed to present new reliable evidence sufficient to establish actual innocence.
3. Beach failed to satisfy the actual-innocence standard for both a Herrera freestanding claim and a Schlup gateway claim.

KEY QUOTATIONS

“The second step of the unique standard of review requires the court to combine the new reliable evidence with the old trial evidence and determine whether a reasonable jury that was presented with this hybrid record would find the petitioner guilty.” (¶ 26)

“After a review of all the evidence, we conclude that Beach did not provide reliable evidence of his actual innocence that displaced the trial evidence and thus his conviction.” (¶ 79)

FACTUAL BACKGROUND

Kim Nees was found beaten to death and floating in the Poplar River on June 16, 1979. Beach confessed in 1983 to killing Nees with a crescent wrench and tire iron, and a jury convicted him of deliberate homicide in 1984. Decades later, Beach presented testimony suggesting that a group of teenage girls had killed Nees, but the testimony was internally inconsistent, changed over time, and conflicted with the physical evidence and Beach's confession. The District Court credited the new testimony and granted a new trial, but the Supreme Court concluded that it did not reliably displace the trial evidence.

PROCEDURAL HISTORY

Beach was convicted of deliberate homicide in 1984 and sentenced to 100 years' imprisonment without parole. After prior unsuccessful direct, state post-conviction, federal habeas, and clemency proceedings, he filed a second state post-conviction petition in 2008 alleging newly discovered evidence of actual innocence. This Court previously remanded for an evidentiary hearing. On remand, the District Court found that Beach had

demonstrated actual innocence sufficient to warrant a new trial and released him pending appeal. The Supreme Court reversed, denied the petition, and dismissed the post-conviction proceeding.

DISPOSITION

reversed

CASES CITED

- State v. Beach, 217 Mont. 132, 705 P.2d 94 (1985)
- Beach v. Day, 275 Mont. 370, 913 P.2d 622 (1996)
- Beach v. Mahoney, CV-92-92-BLG-RWA (D. Mont. Aug. 6, 1997)
- Beach v. Mahoney, CR 92-92-BLG-JDS (D. Mont. Mar. 31, 1998)
- Beach v. McCormick, 191 F.3d 459 (9th Cir. 1999) (table)
- Beach v. State, 2009 MT 398, 353 Mont. 411, 220 P.3d 667
- Griffin v. State, 2003 MT 267, 317 Mont. 457, 77 P.3d 545
- Porter v. State, 2002 MT 319, 313 Mont. 149, 60 P.3d 951
- Schlup v. Delo, 513 U.S. 298 (1995)
- Herrera v. Collins, 506 U.S. 390 (1993)
- Doe v. Menefee, 391 F.3d 147 (2d Cir. 2004)
- State v. Redcrow, 1999 MT 95, 294 Mont. 252, 980 P.2d 622
- State v. Perry, 232 Mont. 455, 758 P.2d 298 (1988)
- State v. Clark, 2005 MT 330, 330 Mont. 8, 125 P.3d 1099
- State v. Pope, 2003 MT 330, 318 Mont. 383, 80 P.3d 1232
- House v. Bell, 547 U.S. 518 (2006)
- Carriger v. Stewart, 123 F.3d 463 (9th Cir. 1997) (en banc)
- Anderson v. City of Bessemer, 470 U.S. 564 (1985)
- Crosby v. State, 2006 MT 155, 332 Mont. 460, 139 P.3d 832
- State v. Abe, 2001 MT 260, 307 Mont. 233, 37 P.3d 77
- Kuhlmann v. Wilson, 477 U.S. 436 (1986) (plurality)
- Sawyer v. Whitley, 505 U.S. 333 (1992)

CITED IN

- State of Montana v. Barry Allan Beach, State v. Beach, 2013 MT 130, 370 Mont. 163, 302 P.3d 47

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