

SUPREME COURT OF MONTANA

State v. Rardon

2001 MT 77 (Mont. 2001) · No. No. 00-431 · Decided April 26, 2001

SUMMARY

The Montana Supreme Court remanded the matter to the district court to determine whether appointed counsel should be permitted to withdraw and, if so, to appoint replacement counsel for William Lester Rardon’s direct appeal. The Court held that a criminal defendant has a constitutional right to counsel on direct appeal and that appointed counsel’s obligation continues through the appeal unless the appointing court authorizes withdrawal.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Per Curiam; Karla M. Gray; Jim Rice; W. William Leaphart; Patricia Cotter; Terry N. Triewelier; Jim Regnier
JURISDICTION	Montana
DECIDED	April 26, 2001
DOCKET	No. 00-431
DISPOSITION	remanded
PROCEDURAL POSTURE	Rardon filed a pro se appellate brief requesting appointment of counsel after a resentencing judgment. The Montana Supreme Court treated the filing as a motion for appointment of counsel and remanded to the district court to determine whether appointed counsel should be permitted to withdraw and, if so, to appoint substitute counsel.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion and order; precedential status is not otherwise specified in the opinion text.
PARTIES	William Lester Rardon v. State of Montana

TOPICS

- right to counsel
- appellate procedure
- criminal procedure
- ineffective assistance

PRACTICE AREAS

- criminal procedure
- appellate procedure
- right to counsel
- ineffective assistance

QUESTIONS PRESENTED

1. Whether a criminal defendant is constitutionally entitled to appointed counsel for a direct appeal from resentencing.
2. Whether appointed counsel may terminate representation by filing a notice of termination without an order from the appointing court.
3. What action the district court must take to ensure Rardon has counsel for the appeal.

HOLDINGS

1. A criminal defendant has a constitutional right to counsel on a direct appeal, and an appeal from resentencing ordered on remand is a direct appeal for which the defendant is entitled to counsel.
2. Assigned counsel must continue representing a defendant through final judgment, including proceedings on direct appeal, unless relieved by an order of the court that assigned counsel; filing a notice of termination alone does not satisfy that obligation.
3. The matter must be remanded to the district court to determine whether appointed counsel should be allowed to withdraw and, if withdrawal is approved, to appoint other appropriate counsel; the court may also determine whether Rardon remains indigent and eligible for appointed counsel.

KEY QUOTATIONS

“A criminal defendant has a constitutional right to counsel on a direct appeal.” (¶ 3)

“That obligation of representation was not satisfied by the filing in the district court of a “Notice of Termination of Attorney/Client Relationship” by Rardon’s court-appointed counsel.” (¶ 4)

FACTUAL BACKGROUND

The State charged Rardon with one count of sexual intercourse without consent and two counts of sexual assault. He pleaded guilty to one count of sexual assault, the remaining charges were dismissed, and the district court entered judgment and sentence. After the Montana Supreme Court ordered resentencing, the district court entered a second judgment and sentence; appointed counsel then filed a notice purporting to terminate the attorney-client relationship, after which Rardon filed a pro se appeal.

PROCEDURAL HISTORY

Rardon was charged in the Eleventh Judicial District Court, Flathead County, pleaded guilty to one count of sexual assault under a written plea agreement, and was resentenced after the Montana Supreme Court reversed and remanded the original sentence. After entry of the second judgment and sentence, appointed counsel filed a notice of termination of the attorney-client relationship, and Rardon filed a pro se notice of appeal. The Supreme Court had previously denied appointment of counsel based on the mistaken belief that Rardon was represented, so it remanded for a determination concerning counsel and directed that Rardon receive 30 days to file a new brief after that determination.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the Eleventh Judicial District Court, Flathead County, to determine whether Rardon's court-appointed counsel should be allowed to withdraw. If withdrawal was approved, the district court was directed to appoint other appropriate counsel and, if necessary, determine Rardon's continuing indigence and eligibility for appointed counsel. After the determination, Rardon was to have 30 days to file a new brief, with further briefing proceeding under the Montana Rules of Appellate Procedure.

CASES CITED

- State v. Black, 245 Mont. 39, 798 P.2d 530 (1990)
- State v. Rardon, 1999 MT 220, 296 Mont. 19, 986 P.2d 424

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