

SUPREME COURT OF MONTANA

Travis Dean Smith v. State of Montana

2004 MT 190N (Mont. 2004) · No. No. 04-069 · Decided July 20, 2004

SUMMARY

The Montana Supreme Court affirmed the denial of Travis Dean Smith’s petition for postconviction relief. The court held that Smith’s claims concerning the filing of a probation violation report, the lawfulness of his combined DOC and MSP sentence, and ineffective assistance of counsel did not warrant relief. The court also concluded that the appeal was controlled by settled Montana law and was without merit.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Patricia O. Cotter; Patricia O. Cotter; John Warner; James C. Nelson; Jim Regnier; Jim Rice
JURISDICTION	Montana
DECIDED	July 20, 2004
DOCKET	No. 04-069
DISPOSITION	affirmed
PROCEDURAL POSTURE	Smith appealed the Eleventh Judicial District Court's denial of his petition for postconviction relief and motion to amend.
STANDARD OF REVIEW	The Court reviews the denial of postconviction relief to determine whether the district court's findings of fact are clearly erroneous and whether its conclusions of law are correct.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Travis Dean Smith v. State of Montana

TOPICS

- post-conviction relief
- criminal procedure
- sentencing
- appellate procedure
- statutory interpretation

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- sentencing
- appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court erred in denying Smith's petition for postconviction relief.
2. Whether the alleged untimely filing of the probation-violation report entitled Smith to postconviction relief.
3. Whether Smith's May 1999 sentence consisting of five years with the Department of Corrections followed by five years at Montana State Prison, with the latter suspended, was statutorily authorized.
4. Whether trial counsel was ineffective for failing to raise the asserted probation-report and sentencing claims.

HOLDINGS

1. The District Court properly denied Smith's petition for postconviction relief because his claims were procedurally barred, untimely, or without merit.
2. The May 1999 sentence was authorized under § 46-18-201(3)(h), MCA (1999), which permitted a court to impose any combination of the sentencing options listed in subsections (2) through (3)(g).

KEY QUOTATIONS

“On the face of the briefs and the record on appeal it is manifest that the appeal is without merit as the issues are clearly controlled by settled Montana law, which the District Court correctly cited and interpreted, and because there is clearly sufficient evidence to support the court’s findings of fact.” (¶ 16)

FACTUAL BACKGROUND

Smith received a deferred sentence for burglary in 1992, which was later revoked and replaced with a suspended sentence. After additional forgery-related proceedings and probation violations, he received a sentence involving five years with the Department of Corrections followed by five years at Montana State Prison, with the latter sentence suspended. In 2003, after further probation violations, Smith admitted the violations pursuant to an agreement that deferred prosecution of a felony domestic-assault charge and resulted in a five-year MSP sentence. He later sought postconviction relief, arguing that the probation-violation report was untimely and that the 1999 combined sentence was unauthorized.

PROCEDURAL HISTORY

Smith pleaded guilty to burglary and later forgery-related charges, received consecutive and suspended sentences, and in 2003 admitted probation violations pursuant to an agreement with the State. He subsequently filed a petition for postconviction relief challenging the timeliness of a probation-violation report, the legality of his sentence, and counsel's effectiveness. The District Court denied relief and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Davis v. State, 2004 MT 112, ¶ 13, 321 Mont. 118, ¶ 13, 88 P.3d 1285, ¶ 13

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