

SUPREME COURT OF MONTANA

State v. McDowell, 2011 MT 75, 360 Mont. 83

253 P.3d 812 (2011) · No. DA 09-0474 · Decided April 14, 2011

SUMMARY

The Supreme Court of Montana considered whether the prosecutor breached a plea agreement by presenting sentencing evidence and recommending conditions on a suspended sentence. The court held that the prosecutor did not breach the agreement, but it reversed and remanded because the district court failed to credit the defendant for time served.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Mike McGrath; Michael E. Wheat; Patricia Cotter; Beth Baker; James C. Nelson
JURISDICTION	Montana
DECIDED	April 14, 2011
DOCKET	DA 09-0474
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	McDowell pleaded no contest to assault with a weapon and burglary, was sentenced in the District Court, and appealed after the court denied his attempt to withdraw his plea. He challenged an alleged breach of the plea agreement and the failure to credit him for time served.
STANDARD OF REVIEW	A sentence involving more than one year of actual incarceration is reviewed for legality only. Whether the State breached a plea agreement is a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Shawn Earl McDowell v. State of Montana

TOPICS

- plea bargaining
- sentencing
- contracts
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the prosecutor breached the plea agreement by presenting testimony and argument that allegedly undermined the agreed sentencing recommendation.
2. Whether the prosecutor breached the plea agreement by recommending conditions on the suspended portion of McDowell's sentence.
3. Whether the District Court erred by failing to credit McDowell for time served.

HOLDINGS

1. The prosecutor did not breach the plea agreement because the presentation of the victim's testimony, the presentence-investigation evidence, the fine recommendation, and the sentencing argument did not undermine the agreed recommendation.
2. The prosecutor did not breach the plea agreement by recommending conditions for the suspended portion of McDowell's sentence because the agreement promised only specified sentencing recommendations and did not promise that no conditions would be imposed.
3. The District Court erred by failing to credit McDowell for time he was incarcerated before sentencing, and the case must be remanded to determine the correct amount of credit.

KEY QUOTATIONS

“In order to retain the benefit derived from a defendant's plea, the State must fulfill its contractual obligations strictly and meticulously.” (¶ 14)

“A prosecutor enjoys wide latitude in submitting evidence at sentencing, but must temper his or her case by adhering to obligations or restrictions contained in a plea agreement.” (¶ 16)

“Each day of incarceration prior to or after a conviction must be credited against a defendant's sentence.” (¶ 27)

FACTUAL BACKGROUND

McDowell broke into his ex-girlfriend's home while carrying and firing a gun, although she escaped unharmed. He entered a plea agreement reducing the charges to assault with a weapon and burglary in exchange for the prosecutor's recommendations of consecutive sentences totaling thirty years, with twenty years suspended. At sentencing, the prosecutor presented the victim's testimony, evidence from the presentence investigation, and a recommendation for a fine and supervised-release conditions. The District Court imposed consecutive sentences, a fine, and conditions on the suspended sentence, but gave McDowell no credit for time already served.

PROCEDURAL HISTORY

The State initially charged McDowell with attempted deliberate homicide and aggravated burglary. The parties entered a plea agreement under which McDowell pleaded no contest to assault with a weapon and burglary in exchange for specified sentencing recommendations. The District Court imposed consecutive sentences, a fine,

and conditions on the suspended portion of the sentence, but failed to award credit for time served. The Montana Supreme Court affirmed in part, reversed in part, and remanded for calculation of the proper credit.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court must determine the correct amount of credit to give McDowell for time served.

CASES CITED

- State v. Bullplume, 2011 MT 40, ¶ 10, 359 Mont. 289, 251 P.3d 114
- State v. Manywhitehorses, 2010 MT 225, ¶¶ 10, 14, 358 Mont. 46, 243 P.3d 412
- State v. Rardon, 2005 MT 129, ¶¶ 18-19, 327 Mont. 228, 115 P.3d 182
- State v. Rardon, 2002 MT 345, ¶¶ 19-22, 313 Mont. 321, 61 P.3d 132
- State v. Rardon, 1999 MT 220, ¶ 14, 296 Mont. 19, 986 P.2d 424
- State v. Allen, 199 Mont. 204, 209, 645 P.2d 380, 382 (1981)
- State v. LaMere, 272 Mont. 355, 359, 900 P.2d 926 (1995)
- State v. Montgomery, 2010 MT 193, ¶ 12, 357 Mont. 348, 239 P.3d 929
- State v. DeWitt, 2006 MT 302, ¶ 10, 334 Mont. 474, 149 P.3d 549
- Correale v. United States, 479 F.2d 944 (1st Cir. 1973)