

SUPREME COURT OF MONTANA

Brasda v. State

2007 MT 95N (2007) · No. DA 06-0383 · Decided April 10, 2007

SUMMARY

The Montana Supreme Court affirmed the denial of Rayland Brasda’s petition for postconviction relief. The court held that counsel was not deficient in challenging the admission of a knife and, in any event, Brasda failed to establish prejudice under the Strickland ineffective-assistance standard.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Jim Rice; Jim Rice; Karla M. Gray; W. William Leaphart; Patricia Cotter; James C. Nelson
JURISDICTION	Montana
DECIDED	April 10, 2007
DOCKET	DA 06-0383
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brasda appealed the Cascade County District Court's denial of his petition for postconviction relief based on ineffective assistance of counsel.
STANDARD OF REVIEW	The Court reviewed the denial of postconviction relief for clearly erroneous factual findings and incorrect conclusions of law. Ineffective-assistance claims, as mixed questions of law and fact, were reviewed de novo.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Rayland Brasda v. State of Montana

TOPICS

- post-conviction relief
- ineffective assistance
- criminal procedure
- standard of review
- appellate procedure

PRACTICE AREAS

- criminal law
- post-conviction relief
- ineffective assistance of counsel
- appellate procedure

QUESTIONS PRESENTED

1. Whether trial counsel provided ineffective assistance by failing to properly object to the admission of the knife and by failing to request a jury instruction concerning alleged police manipulation of the knife.
2. Whether Brasda established prejudice under the second prong of the Strickland ineffective-assistance test.

HOLDINGS

1. Brasda failed to establish that counsel's performance was deficient because counsel initially objected to the knife's admission, requiring the State to lay a testimonial foundation concerning whether the knife's condition had been altered.
2. Brasda failed to establish a reasonable probability that, absent counsel's alleged errors, the result of the proceeding would have been different; admission of the knife was not sufficiently prejudicial to undermine confidence in the verdict.

KEY QUOTATIONS

“Under the second prong of the Strickland test, a petitioner must establish that the ineffective assistance caused prejudice.” (¶ 7)

“The second prong requires the defendant to establish prejudice by demonstrating that there was a reasonable probability that, but for counsel’s errors, the result of the proceeding would have been different.” (¶ 9)

FACTUAL BACKGROUND

Brasda was charged with and convicted of felony assault with a weapon. At trial, the State introduced a knife that Brasda claimed had been manipulated by police, and his counsel initially objected to its admission. In his postconviction petition, Brasda alleged that counsel was ineffective for failing to properly object to the knife, failing to request a related jury instruction, and other trial deficiencies; on appeal, he pursued only the knife-related claims.

PROCEDURAL HISTORY

Brasda was convicted by a jury of felony assault with a weapon and his conviction was affirmed on direct appeal. He then sought postconviction relief, alleging ineffective assistance of counsel. The District Court denied the petition, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Brasda, 2003 MT 374, 319 Mont. 146, 82 P.3d 922
- Hendricks v. State, 2006 MT 22, ¶ 10, 331 Mont. 47, ¶ 10, 128 P.3d 1017, ¶ 10
- Thurston v. State, 2004 MT 142, ¶ 8, 321 Mont. 411, ¶ 8, 91 P.3d 1259, ¶ 8

- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)
- State v. Boyer, 215 Mont. 143, 147, 695 P.2d 829, 831 (1985)
- State v. Rogers, 2001 MT 165, ¶ 14, 306 Mont. 130, ¶ 14, 32 P.3d 724, ¶ 14
- Davis v. State, 2004 MT 112, ¶ 20, 321 Mont. 118, ¶ 20, 88 P.3d 1285, ¶ 20
- State v. Harris, 2001 MT 231, ¶ 19, 306 Mont. 525, ¶ 19, 36 P.3d 372, ¶ 19