

SUPREME COURT OF THE STATE OF MONTANA

State of Montana v. Joshua J. Twichel

2009 MT 409N (Mont. 2009) · No. DA 09-0258 · Decided November 25, 2009

SUMMARY

The Montana Supreme Court reviewed the denial of Joshua J. Twichel’s motion to withdraw his guilty plea to partner or family member assault. The court held that the district court correctly applied the law and affirmed, concluding that substantial evidence supported its findings and that the alleged failure to advise Twichel of collateral consequences did not warrant withdrawal of the plea.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Brian Morris; Mike McGrath; James C. Nelson; Patricia O. Cotter; Jim Rice
JURISDICTION	Montana
DECIDED	November 25, 2009
DOCKET	DA 09-0258
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the district court's order affirming the city court's denial of his motion to withdraw his guilty plea.
STANDARD OF REVIEW	The denial of a motion to withdraw a guilty plea on the ground that the plea was involuntary presents mixed questions of law and fact reviewed de novo. Underlying factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Joshua J. Twichel v. State of Montana

TOPICS

- criminal procedure
- plea bargaining
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the city court's failure to advise Twichel of alleged collateral and other consequences rendered his guilty plea involuntary and required withdrawal of the plea.
2. What standard of review applies to the denial of a motion to withdraw a guilty plea on involuntariness grounds.

HOLDINGS

1. The denial of a motion to withdraw a guilty plea on the ground that the plea was involuntary presents mixed questions of law and fact reviewed de novo, while factual findings relied upon by the court are reviewed for clear error.
2. The denial of Twichel's motion to withdraw his guilty plea was affirmed because substantial evidence supported the District Court's factual findings and the District Court correctly applied the law.

KEY QUOTATIONS

“The denial of a motion to withdraw a guilty plea on the alleged grounds that the plea was involuntary presents mixed questions of law and fact. We review de novo these mixed questions of law and fact.” (¶ 8)

“It is manifest on the face of the briefs and the record before us that substantial evidence supports the District Court’s findings of fact and that the District Court correctly applied the law.” (¶ 8)

FACTUAL BACKGROUND

Billings police arrested Joshua Twichel after an altercation with his pregnant wife in which the charging information alleged that he pushed her down, twisted her arm, and threatened her with a gun. At his initial appearance, Twichel briefly consulted a public defender who advised him to plead not guilty, but Twichel chose to plead guilty because he wanted to return home quickly to support his family. The city court advised him of the direct consequences of the plea but did not discuss collateral consequences such as the effect on his gun rights; it accepted the plea after a brief colloquy and imposed sentence. Three weeks later, Twichel sought to withdraw the plea, alleging inadequate advice concerning gun rights, supervision, and a no-contact order.

PROCEDURAL HISTORY

The Billings City Court accepted Twichel's guilty plea to partner family member assault and imposed sentence. Three weeks later, Twichel moved to withdraw the plea, arguing that he had not been adequately advised of its consequences; the city court denied the motion. The District Court of the Thirteenth Judicial District, Yellowstone County, affirmed, and Twichel appealed to the Montana Supreme Court, which affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Brinson, 2009 MT 200, ¶ 3, 351 Mont. 136, 210 P.3d 164

- State v. McFarland, 2008 MT 18, ¶ 8, 341 Mont. 166, 176 P.3d 1057

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