

SUPREME COURT OF MONTANA

State v. Morris, 2010 MT 259

245 P.3d 512, 358 Mont. 307 (2010) · No. DA 10-0302 · Decided December 14, 2010

SUMMARY

The Montana Supreme Court affirmed Gayle Morris's consecutive six-month jail sentences and fines following his no-contest pleas to accountability to prostitution and obstructing a peace officer or other public servant. The court held that the sentences were legal, did not violate Montana sentencing policy or constitutional protections, and were not an abuse of discretion.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Mike McGrath; Jim Rice; Michael E. Wheat; Patricia Cotter; Brian Morris
JURISDICTION	Montana
DECIDED	December 14, 2010
DOCKET	DA 10-0302
DISPOSITION	affirmed
PROCEDURAL POSTURE	Morris pleaded no contest in the District Court of the Eighth Judicial District, Cascade County, to Accountability to Prostitution and Obstructing a Peace Officer or Other Public Servant, received consecutive maximum statutory sentences, and appealed the sentences to the Montana Supreme Court.
STANDARD OF REVIEW	Because Morris was not statutorily eligible for sentence review, the court reviewed the sentences for legality and abuse of discretion. A sentence is reviewed for legality when it falls within statutory limits, and abuse of discretion occurs when the district court acts arbitrarily without conscientious judgment or exceeds the bounds of reason.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Gayle Abraham Morris v. State of Montana

TOPICS

- sentencing
- criminal procedure
- standard of review
- appellate procedure
- due process

PRACTICE AREAS

Criminal law

Sentencing

Criminal procedure

Appellate procedure

Constitutional law

QUESTIONS PRESENTED

1. Whether the District Court imposed illegal sentences in violation of Morris's constitutional rights and Montana's sentencing policy.
2. Whether the District Court violated due process by relying on misinformation or information from the original charging documents and supporting affidavit.
3. Whether the District Court violated Morris's Fifth Amendment right against self-incrimination by sentencing him for lack of remorse or failure to admit wrongdoing.
4. Whether the District Court abused its discretion by imposing the maximum statutory penalties, including consecutive six-month jail terms and fines.

HOLDINGS

1. Morris failed to demonstrate that the District Court violated Montana's sentencing policy by considering his former public offices when imposing sentence.
2. Morris did not establish a due-process violation because he failed to show that the District Court relied on materially inaccurate or improper information.
3. Morris did not establish that the District Court punished him for lack of remorse, failure to admit wrongdoing, or invocation of his right to remain silent.
4. The District Court did not abuse its discretion by imposing two consecutive six-month jail terms without suspension and two \$500 fines.

KEY QUOTATIONS

“As a result, Morris was not eligible for sentence review and we review his sentences for legality and abuse of discretion.” (§ 12)

“Furthermore, “a sentencing court may not punish a defendant for failing to accept responsibility for the crime when that defendant has expressly maintained his innocence and has a right to appeal his conviction.” (§ 22)

“We conclude that the District Court's sentences were not arbitrary and did not exceed the bounds of reason.” (§ 26)

FACTUAL BACKGROUND

Morris was the proprietor of Really Windy's Gentlemen's Club, where female dancers engaged in or offered to engage in prostitution with patrons. The stipulated facts indicated that Morris knew or should have known of the activities and aided the dancers by failing to stop them. The stipulated facts also stated that, before execution of a search warrant, Morris removed or destroyed condoms and wrappers, hindering enforcement of criminal law.

PROCEDURAL HISTORY

The State initially charged Morris with felony Promoting Prostitution. Under a plea agreement, that charge was dismissed and Morris pleaded no contest to amended misdemeanor charges of Accountability to Prostitution and Obstructing a Peace Officer or Other Public Servant. The District Court imposed consecutive six-month jail terms with no time suspended and a \$500 fine for each offense. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Gunderson, 2010 MT 166, ¶ 37, 357 Mont. 142, 237 P.3d 74
- State v. Hinkle, 2008 MT 217, ¶ 11, 344 Mont. 236, 186 P.3d 1279
- State ex rel. Holt v. Dist. Ct., 2000 MT 142, ¶ 12, 300 Mont. 35, 3 P.3d 608
- State v. Harper, 2006 MT 259, ¶¶ 17-18, 334 Mont. 138, 144 P.3d 826
- State v. Giddings, 2009 MT 61, ¶ 69, 349 Mont. 347, 208 P.3d 363
- Driver v. Sentence Rev. Div. in the Sup. Ct. of Mont., 2010 MT 43, ¶ 17, 355 Mont. 273, 227 P.3d 1018
- State v. Collier, 277 Mont. 46, 63, 919 P.2d 376, 387 (1996)
- State v. Walker, 2007 MT 205, ¶ 22, 338 Mont. 529, 167 P.3d 879
- State v. Mason, 2003 MT 371, ¶ 21, 319 Mont. 117, 82 P.3d 903
- State v. Herman, 2008 MT 187, ¶ 12, 343 Mont. 494, 188 P.3d 978
- State v. Alden, 282 Mont. 45, 51, 934 P.2d 210, 214 (1997)
- State v. Rennaker, 2007 MT 10, ¶ 51, 335 Mont. 274, 150 P.3d 960
- State v. Shreves, 2002 MT 333, ¶ 22, 313 Mont. 252, 60 P.3d 991
- State v. Cesnik, 2005 MT 257, ¶ 25, 329 Mont. 63, 122 P.3d 456
- State v. Cotterell, 2008 MT 409, ¶ 89, 347 Mont. 231, 198 P.3d 254