

SUPREME COURT OF MONTANA

State v. Lionel Scott Ellison

2009 MT 408N (2009) · No. DA 09-0305 · Decided November 25, 2009

SUMMARY

The Montana Supreme Court affirmed the denial of Lionel Scott Ellison’s motion to withdraw his Alford plea to felony arson. The court held that neither defense counsel, the district court, nor the prosecutor misrepresented the possibility of a deferred sentence, and therefore Ellison failed to show good cause under Montana law for withdrawing his plea. The opinion was issued as a noncitable memorandum decision.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	W. William Leaphart; Mike McGrath; James C. Nelson; Brian Morris; Jim Rice
JURISDICTION	Montana
DECIDED	November 25, 2009
DOCKET	DA 09-0305
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ellison appealed the Yellowstone County District Court's denial of his motion to withdraw an Alford plea to felony arson.
STANDARD OF REVIEW	The denial of a motion to withdraw a guilty plea is reviewed de novo; underlying factual findings are reviewed for clear error; and the district court's interpretation and application of law are reviewed for correctness.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision; expressly designated not citable as precedent under the Montana Supreme Court's Internal Operating Rules.
PARTIES	Lionel Scott Ellison v. State of Montana

TOPICS

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

PRACTICE AREAS

criminal procedure

plea withdrawal

sentencing

QUESTIONS PRESENTED

1. Whether the District Court erred by denying Ellison's motion to withdraw his Alford plea on the ground that the plea was induced by misrepresentations concerning the possibility of a deferred sentence.

HOLDINGS

1. Ellison did not demonstrate good cause under § 46-16-105(2), MCA, because neither defense counsel, the District Court, the prosecutor, nor any other relevant party misrepresented that Ellison was entitled to or guaranteed a deferred sentence.

KEY QUOTATIONS

“At any time before judgment or . . . within one year after judgment becomes final, the court may, for good cause shown, permit the plea of guilty or nolo contendere to be withdrawn and a plea of not guilty substituted.” (¶ 9)

“Simply put, none of the relevant parties in this case misrepresented to Ellison that he was entitled to a deferred sentence.” (¶ 13)

FACTUAL BACKGROUND

Ellison was charged with felony arson after a car belonging to Deane Ames caught fire while Ellison was driving it. He entered an Alford plea under an agreement providing that the State would recommend a five-year suspended sentence while allowing him to argue for a lesser sentence, including a deferred imposition of sentence. After changing counsel, Ellison moved to withdraw the plea, asserting that he had been misled about the availability of a deferred sentence, but the District Court found no misrepresentation and denied the motion.

PROCEDURAL HISTORY

Ellison was charged with felony arson, entered an Alford plea pursuant to a plea agreement, and later moved to withdraw the plea based on alleged misrepresentations concerning the possibility of a deferred sentence and other asserted grounds. The District Court denied the motion and sentenced him to five years in the Montana State Prison, all suspended. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Deserly, 2008 MT 242, 344 Mont. 468, 188 P.3d 1057
- State v. Jones, 2008 MT 331, 346 Mont. 173, 194 P.3d 86
- State v. Brinson, 2009 MT 200, ¶ 3, 351 Mont. 136, 210 P.3d 164

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

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