

SUPREME COURT OF NORTH DAKOTA

Vandeberg v. State

660 N.W.2d 568 (N.D. 2003) · No. Nos. 20020320, 20020321 · Decided May 6, 2003

SUMMARY

The Supreme Court of North Dakota reviewed the summary dismissal of Jesse James Vandeberg’s application for post-conviction relief. The court held that the State had not met its initial burden of showing the absence of a genuine issue of material fact or sufficiently explained why the record failed to support Vandeberg’s claims. The court reversed the summary disposition and remanded the case.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Neumann, Justice; Neumann; Mary Muehlen Maring; Carol Ronning Kapsner; Vande Walle, Chief Justice; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	May 6, 2003
DOCKET	Nos. 20020320, 20020321
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the summary dismissal of an application for post-conviction relief.
STANDARD OF REVIEW	Review of a summary denial of post-conviction relief is like review of an appeal from summary judgment. Summary disposition is proper only when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of North Dakota
PARTIES	Jesse James Vandeberg v. State of North Dakota

TOPICS

- state post-conviction relief
- summary judgment
- standard of review
- civil procedure
- appellate procedure

PRACTICE AREAS

- post-conviction relief
- criminal procedure
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the State's response and motion for summary disposition were sufficient to place Vandeberg on his proof before an evidentiary hearing.
2. Whether the trial court erred by granting summary disposition of the post-conviction-relief application without the State first showing the absence of a genuine issue of material fact.

HOLDINGS

1. A State response or motion asserting only that a post-conviction petitioner offered no evidence is insufficient to shift the burden to the petitioner. The State must identify the absence of record evidence supporting the claims or explain how the record contradicts the allegations.
2. The trial court erred in granting summary disposition because the State failed to show that Vandeberg's allegations did not establish a genuine issue of material fact.

KEY QUOTATIONS

“While our case law requires a petitioner to establish a basis for post-conviction relief, a petitioner need not provide evidence or proof with an application.” (¶ 4, 660 N.W.2d at 570-71)

“As stated in Steinbach, 2003 ND 46, at ¶ 22, 658 N.W.2d 355 (Neumann, J., concurring), the State cannot require the petitioner, in every post-conviction relief case, to prove up his case prior to any hearing merely by moving for summary disposition and asserting the petitioner has offered no evidence to support his claims.” (¶ 7, 660 N.W.2d at 571-72)

“The State must not merely “respond” to put a petitioner on his proof; it must show the trial court it is entitled to judgment as a matter of law in its motion for summary disposition.” (¶ 7, 660 N.W.2d at 572)

FACTUAL BACKGROUND

In 1986, Vandeberg pleaded guilty to felony robbery and felony theft and received prison terms of three and four years. In 2002, he sought post-conviction relief, alleging that his pleas were not knowing and voluntary, that appointed counsel failed to pursue an appeal on the robbery charge, and that he was innocent. The State moved for summary disposition, asserting that Vandeberg had offered no evidence, and the trial court dismissed the application without requiring the State to identify an absence of record evidence or contradictions in the underlying criminal record.

PROCEDURAL HISTORY

Vandeberg filed an application for post-conviction relief challenging his guilty pleas and alleging ineffective assistance of counsel. The State responded and moved for summary disposition. The trial court denied the petition and granted summary disposition after concluding the State's response had put Vandeberg to his proof and that he had failed to provide supporting evidence. Vandeberg appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The summary disposition of Vandenberg's petition for post-conviction relief was reversed and remanded for further proceedings consistent with the requirement that the State first satisfy its initial summary-disposition burden.

CASES CITED

- Steinbach v. State, 2003 ND 46, 658 N.W.2d 355
- Weaver v. State, 2003 ND 47, 658 N.W.2d 352
- Belgarde v. Rosenau, 388 N.W.2d 129, 130 (N.D. 1986)
- State v. Goulet, 1999 ND 80, 593 N.W.2d 345
- Owens v. State, 1998 ND 106, 578 N.W.2d 542