

SUPREME COURT OF NORTH DAKOTA

Pinkney v. State

2021 ND 155 (2021) · No. 20200249 · Decided August 19, 2021

SUMMARY

The North Dakota Supreme Court affirmed the district court’s summary dismissal of Thomas Pinkney’s application for post-conviction relief. The court held that the district court did not abuse its discretion in denying Pinkney’s request for a continuance and did not err in concluding that Pinkney failed to provide competent evidence raising a genuine issue of material fact.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Gerald W. VandeWalle, Justice; Daniel J. Crothers, Acting Chief Justice; Gerald W. VandeWalle; Lisa Fair McEvers; Jerod E. Tufte; Rhonda R. Ehlis, District Judge, sitting in place of Jensen, Chief Justice
JURISDICTION	North Dakota
DECIDED	August 19, 2021
DOCKET	20200249
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting summary dismissal of an application for post-conviction relief and denying the applicant's motion for a continuance.
STANDARD OF REVIEW	The denial of a motion for continuance is reviewed for abuse of discretion. An appeal from summary dismissal of post-conviction relief is reviewed as an appeal from summary judgment.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Thomas Michael Pinkney v. State of North Dakota

TOPICS

- state post-conviction relief
- summary judgment
- statute of limitations
- discovery criminal
- appellate procedure

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying Pinkney's motion for a continuance to allow further investigation and completion of a psychological evaluation.
2. Whether the district court erred by summarily dismissing Pinkney's post-conviction relief application when he had not submitted competent evidence raising a genuine issue of material fact.

HOLDINGS

1. The district court did not abuse its discretion in denying Pinkney's request for an additional continuance because Pinkney failed to establish good cause and the court's decision was not unreasonable, arbitrary, or unconscionable.
2. Summary dismissal was proper because Pinkney failed to provide competent evidence raising a genuine issue of material fact and relied instead on conclusory allegations and an ongoing investigation.

KEY QUOTATIONS

“ “[P]ost-conviction relief is not a device for investigating possible claims, but a means for vindicating actual claims.” ” (¶ 15)

FACTUAL BACKGROUND

In 2015, Pinkney pleaded guilty to gross sexual imposition, a class A felony, and was sentenced. In April 2020, he filed a post-conviction relief application seeking to withdraw his plea and proceed to trial, alleging newly discovered DNA evidence, actual innocence, and incompetence to plead guilty. His attorney stated that investigation was ongoing, including psychological evaluation and investigation of possible evidence, but Pinkney did not submit competent evidence supporting those claims before the State moved for summary dismissal.

PROCEDURAL HISTORY

Pinkney pleaded guilty to gross sexual imposition in 2015 and was sentenced. After prior post-conviction applications and motions in the criminal case were denied, he filed the present application in April 2020, alleging newly discovered DNA evidence, actual innocence, and incompetence to plead guilty. The district court denied his motion for a continuance and granted the State's motion for summary dismissal. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Everett v. State, 2008 ND 199, ¶ 25, 757 N.W.2d 530
- State v. Hilgers, 2004 ND 160, ¶ 38, 685 N.W.2d 109
- Myers v. State, 2017 ND 66, ¶ 7, 891 N.W.2d 724
- Wacht v. State, 2015 ND 154, ¶ 6, 864 N.W.2d 740
- Parizek v. State, 2006 ND 61, ¶ 7, 711 N.W.2d 178
- Davis v. State, 2013 ND 34, ¶ 15, 827 N.W.2d 8