

SUPREME COURT OF MONTANA

State v. Torres

2013 MT 101 (2013) · No. DA 12-0212 · Decided April 16, 2013

SUMMARY

The Montana Supreme Court affirmed Zachariah Torres’s convictions for aggravated assault, burglary, criminal endangerment, and assault on a peace officer. The court held that sufficient evidence supported the aggravated assault and burglary convictions, including corroborated prior inconsistent statements by the victim. The court declined to apply plain-error review to Torres’s unpreserved double-jeopardy challenge.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Beth Baker; Justice Mike McGrath; Justice Michael E. Wheat; Justice Patricia Cotter; Justice Brian Morris
JURISDICTION	Montana
DECIDED	April 16, 2013
DOCKET	DA 12-0212
DISPOSITION	affirmed
PROCEDURAL POSTURE	Torres appealed his convictions for aggravated assault, burglary, criminal endangerment, and assault on a peace officer after a jury trial in the Montana District Court for the Eleventh Judicial District, Flathead County.
STANDARD OF REVIEW	The sufficiency of the evidence is reviewed de novo, viewing the evidence in the light most favorable to the prosecution and asking whether any rational trier of fact could have found all essential elements beyond a reasonable doubt. Issues not preserved in the district court generally are not considered on direct appeal; plain-error review is discretionary and sparingly applied.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Zachariah Torres v. State of Montana

TOPICS

criminal procedure

evidence

appellate procedure

double jeopardy

standard of review

PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether sufficient evidence supported Torres's aggravated-assault conviction.
2. Whether sufficient evidence supported Torres's burglary conviction.
3. Whether the Montana Supreme Court should exercise plain-error review of Torres's unpreserved claim that his aggravated-assault and criminal-endangerment convictions violated statutory and constitutional double-jeopardy protections.

HOLDINGS

1. The aggravated-assault conviction was supported by sufficient evidence because a reasonable jury could find that Torres purposely or knowingly used physical force, including firing a handgun, in a manner that caused his wife reasonable apprehension of serious bodily injury or death.
2. The burglary conviction was supported by sufficient evidence because the jury could find that Torres knowingly entered and remained unlawfully in Marina's residence with the purpose of committing unlawful restraint.
3. The court declined to exercise plain-error review because Torres did not demonstrate plain error: the criminal-endangerment charge concerned conduct creating a risk to multiple others, including law-enforcement officers and neighbors, whereas the aggravated-assault charge concerned conduct toward his wife.

KEY QUOTATIONS

“As long as each element of the offense finds support in some independent, reliable evidence of guilt besides the prior statement, however, corroboration will be sufficient.” (¶ 27)

“It is only necessary that the evidence show that the weapon was used in such a manner at the time and place and on that victim so that serious bodily injury was capable of being inflicted.” (¶ 30)

FACTUAL BACKGROUND

During an argument with his wife, Torres went to a coworker's home, broke down the door, and took his wife from the residence. After they returned home, Torres retrieved a Glock .45, argued with his wife in an upstairs bedroom, and fired shots, including one that struck and shattered a sliding glass door above officers' heads. His wife initially told police that Torres had forced her to leave, threatened to kill her, and caused her to fear for her life, but she gave materially different testimony at trial. Torres was convicted of aggravated assault, burglary, criminal endangerment, and assault on a peace officer.

PROCEDURAL HISTORY

A Flathead County jury convicted Torres of four felonies following a five-day trial in January 2011. The District Court entered judgment and sentenced him to eight years in prison with five years suspended on February 7, 2012. Torres appealed, challenging the sufficiency of the evidence supporting the aggravated-assault and burglary convictions and seeking plain-error review of an unpreserved double-jeopardy claim.

DISPOSITION

affirmed

CASES CITED

- State v. Trujillo, 2008 MT 101, ¶ 8, 342 Mont. 319, 180 P.3d 1153
- State v. Swann, 2007 MT 126, ¶ 19, 337 Mont. 326, 160 P.3d 511
- State v. Gladue, 1999 MT 1, ¶ 34, 293 Mont. 1, 972 P.2d 827
- State v. Rosling, 2008 MT 62, ¶ 76, 342 Mont. 1, 180 P.3d 1102
- State v. White Water, 194 Mont. 85, 634 P.2d 636 (1981)
- State v. Giant, 2001 MT 245, 307 Mont. 74, 27 P.3d 49
- State v. Finley, 2011 MT 89, ¶¶ 31-32, 360 Mont. 173, 252 P.3d 199
- State v. George, 203 Mont. 124, 129, 660 P.2d 97, 100 (1983)
- State v. Klemann, 194 Mont. 117, 122, 634 P.2d 632, 636 (1981)
- State v. Longfellow, 2008 MT 343, ¶ 19, 346 Mont. 286, 194 P.3d 694
- State v. Norman, 2010 MT 253, ¶ 17, 358 Mont. 252, 244 P.3d 737
- State v. Taylor, 2010 MT 94, ¶¶ 14-17, 356 Mont. 167, 231 P.3d 79
- State v. LeDeau, 2009 MT 276, ¶ 18, 352 Mont. 140, 215 P.3d 672
- State v. Minez, 2004 MT 115, ¶ 30, 321 Mont. 148, 89 P.3d 966
- State v. Becker, 2005 MT 75, ¶ 17, 326 Mont. 364, 110 P.3d 1
- State v. Hayden, 2008 MT 274, ¶ 17, 345 Mont. 252, 190 P.3d 1091