

SUPREME COURT OF MONTANA

State v. Melton, 2012 MT 84

276 P.3d 900 (Mont. 2012) · No. DA 11-0376 · Decided April 17, 2012

SUMMARY

The Supreme Court of Montana affirmed conditions imposed on Richard Edward Melton's suspended sentence following his guilty plea to failing to comply with the Sexual or Violent Offender Registration Act. The court held that requiring Melton to be accompanied by a trained and responsible adult, and to obtain probation-officer permission, when attending places where children congregate was reasonably related to rehabilitation and public protection and was not overbroad or unduly punitive.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	James C. Nelson; Mike McGrath; Beth Baker; Michael E. Wheat; Brian Morris
JURISDICTION	Montana
DECIDED	April 17, 2012
DOCKET	DA 11-0376
DISPOSITION	affirmed
PROCEDURAL POSTURE	Melton pleaded guilty to failing to comply with Montana's Sexual or Violent Offender Registration Act and appealed the conditions imposed as part of his suspended sentence.
STANDARD OF REVIEW	Restrictions or conditions on a criminal sentence are reviewed for legality and abuse of discretion. Sentencing conditions imposed under § 46-18-202(1), MCA, receive deferential review, but the discretion is not unlimited.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Richard Edward Melton v. State of Montana

TOPICS

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QUESTIONS PRESENTED

1. Whether Montana law authorized the sentencing court to impose restrictions on Melton's contact with children and attendance at places where children congregate as conditions of his suspended sentence for a registration offense.
2. Whether Condition 15, requiring a trained and responsible adult and prior probation-officer permission before Melton could attend places where children congregate, was reasonably related to rehabilitation and protection of society.
3. Whether Condition 15 was overly broad or unduly punitive because it did not permit Melton to accompany his own children to such places without a chaperone.

HOLDINGS

1. Section 46-18-202(1), MCA, authorizes a sentencing judge imposing a suspended sentence to place reasonable restrictions on an offender's association and movement, including other limitations reasonably related to rehabilitation and protection of the victim and society.
2. A restriction or condition imposed under § 46-18-202(1), MCA, is generally valid if it has a nexus or correlation to the underlying offense or to the offender; a passing, isolated, stale, or exceedingly tenuous connection is insufficient.
3. Condition 15 was not unreasonable, overbroad, or unduly punitive because requiring a trained and responsible adult when Melton attended places where children congregate was reasonably related to rehabilitation and protection of society.

KEY QUOTATIONS

“As a general rule, we will affirm a restriction or condition imposed pursuant to this statutory authority so long as the restriction or condition has some correlation or connection i.e., nexus to the underlying offense or to the offender himself or herself.” (905)

“Each case must turn on its specific facts.” (906)

“In conclusion, the requirement that Melton, as a condition of his two-year suspended sentence, be accompanied by a trained and responsible adult when going to any places where children typically congregate, and obtain permission from his probation officer before doing so, is reasonably related to the objectives of rehabilitation and the protection of society, § 46-18-202(1), MCA, and is not overbroad or unduly punitive.” (908)

FACTUAL BACKGROUND

Melton pleaded guilty to failing to notify Montana authorities of a change in residence as required by the Sexual or Violent Offender Registration Act. His history included a 1999 Washington conviction for rape of a fifteen-year-old, failure to complete court-ordered sexual-offender treatment, bail jumping, absconding from

Washington, and years of noncompliance with registration requirements. A psychological and psychosexual evaluation found low treatment motivation, poor insight, a tendency to minimize problems, and indications of sexual interest in adolescent females. Based on that history and evaluation, the sentencing court required supervision by a trained adult whenever Melton went to places where children congregate, even when accompanied by his own children.

PROCEDURAL HISTORY

The Eighth Judicial District Court, Cascade County, accepted Melton's guilty plea and committed him to the Department of Corrections for two years, all suspended. The court imposed conditions prohibiting unsupervised contact with minors and requiring a trained adult and probation-officer permission before Melton could attend places where children congregate. Melton objected to Condition 15 insofar as it prevented him from accompanying his own children to such places without a chaperone. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hafner, 2010 MT 233, ¶ 13, 358 Mont. 137, 243 P.3d 435
- State v. Ashby, 2008 MT 83, ¶¶ 9, 13-15, 342 Mont. 187, 179 P.3d 1164
- State v. Burch, 2008 MT 118, ¶ 23, 342 Mont. 499, 182 P.3d 66
- State v. Zimmerman, 2010 MT 44, ¶ 17, 355 Mont. 286, 228 P.3d 1109
- State v. Muhammad, 2002 MT 47, ¶ 28, 309 Mont. 1, 43 P.3d 318
- State v. Herd, 2004 MT 85, ¶¶ 24-25, 320 Mont. 490, 87 P.3d 1017
- United States v. Doe, 79 F.3d 1309, 1319 (2d Cir. 1996)
- United States v. Davis, 452 F.3d 991, 995 (8th Cir. 2006)
- United States v. Curry, 627 F.3d 312, 315 (8th Cir. 2010), vacated on other grounds, Curry v. United States, 132 S. Ct. 1533, 182 L. Ed. 2d 151 (2012)
- United States v. T.M., 330 F.3d 1235, 1240-41 (9th Cir. 2003)
- United States v. Scott, 270 F.3d 632, 636 (8th Cir. 2001)
- State v. Stiles, 2008 MT 390, ¶ 16, 347 Mont. 95, 197 P.3d 966
- State v. Jones, 2008 MT 440, ¶¶ 22-23, 347 Mont. 512, 199 P.3d 216
- State v. Rowe, 2009 MT 225, ¶¶ 26-30, 351 Mont. 334, 217 P.3d 471
- State v. Brinson, 2009 MT 200, ¶ 18, 351 Mont. 136, 210 P.3d 164
- State v. Malloy, 2004 MT 377, ¶ 14, 325 Mont. 86, 103 P.3d 1064
- State v. Johnson, 2011 MT 286, ¶¶ 18, 20, 362 Mont. 473, 265 P.3d 638
- State v. Tracy, 2005 MT 128, ¶ 16, 327 Mont. 220, 113 P.3d 297
- State v. Roundstone, 2011 MT 227, ¶ 21 n. 6, 362 Mont. 74, 261 P.3d 1009
- State v. Montgomery, 2010 MT 193, ¶ 12, 357 Mont. 348, 239 P.3d 929

