

SUPREME COURT OF WYOMING

Dobbins v. State

298 P.3d 807 (Wyo. 2012) · Decided August 10, 2012

SUMMARY

The Wyoming Supreme Court considers Steve Edward Dobbins's consolidated appeals challenging the denial of his pre-sentence and post-sentence motions to withdraw a no-contest plea to first-degree sexual assault. The court addresses alleged ineffective assistance or lack of close assistance of counsel, the standards governing plea withdrawal before and after sentencing, and compliance with Wyoming Rule of Criminal Procedure 11. The document text concludes that the district court's rulings and the judgment and sentence should be affirmed.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Justice; Burke; Golden; Hill; Kite; Voigt
JURISDICTION	Wyoming
DECIDED	August 10, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeal from the denial of Dobbins's pre-sentence and post-sentence motions to withdraw a no-contest plea and from the resulting judgment and sentence.
STANDARD OF REVIEW	A ruling on a motion to withdraw a guilty or no-contest plea is reviewed for abuse of discretion. Findings of fact underlying the ruling are reviewed for clear error. The appellate court will not reverse unless the district court acted beyond the bounds of reason or could not rationally conclude as it did.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	Steve Edward Dobbins v. State of Wyoming

TOPICS

- plea bargaining
- criminal procedure
- appellate procedure
- standard of review
- harmless error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Dobbins established a fair and just reason under W.R.Cr.P. 32(d) to withdraw his no-contest plea before sentencing based on alleged lack of close assistance of counsel and alleged noncompliance with W.R.Cr.P. 11.
2. Whether Dobbins established manifest injustice under W.R.Cr.P. 32(d) to withdraw his no-contest plea after sentencing because the district court allegedly failed to personally provide all required Rule 11 advisements.
3. Whether the alleged failure to advise Dobbins about mandatory assessments required withdrawal of his plea or instead had to be raised through a Rule 35 motion.

HOLDINGS

1. Dobbins did not establish manifest injustice warranting withdrawal of his plea after sentencing. Although the prosecutor, at the court's request, read the charges and potential penalties, the district court personally addressed Dobbins, engaged him in dialogue, confirmed his understanding of his rights and plea, and the totality of the circumstances showed that the plea was knowing and voluntary. Any variance from W.R.Cr.P. 11 was harmless because it did not affect substantial rights.
2. Dobbins could not obtain withdrawal of his plea on the assessments issue because W.R.Cr.P. 11(b)(1)(C) required him first to seek relief in the district court under W.R.Cr.P. 35. He had not filed a Rule 35 motion, so the issue was not properly before the appellate court.
3. Dobbins failed to establish a fair and just reason for pre-sentence withdrawal of his no-contest plea. The district court did not abuse its discretion in finding that Dobbins had close assistance of counsel and that his plea was knowing and voluntary.

KEY QUOTATIONS

“The crucial requirement is that the judge be satisfied that the defendant understands the possible sentences and that such understanding be apparent in the record.” (818)

“Dobbins has not filed a Rule 35 motion and, therefore, according to the plain language of W.R.Cr.P. 11(b)(1)(C), Dobbins may not now raise this issue on appeal.” (821)

FACTUAL BACKGROUND

Dobbins was charged with first-degree sexual assault and incest based on allegations that he had sexual intercourse with his intoxicated, physically helpless daughter without her consent. The State's evidence included a rape examination and DNA testing linking Dobbins to semen recovered from the victim. Dobbins entered a no-contest plea to first-degree sexual assault in exchange for dismissal of the incest charge, later received a sentence of twenty-five to thirty years, and sought to withdraw his plea after the victim died.

PROCEDURAL HISTORY

Dobbins was charged with first-degree sexual assault and incest. After a preliminary hearing, he entered a no-contest plea to first-degree sexual assault under a plea agreement providing for dismissal of the incest charge, with no sentencing agreement. Before sentencing, he moved to withdraw his plea based principally on alleged inadequate assistance of counsel; after sentencing, he filed a second motion based on alleged noncompliance with W.R.Cr.P. 11. The district court denied both motions, sentenced him to twenty-five to thirty years' imprisonment, and the Wyoming Supreme Court consolidated the appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- Van Haele v. State, 2004 WY 59, 90 P.3d 708 (Wyo. 2004)
- McCard v. State, 2003 WY 142, 78 P.3d 1040 (Wyo. 2003)
- Major v. State, 2004 WY 4, 83 P.3d 468 (Wyo. 2004)
- Browning v. State, 2001 WY 93, 32 P.3d 1061 (Wyo. 2001)
- McCarthy v. State, 945 P.2d 775 (Wyo. 1997)
- State v. McDermott, 962 P.2d 136 (Wyo. 1998)
- Martin v. State, 720 P.2d 894 (Wyo. 1986)
- Thomas v. State, 2007 WY 186, 170 P.3d 1254 (Wyo. 2007)
- Ingalls v. State, 2002 WY 75, 46 P.3d 856 (Wyo. 2002)
- Sena v. State, 2010 WY 93, 233 P.3d 993 (Wyo. 2010)
- Britain v. State, 497 P.2d 543 (Wyo. 1972)
- Hicklin v. State, 535 P.2d 743 (Wyo. 1975)
- Kadwell v. United States, 315 F.2d 667 (9th Cir. 1963)
- McCarty v. State, 883 P.2d 367 (Wyo. 1994)
- Gist v. State, 768 P.2d 1054 (Wyo. 1989)
- United States v. Hamilton, 568 F.2d 1302 (9th Cir. 1978)
- United States v. Henry, 113 F.3d 37 (5th Cir. 1997)
- Brady v. United States, 397 U.S. 742 (1970)
- Shelton v. United States, 246 F.2d 571 (5th Cir. 1957), rev'd on other grounds, 356 U.S. 26 (1958)
- Frame v. State, 2001 WY 72, 29 P.3d 86 (Wyo. 2001)
- Kruger v. State, 2012 WY 2, 268 P.3d 248 (Wyo. 2012)