

SUPREME COURT OF THE STATE OF MONTANA

Matter of J.S.

2017 MT 214 (Mont. 2017) · No. DA 16-0156 · Decided August 30, 2017

SUMMARY

The Montana Supreme Court reviewed J.S.’s challenge to her involuntary commitment to the Montana State Hospital, focusing on whether she received effective assistance of counsel. The Court reaffirmed that respondents in civil commitment proceedings have a statutory and constitutional right to effective counsel, but overruled the formalistic effectiveness standard adopted in an earlier case and returned to a due-process inquiry informed by Strickland. The Court affirmed the commitment order.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Laurie McKinnon; Chief Justice Mike McGrath; Justice Dirk M. Sandefur; Justice Michael E. Wheat; Justice Beth Baker; Justice James Jeremiah Shea; Justice Jim Rice
JURISDICTION	Montana
DECIDED	August 30, 2017
DOCKET	DA 16-0156
DISPOSITION	affirmed
PROCEDURAL POSTURE	J.S. appealed an order of involuntary commitment to the Montana State Hospital and challenged the effectiveness of her appointed counsel.
STANDARD OF REVIEW	Due-process and right-to-counsel issues in civil commitment proceedings are reviewed plenary; ineffective-assistance claims are mixed questions of law and fact reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	J.S. v. State of Montana

TOPICS

[health law](#)[procedural due process](#)[due process](#)[standard of review](#)[appellate procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. What standard governs an ineffective-assistance-of-counsel claim in a Montana civil involuntary-commitment proceeding?
2. Whether J.S. was denied effective assistance of counsel because counsel allegedly failed to investigate or present community-placement alternatives, failed to object to hearsay, and failed to protect J.S.'s right to testify and remain silent.
3. Whether the district court properly ordered J.S.'s commitment to the Montana State Hospital.

HOLDINGS

1. A respondent in a Montana involuntary civil commitment proceeding has a statutory right to counsel and a right to effective assistance of counsel grounded in the federal Due Process Clause and Montana Constitution Article II, Sections 4, 10, and 17. The Sixth Amendment and Montana Constitution Article II, Section 24 do not independently apply because the proceeding is civil rather than criminal.
2. *Strickland v. Washington* supplies the standard for evaluating ineffective-assistance claims in Montana civil commitment proceedings. The respondent must establish deficient performance and prejudice, and counsel's performance is assessed for reasonableness under prevailing professional norms with a strong presumption of reasonable professional assistance.
3. J.S. did not establish ineffective assistance of counsel. Counsel reasonably sought dismissal, held the State to its burden of proving the need for commitment, challenged the least-restrictive-placement determination, cross-examined the State's witness, obtained an independent evaluation, and had no obligation to present community-placement alternatives that the evidence showed were inappropriate.
4. In Montana civil commitment proceedings, physical facts must be proved beyond a reasonable doubt, while other matters must be proved by clear and convincing evidence; the respondent's mental disorder must be proved to a reasonable medical certainty.

KEY QUOTATIONS

“Henceforth, Strickland will be the standard by which this Court measures the effectiveness of counsel in civil commitment proceedings.” (¶ 26)

“We overrule K.G.F. to the extent that it requires a formalistic approach to measure counsel’s effectiveness; that “critical areas” of representation must be assessed in measuring counsel’s performance; and that it repudiates application of Strickland in civil commitment proceedings.” (¶ 32)

“We conclude that J.S.’s counsel effectively assisted J.S. in her civil commitment proceeding.” (¶ 33)

FACTUAL BACKGROUND

J.S., who had bipolar disorder and an extensive history of mental illness and prior commitments, was detained after presenting as highly psychotic, delusional, agitated, and unable to care adequately for a serious leg wound. The wound required frequent dressing changes and antibiotics, but J.S. could not explain the treatment regimen

and did not believe she had a mental illness or needed stabilizing medication. Mental-health professional Kim Waples opined that commitment to the Montana State Hospital was the least restrictive placement because voluntary community programs depended on J.S. seeking treatment and taking medication. J.S.'s counsel cross-examined Waples, presented facts supporting dismissal, obtained an independent evaluation, and argued that the State had not proved the need for commitment or the least restrictive placement.

PROCEDURAL HISTORY

The State filed a petition for J.S.'s involuntary commitment after mental-health professionals evaluated her during an acute psychotic and delusional episode. Following a February 11, 2016 trial, the First Judicial District Court ordered commitment to the Montana State Hospital. J.S. appealed, asserting ineffective assistance of counsel. The Montana Supreme Court affirmed the commitment and reconsidered the legal standard governing ineffective-assistance claims in civil commitment proceedings.

DISPOSITION

affirmed

CASES CITED

- In re Mental Health of T.M., 2004 MT 221, ¶ 7, 322 Mont. 394, 96 P.3d 1147
- In re J.S.W., 2013 MT 34, ¶ 26, 369 Mont. 12, 303 P.3d 741
- In re Mental Health of K.G.F., 2001 MT 140, 306 Mont. 1, 29 P.3d 485
- In re Shennum, 210 Mont. 442, 684 P.2d 1073 (1984)
- Foucha v. Louisiana, 504 U.S. 71, 112 S. Ct. 1780 (1992)
- Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893 (1976)
- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)
- Addington v. Texas, 441 U.S. 418, 99 S. Ct. 1804 (1979)
- In re Winship, 397 U.S. 358, 90 S. Ct. 1068 (1970)
- Vitek v. Jones, 445 U.S. 480, 100 S. Ct. 1254 (1980)
- In re M.K.S., 2015 MT 146, ¶¶ 12-23, 379 Mont. 293, 350 P.3d 27

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