

VERMONT SUPERIOR COURT, CIVIL DIVISION, BENNINGTON UNIT

Davis v. Deml

Davis · No. 24-CV-00411 · Decided April 8, 2026

SUMMARY

The Vermont Superior Court grants Cody Davis’s motion to reconsider and grants his prior motion for partial summary judgment in a post-conviction proceeding. The court concludes that the plea colloquy did not establish a knowing and voluntary plea under Vermont Rule of Criminal Procedure 11(f) because Davis did not admit to the purposeful intent required for the aggravated-assault charge, while reserving a ruling on the ultimate relief.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Bennington Unit
WRITING FOR THE COURT	David Barra
JURISDICTION	Vermont Superior Court, Civil Division, Bennington Unit
DECIDED	April 8, 2026
DOCKET	24-CV-00411
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought reconsideration of the denial of his motion for partial summary judgment in a post-conviction-relief action challenging the voluntariness and factual basis of his guilty plea. The court granted reconsideration, vacated its prior ruling, and granted partial summary judgment.
STANDARD OF REVIEW	Interlocutory reconsideration is committed to the trial court's discretion under Vermont Rule of Civil Procedure 54(b). Summary judgment is appropriate when the record shows no genuine dispute of material fact and the movant is entitled to judgment as a matter of law; facts and reasonable inferences are viewed in favor of the nonmoving party. For purposes of the motion, undisputed facts were deemed established because Respondent did not controvert Petitioner's statement of material facts.
PRECEDENTIAL VALUE	Unknown
PARTIES	Cody Davis v. Nicholas Deml

TOPICS

motion for reconsideration

summary judgment

post-conviction relief

criminal procedure

sentencing

PRACTICE AREAS

post-conviction relief

criminal procedure

civil procedure

pleas and sentencing

QUESTIONS PRESENTED

1. Whether the court could reconsider its interlocutory denial of partial summary judgment under Vermont Rule of Civil Procedure 54(b).
2. Whether the undisputed plea-colloquy facts established a knowing and voluntary guilty plea and a factual basis for sentencing under Vermont Rule of Criminal Procedure 11(f).
3. Whether Davis was entitled to partial summary judgment establishing that he did not admit to the purposeful intent required for the aggravated-assault plea and that the sentencing court failed to state the proper intent standard.

HOLDINGS

1. The court had authority and discretion to reconsider its interlocutory summary-judgment ruling before entry of final judgment, and reconsideration was warranted because the court concluded that its prior application of the Rule 11 standard was incorrect.
2. A guilty plea is not knowing and voluntary under Vermont Rule of Criminal Procedure 11(f) unless the defendant admits on the record to facts supporting each element of the offense, including the applicable mental state. Substantial compliance is insufficient for this factual-basis requirement.
3. Davis was entitled to partial summary judgment establishing that he did not admit to the factual basis for purposeful intent during the plea colloquy and that the sentencing court did not state the proper intent required for a purposeful or knowing aggravated-assault plea.

KEY QUOTATIONS

“A defendant’s guilty plea is not voluntary unless he admits on the record to facts supporting each element of the offense.” (p. 4)

“The court’s explanation of the factual basis of Mr. Davis’ intent—unintentionally but not accidentally—does not fit the idea that assault was Mr. Davis’ conscious object.” (p. 5)

FACTUAL BACKGROUND

On August 31, 2022, Davis entered a plea agreement under which several charges were dismissed in exchange for his guilty plea to aggravated assault. During the plea colloquy, Davis agreed that he intentionally assaulted the victim and caused serious bodily injury, but repeatedly denied intending to cause the resulting serious injuries and appeared willing to admit only recklessness. The criminal court nevertheless accepted the plea and imposed the agreed-upon sentence. Davis later sought post-conviction relief, arguing that the plea colloquy did

not establish the purposeful or knowing mental state required by the plea agreement and aggravated-assault charge.

PROCEDURAL HISTORY

Davis entered a guilty plea to aggravated assault under a plea agreement and received the agreed-upon sentence. He then filed a petition for post-conviction relief and moved for partial summary judgment on claims that the plea colloquy misstated the required mental state and failed to establish a factual basis for the offense. The court initially denied summary judgment, but on reconsideration concluded that the undisputed facts showed noncompliance with Vermont Rule of Criminal Procedure 11(f). The court granted summary judgment on the established factual issues while reserving the question of ultimate relief pending litigation of another claim.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The court reserved ruling on the appropriate ultimate relief, including Davis's request to vacate his conviction, until the remaining post-conviction-relief claim is fully litigated.

CASES CITED

- Myers v. LaCasse, 2003 VT 86A, ¶ 11, 176 Vt. 29
- Drumheller v. Drumheller, 2009 VT 23, ¶ 36, 185 Vt. 417
- Kneebinding, Inc. v. Howell, 2018 VT 101, ¶ 32, 208 Vt. 578
- Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir.)
- Gallipo v. City of Rutland, 163 Vt. 83, 86
- Boulton v. CLD Consulting Engineers, Inc., 2003 VT 72, ¶ 29, 175 Vt. 413
- Price v. Leland, 149 Vt. 518, 521
- In re Bridger, 2017 VT 79, ¶¶ 11, 20, 22-24, 205 Vt. 380
- In re Pinheiro, 2018 VT 50, ¶ 12, 207 Vt. 466
- State v. Trombley, 174 Vt. 459, 461 (mem.)