

SUPREME COURT OF NORTH DAKOTA

State v. Craig

2019 ND 123 (2019) · No. 20180397 · Decided May 16, 2019

SUMMARY

The North Dakota Supreme Court reversed the district court’s denial of Russell Frank Craig’s motion to withdraw his guilty plea and remanded for a hearing. The court held that, after the district court scheduled an oral argument, it abused its discretion by cancelling the hearing without giving Craig an opportunity to be heard. The court declined to reassign the case to a different judge on remand.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers, Justice; Lisa Fair McEvers; Daniel J. Crothers; Jerod E. Tufte; Jon J. Jensen; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	May 16, 2019
DOCKET	20180397
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Craig appealed from district court orders denying his motion to withdraw his guilty plea. The Supreme Court of North Dakota reviewed whether the district court abused its discretion by cancelling a scheduled oral argument without explanation and whether reassignment to a different judge was warranted on remand.
STANDARD OF REVIEW	The existence of manifest injustice for purposes of plea withdrawal is reviewed for abuse of discretion. An abuse of discretion occurs when the court acts arbitrarily, unreasonably, or unconscionably, or misinterprets or misapplies the law. Interpretation of a court rule or statute is reviewed de novo.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Russell Frank Craig v. State of North Dakota

TOPICS

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

PRACTICE AREAS

criminal procedure

appellate procedure

plea withdrawal

QUESTIONS PRESENTED

1. Whether Craig's challenge to the State's late response was preserved for appellate review.
2. Whether the district court abused its discretion by cancelling a scheduled oral argument and denying Craig's motion to withdraw his guilty plea without giving him an opportunity to be heard.
3. Whether the case should be reassigned to a different district judge on remand based on alleged bias or the appearance of impropriety.

HOLDINGS

1. The Supreme Court declined to decide whether the district court erred by permitting the State to respond more than fourteen days after Craig filed his motion because Craig did not raise the issue below.
2. The district court abused its discretion by cancelling the October 16, 2018 hearing without giving Craig an opportunity to be heard.
3. A party ordinarily cannot rely solely on another party's request for oral argument and must independently complete the Rule 3.2 hearing-request steps if the hearing has not otherwise been scheduled by the court. Here, however, the court's own scheduling and notice relieved Craig of that obligation.
4. Reassignment was not warranted because the district judge's alleged misapplication of the governing rules did not establish bias or the appearance of impropriety.

KEY QUOTATIONS

"If any party who has timely served and filed a brief requests oral argument, the request must be granted." (§ 5)

"An erroneous opinion as to the merits of the case or the law relating to the proceedings is not evidence of bias." (§ 10)

FACTUAL BACKGROUND

Craig pleaded guilty to murder in 2007. In 2018, he moved to withdraw the plea and requested oral argument under N.D.R.Ct. 3.2. The district court scheduled oral argument for October 16, 2018, but cancelled the hearing without explanation after granting the State additional time to respond, then denied Craig's motion without allowing him to be heard.

PROCEDURAL HISTORY

Craig pleaded guilty to murder in 2007. On August 17, 2018, he moved under N.D.R.Ct. 3.2 and N.D.R.Crim.P. 11(d)(2) to withdraw his guilty plea and requested oral argument. The district court scheduled a hearing, later cancelled it without explanation, and denied the motion. The Supreme Court reversed and remanded for a hearing but denied Craig's request for reassignment of the district judge.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must conduct a hearing on Craig's motion to withdraw his guilty plea. The Supreme Court denied Craig's request for assignment of a different district court judge on remand.

CASES CITED

- State v. Bates, 2007 ND 15, ¶ 6, 726 N.W.2d 595
- State v. Yost, 2018 ND 157, ¶ 6, 914 N.W.2d 508
- State v. Jessee, 2018 ND 241, ¶ 9, 919 N.W.2d 335
- State v. Kieper, 2008 ND 65, ¶ 16, 747 N.W.2d 497
- Hageness v. Davis, 2017 ND 132, n.1, 896 N.W.2d 251
- In re Estate of Bartelson, 2013 ND 129, ¶ 20, 833 N.W.2d 522
- State ex rel. Seibold v. Leverington, 2012 ND 25, ¶ 17, 812 N.W.2d 460
- Johnson v. Johnson, 2017 ND 125, ¶¶ 6-8, 894 N.W.2d 833
- Desert Partners IV, LP v. Benson, 2014 ND 192, ¶ 18, 855 N.W.2d 608
- State v. \$3260.00 U.S. Currency, 2018 ND 112, ¶ 12, 910 N.W.2d 839
- Owens v. State, 1998 ND 106, ¶ 16, 578 N.W.2d 542
- State v. Nelson, 2015 ND 301, ¶¶ 7-9, 872 N.W.2d 613
- Farm Credit Bank v. Brakke, 512 N.W.2d 718, 720-21 (N.D. 1994)
- Rath v. Rath, 2013 ND 243, ¶ 14, 840 N.W.2d 656
- T.F. James Co. v. Vakoch, 2001 ND 112, ¶¶ 18-19, 628 N.W.2d 298
- Datz v. Dosch, 2014 ND 102, ¶ 17, 846 N.W.2d 724