

NORTH DAKOTA SUPREME COURT

State v. Greenshields

2020 ND 173 · No. 20190393 · Decided July 27, 2020

SUMMARY

The North Dakota Supreme Court affirmed the dismissal with prejudice of a criminal complaint against Jerome Greenshields. The court held that the State could not collaterally attack the unappealed first dismissal and that the district court’s finding regarding the first judge’s intent was not clearly erroneous. The decision also discussed dismissal under N.D.R.Crim.P. 48(b) and the standard for reviewing dismissals with prejudice.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Jon J. Jensen, Chief Justice; Daniel J. Crothers; Lisa Fair McEvers; Gerald W. VandeWalle; Rhonda R. Ehlis, District Judge, sitting in place of Tufte, J., disqualified
JURISDICTION	North Dakota
DECIDED	July 27, 2020
DOCKET	20190393
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed from an order dismissing its criminal complaint against Greenshields with prejudice after remand for a determination of whether the dismissal of the first complaint was intended to be with prejudice.
STANDARD OF REVIEW	A district court’s dismissal with prejudice is reviewed for abuse of discretion. Findings of fact underlying the dismissal are reviewed under the clearly erroneous standard.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	State of North Dakota v. Jerome Greenshields

TOPICS

- criminal procedure
- appellate procedure
- final judgment rule
- standard of review

PRACTICE AREAS

criminal procedure

appellate procedure

sexual offenses

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by dismissing the State's second criminal complaint with prejudice.
2. Whether the State could challenge in the subsequent proceeding the absence of findings of harassment, bad faith, or misconduct in the unappealed first dismissal.

HOLDINGS

1. The district court did not abuse its discretion in dismissing the complaint with prejudice because its finding that the first judge intended the original dismissal to be with prejudice was supported by evidence and was not clearly erroneous.
2. The State could not collaterally attack the final first dismissal in the subsequent proceeding because it did not appeal that order.

KEY QUOTATIONS

"The State cannot collaterally attack an order it did not appeal." (¶ 14)

FACTUAL BACKGROUND

The State charged Greenshields with sexual offenses allegedly occurring in 1997 and 2001. After Greenshields requested a bill of particulars, the district court ordered the State to provide one within ten days, but the State failed to do so, and the court dismissed the first complaint. The State did not appeal and later filed a new complaint based on the alleged offenses. On remand, the judge who entered the first dismissal testified that he intended the dismissal to be with prejudice, and the district court dismissed the second complaint with prejudice.

PROCEDURAL HISTORY

The State initially charged Greenshields with sexual offenses, and the district court dismissed the first complaint after the State failed to file a court-ordered bill of particulars. The State did not appeal that dismissal and later filed a new complaint. The district court dismissed the second complaint with prejudice, the North Dakota Supreme Court previously reversed and remanded for a determination of the first judge's intent, and on remand the district court again dismissed with prejudice after hearing testimony from the first judge. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Greenshields, 2019 ND 229, ¶¶ 7, 8, 10, 932 N.W.2d 903

- State v. Tweeten, 2004 ND 90, ¶¶ 7, 9, 16, 679 N.W.2d 287
- Nw. Grading, Inc. v. N. Star Water, LLC, 2020 ND 47, ¶ 11, 939 N.W.2d 512
- Border Res., LLC v. Irish Oil & Gas, Inc., 2015 ND 238, ¶ 15, 869 N.W.2d 758
- Stein v. Professional Center, S.A., 666 So. 2d 264, 265-66
- Tornabeni v. Creech, 2018 ND 204, ¶ 22, 916 N.W.2d 772
- Sorenson v. Bakken Investments LLC, 2017 ND 127, ¶ 7, 895 N.W.2d 302