

SUPREME COURT OF SOUTH DAKOTA

Monette v. Weber

2009 SD 77 (2009) · No. No. 25050 · Decided August 19, 2009

SUMMARY

The Supreme Court of South Dakota held that Mitchell Monette's no contest plea was unconstitutional because the sentencing court failed to inquire into the plea's voluntariness and did not establish an effective waiver of his constitutional rights on the record. The court reversed the habeas court's ruling, directed that the plea be voided, and remanded for further proceedings. It rejected Monette's ineffective-assistance and court-appointed-firearms-expert claims.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Severson, Justice; Gilbertson, Chief Justice; Konenkamp, Justice; Meierhenry, Justice; Zinter, Justice
JURISDICTION	South Dakota
DECIDED	August 19, 2009
DOCKET	No. 25050
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the denial of a petition for a writ of habeas corpus challenging the constitutional validity of a no contest plea, the effectiveness of trial counsel, and the denial of a court-appointed firearms expert.
STANDARD OF REVIEW	Habeas review is limited because it is a collateral attack on a final judgment and generally reaches jurisdictional errors, including constitutional violations in criminal cases. The petitioner bears the burden of proving entitlement to relief by a preponderance of the evidence; factual findings are reviewed for clear error; and legal conclusions are reviewed de novo. Ineffective-assistance claims present mixed questions of law and fact.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Mitchell James Monette v. Douglas Weber, Warden of the South Dakota State Penitentiary

TOPICS

state post-conviction relief

plea bargaining

due process

right to counsel

appellate procedure

PRACTICE AREAS

state post-conviction relief

criminal procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the habeas court erred in finding that Monette's no contest plea was constitutional, knowing, intelligent, and voluntary.
2. Whether Monette received effective assistance of counsel.
3. Whether denial of a court-appointed firearms expert violated Monette's due process rights.

HOLDINGS

1. A plea record that is silent as to whether the plea was voluntary and whether the defendant expressly waived the constitutional rights against self-incrimination, to trial by jury, and to confront witnesses is constitutionally insufficient under Boykin. The prior advisement of rights and written documents not presented to or relied upon by the sentencing court did not cure the omission at the change-of-plea hearing.
2. Monette's ineffective-assistance claim was without merit.
3. Monette's claim that denial of a court-appointed firearms expert violated due process was without merit.

KEY QUOTATIONS

"We cannot presume a waiver of these three important federal rights from a silent record." (§ 10)

"If a plea is not intelligent and voluntary, it has been obtained in violation of due process and is void." (§ 13)

"The record fails to establish that Monette voluntarily entered his plea of no contest, and that he waived his constitutional rights against self-incrimination, to confront witnesses, and to a jury trial as set forth in Boykin." (§ 15)

FACTUAL BACKGROUND

After an altercation with his intoxicated wife on October 28, 2003, Monette was charged with aggravated assault and attempted first-degree murder. Pursuant to a plea agreement, he pleaded no contest to aggravated assault and admitted a habitual-offender allegation in exchange for dismissal of the remaining charges, and he was sentenced to twenty-five years. At the change-of-plea hearing, the court explained the charges, possible sentence, and some rights, but did not inquire whether the plea was voluntary, coerced, or accompanied by an express waiver of the rights against self-incrimination, to a jury trial, and to confront witnesses.

PROCEDURAL HISTORY

Monette pleaded no contest to aggravated assault and admitted a habitual-offender allegation under a plea agreement, receiving a twenty-five-year sentence. He filed a state habeas petition, later amended it after a direct appeal, and the habeas court denied relief. The South Dakota Supreme Court held that the plea record did not establish voluntariness or an explicit waiver of constitutional rights, reversed the habeas ruling as to the plea, and remanded for the plea to be voided and for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The habeas court was directed to void Monette's no contest plea and remand the matter to the sentencing court for further proceedings in accordance with the decision and SDCL chapter 21-27.

CASES CITED

- Owens v. Russell, 2007 S.D. 3, 726 N.W.2d 610
- Vanden Hoek v. Weber, 2006 S.D. 102, 724 N.W.2d 858
- Boykin v. Alabama, 395 U.S. 238 (1969)
- Johnson v. Zerbst, 304 U.S. 458 (1938)
- State v. Goodwin, 2004 S.D. 75, 681 N.W.2d 847
- Nachtigall v. Erickson, 85 S.D. 122, 178 N.W.2d 198 (1970)
- In re Tahl, 460 P.2d 449 (Cal. 1969)
- People v. Carty, 110 Cal. App. 4th 1518 (2003)
- Quist v. Leapley, 486 N.W.2d 265 (S.D. 1992)
- Logan v. Solem, 406 N.W.2d 714 (S.D. 1987)
- State v. Apple, 2008 S.D. 120, 759 N.W.2d 283
- State v. Sutton, 317 N.W.2d 414 (S.D. 1982)
- Piper v. Weber, 2009 S.D. 66
- Stacey v. State, 349 N.W.2d 439 (S.D. 1984)
- Clark v. State, 294 N.W.2d 916 (S.D. 1980)
- Malloy v. Hogan, 378 U.S. 1 (1964)
- Duncan v. Louisiana, 391 U.S. 145 (1968)
- Pointer v. Texas, 380 U.S. 400 (1965)