

DA 14-0393

IN THE SUPREME COURT OF THE STATE OF MONTANA

2015 MT 3N

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STATE OF MONTANA,

Plaintiff and Appellee,

v.

HEATHER ERIN WYLIE,

Defendant and Appellant.

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APPEAL FROM: District Court of the Second Judicial District,  
In and For the County of Butte-Silver Bow, Cause No. DC-09-155  
Honorable Brad Newman, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Heather Erin Wylie, (Self-Represented), Billings, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, C. Mark Fowler, Assistant  
Attorney General, Helena, Montana

Eileen Joyce, Butte-Silver Bow County Attorney, Butte, Montana

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Submitted on Briefs: December 17, 2014  
Decided: January 6, 2015

Filed:



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Clerk

Chief Justice Mike McGrath delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Heather Wylie appeals from the District Court's order dated June 2, 2014, denying her motion under M. R. Civ. P. 60(b) for relief from her prior judgment of conviction and sentence. We affirm.

¶3 In 2010 Wylie faced a number of charges in Butte-Silver Bow and Lewis and Clark Counties. In July 2010 she entered a global plea agreement disposing of all the charges. The District Court ordered a pre-sentence investigation, conducted a sentencing hearing on October 28, 2010, and sentenced Wylie to imprisonment and restitution. Wylie did not appeal, but beginning in 2011 commenced several unsuccessful proceedings seeking relief from her conviction or sentence. *State v. Wylie*, 2012 MT 118N (motion to withdraw guilty pleas); *Wylie v. Daly*, Montana Supreme Court No. OP 13-0596 (petition for habeas corpus); *Wylie v. Balaz*, 2014 MT 302N (professional negligence claim against her former attorney).

¶4 While Wylie filed the present proceeding under M. R. Civ. P. 60(b), the District Court correctly concluded that Rule 60(b) is a rule of civil procedure and does not apply. The District Court also correctly concluded that the grounds for relief raised in the

current motion are “little more than a detailed recitation of the claims already advanced by the Defendant in her previous petition for postconviction relief and her previous motion to withdraw her guilty pleas.” The District Court properly determined that Wylie was not entitled to any relief under statutes that might be applicable, including §§ 46-16-105, -702, and § 46-21-101, MCA.

¶5 In *State v. Wylie*, 2012 MT 118N, this Court affirmed the District Court’s determination that Wylie had entered her guilty pleas knowingly and voluntarily. Having knowingly and voluntarily entered guilty pleas and having been subjected to a lawful sentence, Wylie is precluded from attacking her pleas or the evidence that supported the charges. *Ellenburg v. Chase*, 2004 MT 66, ¶21, 320 Mont. 315, 87 P.3d 473.

¶6 We have determined to decide this case pursuant to Section I, Paragraph 3(d) of our Internal Operating Rules, which provides for memorandum opinions. The issues in this case are legal and are controlled by settled Montana law, which the District Court properly applied.

¶7 Affirmed.

/S/ MIKE McGRATH

We Concur:

/S/ LAURIE McKINNON

/S/ PATRICIA COTTER

/S/ MICHAEL E WHEAT

/S/ JIM RICE