

ORIGINAL

FILED

10/30/2018

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 18-0597

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 18-0597

FILED

OCT 30 2018

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ORDER

VAUGHN DAVID JAMES,

Defendant and Appellant.

Appellant Vaughn David James has filed a verified petition for an out-of-time appeal of a July 31, 2018 Lake County District Court Judgment in which a jury convicted James of sexual intercourse without consent and the court imposed a prison sentence. He includes a copy of the Judgment and correspondence with the Office of State Public Defender. James also moves this Court for appointment of counsel.

As grounds, James indicates that he discussed filing a timely appeal with his attorney. He states that his attorney failed to file a Notice of Appeal even though James requested it. In James's copy of an August 9, 2018 letter, he directed the correspondence to the "Conflict Office of Public Defender" in Kalispell, listing the possible issues for appeal, and requested that the Appellate Defender's Office be contacted to begin the appeal process for his recent conviction and sentence. When he received no response or acknowledgement, he began the process as a self-represented litigant.

Having considered the matter, we conclude that leave for an untimely appeal is warranted. M. R. App. P. 4(6). Accordingly,

IT IS ORDERED that James's Petition for an Out-of-Time Appeal is GRANTED.

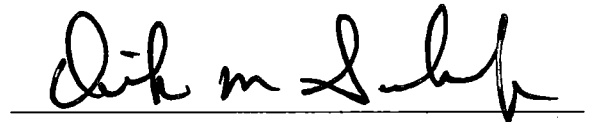
IT IS FURTHER ORDERED that James's Motion for Appointment of Counsel is GRANTED.

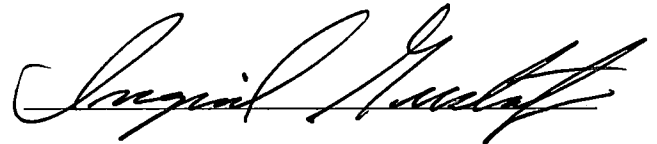
The Appellate Defender Division shall have thirty days from the date of this Order within which to file either a Notice of Appeal or a motion to rescind this Order appointing counsel. In the event the Appellant qualifies for appointed counsel, the Appellate Defender Division shall immediately order transcripts if they have not been already ordered.

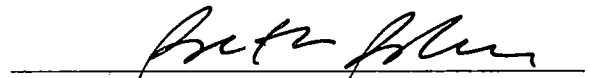
The Clerk of the Supreme Court is directed to provide a copy of this Order to the Appellate Defender Division, to counsel of record, and to Vaughn David James personally.

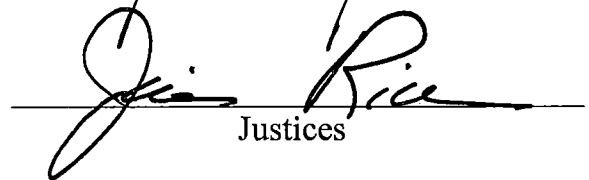
DATED this _____ day of October, 2018.


Chief Justice








Justices