

ORIGINAL

FILED

10/31/2018

Jay Donald Witkowski 3002444

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA
Form 4(a)

Name
50 Crossroads Drive

Case Number: DA 18-0621

Shelby MT 59474
City State Zip

FILED

OCT 31 2018

[e-mail address]

Pro-se Appellant

[Designation of party]

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 18-0621

[to be assigned by Clerk of Supreme Court]

Jay Donald Witkowski

Appellant,

v.

State of Montana

Appellee.

PETITION FOR
AN OUT-OF-TIME
APPEAL

[To ask the Court to allow you to file an out-of-time appeal, give the reasons why the appeal was not timely filed. State in the petition or supporting affidavit the issues you wish to raise on appeal and explain in detail the reasons that you did not file a timely appeal. Give only true and accurate explanations that support your petition. Include a copy of the final order or judgment from which you wish to appeal. M. R. App.P. 4(6)]

I petition the Court to allow me to file an out-of-time appeal for the following reason: [Check one]

I improperly filed a timely Notice of Appeal only with the District Court, as more fully explained below.



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OUT-OF-TIME APPEAL

PAGE 1 OF 4

I discussed filing a timely appeal with my attorney, but he or she failed to file it for me, as more fully explained below.

I failed to file the Notice of Appeal for the following reason:

I have ADHD, bipolar depression, learning disabilities, do not understand the process. I tried contacting original attorney to file appeal. I got no reply. I filed complaint during my case for "Ineffective Assistance of Counsel," it was denied because I could not explain well enough why I needed new counsel, tried contacting and did send application for Appellate Counsel to Mt Appellate Defenders office again got no reply. I also (me + family) sent letters + emails to several attorneys, were told without money, they couldn't do anything, but suggested we keep looking.

Attached as Exhibit "A," a copy of the judgment or order from which I wish to appeal.

As legal authority for filing an out-of-time appeal, I cite the following which supports this petition:

I believe I had "Ineffective Assistance of Counsel" After sentencing I could not get ahold of either of them. I have ADHD, learning disabilities bipolar depression, + emotional issues, I do not understand how the process works, sent application for Courtappointed Appellate Attorney got NO reply, since I don't have money no lawyer would help.

I felt pressured into taking a plea that I had refused multiple times

DATED this 22 day of October, 2018.



✓ Jay Witkowski
[Signature]
✓ Jay Witkowski
[Print name]

VERIFICATION UPON OATH OR AFFIRMATION

★ STATE OF MONTANA)
County of Valley) : ss.

I swear that everything stated in this petition is true and correct to the best of my knowledge.

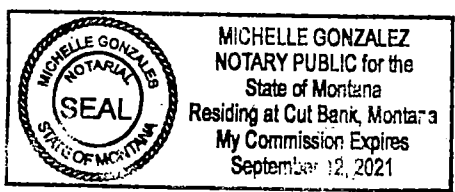
DATED this 22nd day of October, 2018.

Jay Witkowski
[Signature]
Jay Witkowski
[Print name]

Signed and sworn to or affirmed before me on this date by

Jay Witkowski
[Seal]

Michelle Gonzalez
[Signature of Notary Public]
Michelle Gonzalez
[Typed or printed name]
Notary Public
[Title]
Cut Bank, MT
[Residing at]
My Commission expires: Sept. 12, 2021



CERTIFICATE OF SERVICE

I certify that I have filed a copy of this **Petition for an Out-of-Time Appeal** with the Clerk of the Montana Supreme Court and that I have mailed or hand delivered a copy to each attorney of record and any party not represented by counsel as follows:

Dylan Jensen
[Name of opposing counsel]

Valley County Attorney

501 Court Sq. #20 Glasgow MT 59230
[Address]

Counsel for State of Montana

[Other party representing himself or herself]

Valley County Clerk of Court

502 2nd Ave S., Glasgow MT 59230
[Address]

DATED this 22 day of October, 2018.

Jay Wilkouske
[Name]

Jay Wilkouske
[Print name]

