

ORIGINAL

FILED

01/14/2019

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 19-0041

Thomas Phillip Engert
Inmate Name

21709
Inmate ID or AO#

Montana State Prison
Facility of Incarceration

700 Conley Lake Rd.
Address of Facility

Deer Lodge, MT. 59722
City State Zip

FILED

JAN 14 2019

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP 19-0041
[The Clerk of Court will assign a number]

Thomas Phillip Engert
NAME

PETITIONER,

v.

Lynn Guyer
NAME OF WARDEN/FACILITY ADMINISTRATOR,

RESPONDENT.

**Petition for a Writ
of
Habeas Corpus**

I, Thomas Phillip Engert, am representing myself, and I
[Name of Inmate]
believe that I am entitled to a Writ of Habeas Corpus under § 46-22-101, MCA, for one
or more of the following reasons:

[Check the applicable box]:

- The Department of Corrections has incorrectly calculated my sentence which illegally extends my parole eligibility or discharge date.
- The Parole Board should have granted me a parole AND the Board violated my Due Process rights in denying me a parole.
- I am entitled to more credit for jail time served than I received.

My sentence is illegal because:

I was sentenced after April 28, 1999, and I received a sentence of more than 5 years to the Department of Corrections, none of which was suspended.

My sentence violates my right to be free from double jeopardy.

The length of my sentence is longer than the law allows.

I am entitled to good time that is not credited against my sentence.

I am being held in jail and I believe my bail is excessive.

Other reason incarceration is illegal.

Describe in detail why you are entitled to habeas corpus relief. Be specific. If possible, provide citations to legal authority. Attach any documents that help you explain why the Court should grant your petition. A copy of any judgments, orders or other documents that support your argument must be provided.

The above-named Petitioner comes before this Court and
PRAYS this Court will ORDER REVERSED a parole decision
reached by the state of Montana B.O.P.D. A decision reached
using incorrect information. A.R.M. 20.25-501(7) "IF the
Offender can present evidence that the hearing panel's
decision was based on erroneous or false information, a newly
appointed hearing panel will reconsider the decision." In this
case the Petitioner was denied parole based largely on his
failure to admit guilt during his non-court ordered SOP II
classes. The Petitioner simply could not curtail any hope of
possible future exoneration for a crime he claims innocence of

Simply to satisfy a condition that serves no penological purpose other than to manipulate the Petitioner into admitting a crime, he claims innocence of. "Defendant has a constitutional right to remain silent when asked by a state expert about events surrounding his alleged offense." Park v. Montana Sixth Judicial Dist. Court, 1998 MT 164. Therefore, looking at Ex. "A" it is very clear that the Petitioner was placed into a position in which failure to admit guilt placed him in the position of being denied his parole. Therefore, B.O.P.P. reached an incorrect decision based on the incorrect information of the Petitioner's failure to complete a group he should never have been in, and thus this Court must ORDER this matter returned to the parole board.

[Use extra pages if necessary]

p. 3 of 5

As relief, I request the following:

- my immediate release from prison.
- reduction of my sentence or that this Court remand this cause to the district court directing the court to resentence me to a lesser sentence.
- that the Department of Corrections recalculate my sentence as this Court directs.
- Other relief. Explain:

Re consideration for Parole or Probation based upon the
decision of this court and minus the contributing
factors that are currently violating petitioners constitutional
protections under these 5th & 14th Amendments

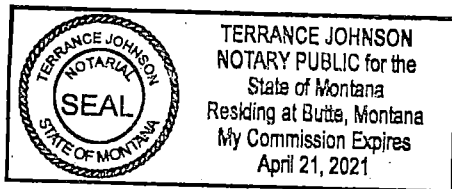
VERIFICATION

STATE OF MONTANA)
 County of Powell) : ss.

I believe I am being incarcerated illegally. I certify that the contents of this petition are true and accurate to the best of my knowledge.

DATED this 1st day of December, 2018.

Thomas P. Engfort
 Inmate Signature



Thomas P. Engfort
 Printed Name
Notary

CERTIFICATE OF MAILING (SERVICE)

I hereby certify that on December 18, 2018, I have mailed the Petition for a Writ of Habeas Corpus, as noted by a check mark (✓), to the following attorney by placing a copy in the United States Mail, postage prepaid:

State of Montana

(see INSTRUCTIONS #9)

Office of the Attorney General

P. O. Box 201401

Helena, MT 59620-1401

or

_____ County Attorney (see INSTRUCTIONS #9)
[Write name of County]

Thomas P. Engert
[Signature]

Thomas P. Engert
[Print name]