

ORIGINAL

FILED

04/03/2020

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 20-0132

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 20-0132

BRYCE EVERETT PETERSON,

2088780

Appellant Pro-se.

v.

STATE OF MONTANA,

Appellee,

FILED

APR 03 2020

Bowen Greenwood
Clerk of Supreme Court
State of Montana

MOTION TO APPOINT COUNSEL AND EXTENSION OF TIME

On Appeal from the Montana Twenty-First Judicial District Court,
Ravalli County, The Honorable Howard F. Recht, Presiding

APPEARANCES:

BRYCE E. PETERSON
2088780 Pro-se
Montana State Prison
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P.O. Box 201401
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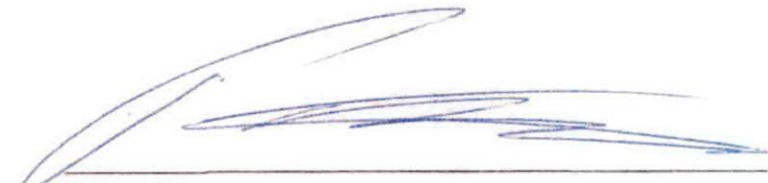
ATTORNEYS FOR APPELLEE

Comes now, Bryce Peterson, appellant herein appearing pro se and requests this court to appoint counsel, and extend the briefing schedule. This request is made because extraordinary circumstances exist that prohibits appellant from doing legal research. Because appellant is unable to conduct legal research he is unable to cite authorities in support of his legal claims leaving no legal access to the courts.

As of 16 March 2020 there are new policies in place restricting population movement. As a result, there are no services such as library, further complicating an already difficult access to the courts. This new policy is due to the Covid-19 virus and precautions to contain any potential outbreak. All non-essential services have been suspended until further notice.

Therefore, appellant also requests a 120 day extension of time until August 13, 2020 in which to file his opening brief, for the above stated reasons and as set forth in his brief in support of this motion.

Respectfully submitted this 25th day of March, 2020.



Bryce Peterson
Appellant

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 20-0132

BRYCE EVERETT PETERSON,

2088780

Appellant Pro-se.

v.

STATE OF MONTANA,

Appellee,

**BRIEF IN SUPPORT OF MOTION TO APPOINT COUNSEL AND
EXTENSION OF TIME**

On Appeal from the Montana Twenty-First Judicial District Court,
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WILLIAM E. FULBRIGHT
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Hamilton, MT 59840

ATTORNEYS FOR APPELLEE

Comes now, Bryce Peterson, appellant herein appearing pro se and submits this brief in support of his foregoing motion to appoint counsel and extension of time in which to file his opening brief.

BRIEFLY

On March 16, 2020 this court received the District Court record for cause number DV 19-468. This court also set a date, 30 days from March 16, 2020 (April 15, 2020) as the date opening briefs are to be filed.

On March 4, 2020 Kristy Cobban, an employee of the Montana State prison, alerted Associate Warden of Operations (AWO) Jim Salmonsens of issues concerning legal access services. Cobban informed AWO Salmonsens that that inmates are unable to access LEXIS-NEXIS for legal research and this is a widespread issue (See Exhibit A).

On March 10, 2020 appellant, also concerned with not being able to access LEXIS-NEXIS and at the time a very sporadic library schedule, filed an inmate grievance. In the grievance appellant address the fact that he has multiple open court cases, there is no access to LEXIS-NEXIS on the tablets, and despite staying in from work to attempt research at the library, the library schedule is not followed and no advance warning was given when the facility decided to conduct a make-up library session.

On March 18, 2020 appellant received an answer to his grievance dated March 16, 2020. This answer is as follows: *"LEXIS-NEXIS on the tablets is a privilege. The*

system is currently non-functional, but being worked on by LEXIS-NEXIS for resolution. I checked with the library staff and it was canceled on three occasions, (2/19, 2/20, + 2/28) for security issues. MSP has no authority over court deadlines or extensions. Library schedule will be followed whenever possible, and LEXIS-NEXIS functions are outside MSP control/jurisdiction.” (See Exhibit B).

On March 16, 2020, the date the grievance was answered MSP implemented restricted movement policies, due to the Covid-19 virus concerns, in preparation of a possible outbreak. This included the suspension of non-essential services like library, visitations, and religious activities, etc.

Appellant’s father talked with Amy Barton, Public Information Officer at the prison about plans for reinstating limited access to these currently suspended services. Religious activities currently have a temporary limited schedule but no other services do. The library computer is essential to legal research while LEXIS-NEXIS on the tablets is non-functional. Library access since the suspension announcement has been non-existent or spontaneous rather than planned which makes it impossible for working inmates to know when to stay in from work for possible library access.

The importance of appellant’s right to access to the court cannot be overstated, it is founded in the due process clause and assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of

fundamental constitutional rights. Without this right, appellant has no means to get a fair hearing from the judiciary.

CONCLUSION

Due to the above stated and supported reasons, that legal access at Montana State prison does not exist and library services are suspended, an extraordinary circumstance exists where appointment of counsel in this case and an extension of time are appropriate to filing opening briefs before this court.

Respectfully submitted this 25th day of March, 2020.

A handwritten signature in blue ink, appearing to read 'Bryce Peterson', is written over a horizontal line.

Bryce Peterson
Appellant

CERTIFICATE OF SERVICE

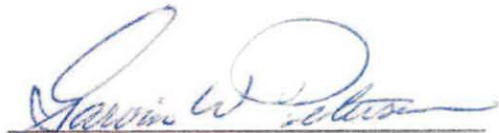
I hereby certify that I caused a true and accurate copy of the foregoing Motion to Appoint Counsel and Extension of Time and the Brief in Support to be mailed to:

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DATED: 26 March 2020



Garvin W. Peterson