

IN THE SUPREME COURT OF THE STATE OF MONTANA

No.

STATE OF MONTANA,

Plaintiff and Appellee,

v.

CHESTER BAUER,

Defendant and Appellant.

DECLARATION OF CHAD WRIGHT

I, Chad Wright, Appellate Division Administrator, provides the following declaration:

1. In early September, trial counsel contacted the Appellate Defender Division about an appeal from a purported habeas corpus decision at the district court level. Habeas corpus decisions are not appealable. In fact, the appeal request stemmed from a re-sentencing that took place on July 8, 2020 – after habeas relief was granted by this Court in *Bauer v. Guyer*, OP 19-0358. The written judgment on remand was issued on July 14, 2020.

2. The Notice of Appeal should have been filed on or before September 14, 2020. Despite clear intent from Mr. Bauer to appeal the new sentence and judgment, trial counsel and appellate counsel did not clearly communicate about who had the obligation to perfect the appeal. A referral from trial counsel was received on September 17, 2020, after the appeal deadline.
3. After full review of the records submitted on September 18, 2020, I determined that the appeal was untimely because of the actions of counsel, not Mr. Bauer, and petitioned this Court for an out of time appeal.

I declare under penalty of perjury that the above is true and correct.

/s/ Chad Wright
Chad Wright, Helena, Montana

September 25, 2020
Date