

ORIGINAL

FILED

03/02/2021

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 21-0073

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 21-0073

ELLIOTT TRAVIS BACON,

Petitioner,

v.

CAPTAIN ROGER BODINE,  
Yellowstone County Detention Center,

Respondent.

FILED

MAR 02 2021

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

ORDER

Elliott Travis Bacon has filed a Petition for a Writ of Habeas Corpus, indicating that his incarceration is illegal. Bacon raises two challenges. First, he claims that he is erroneously charged because “they have [his] name on [his] twin Brother[']s Social Security Number, In the Police Reports and charging documents.” Second, due to the limited transport of inmates and his lengthy incarceration, he contends that he was not provided proper medical attention after contracting the COVID-19. Bacon requests his release and reinstatement of his parole.

As a petitioner, Bacon carries the “burden of proof or the burden of persuasion.” *In re Hart*, 178 Mont. 235, 249, 583 P.2d 411, 419 (1978). Bacon has not met his burden of proof for this Court to issue a writ of habeas corpus. Bacon provides no information about his charges, parole revocation, or the District Court where he is being prosecuted. Bacon must prove “the violation, deprivation, infringement, or denial of his constitutional, statutory, or legal rights generally, or denial of due process of law[.]” *In re Hart*, 178 Mont. at 250, 583 P.2d at 419. He has not done so.

Montana’s statute for habeas corpus relief provides that a court may inquire into the cause of restraint or incarceration. Section 46-22-101(1), MCA. Bacon has not provided any facts to support a legal claim. Bacon has not clearly articulated any argument about illegal restraint, want of bail, or other claims viable warranting habeas corpus relief. Upon

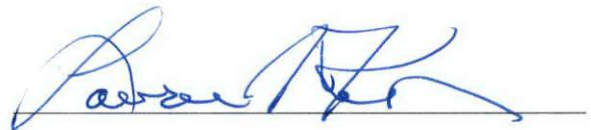
review of the little information presented, Bacon is not entitled to release from the Yellowstone County Detention Center or reinstatement of his parole. He has not carried his burden or presented a record sufficient to make a prima facie showing of the illegality of his incarceration. Section 46-22-101(1), MCA. Therefore,

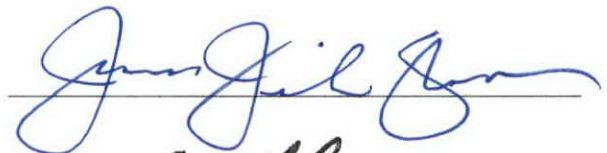
IT IS ORDERED that Bacon's Petition for a Writ of Habeas Corpus is DENIED without prejudice.

The Clerk of the Supreme Court is directed to provide a copy of this Order to Captain Roger Bodine, to counsel of record, and to Elliott Travis Bacon personally.

DATED this 2<sup>nd</sup> day of March, 2021.

  
Chief Justice

  
Justice

  
Justice

  
Justice

  
Justices