

Mikel S Letherman  
3165 King Ave East  
Billings, MT 59101  
Pro-se

ORIGINAL

FILED

FILED 11/24/2021

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

NOV 24 2021  
Case Number: DA 21-0599

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

IN THE SUPREME COURT OF THE STATE OF MONTANA

Mikel S Letherman  
Appellant

v.  
The State of Montana  
Appellee

NO. DA 21-0599

PETITION FOR AN  
OUT-OF-TIME APPEAL

I Mikel S Letherman petition the Supreme Court to allow me to file this OUT-OF-TIME APPEAL for the following reasons;

The Honorable Judge Harris of the 13<sup>th</sup> Judicial District of Montana, allowed the pro-se request of the Appellant after trial. With the stipulation of stand-by counsel from the States Public Defenders office, whom Courtney Bagnell-Moorehead was assigned last.

Since sentencing on June 29<sup>th</sup> 2021 the Appellant had to leave multiple voicemails directly to Mrs. Moorehead before being allowed to schedule a first appointment on August 30<sup>th</sup> 2021.

OUT-OF-TIME APPEAL

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During this appointment by phone I was informed Mrs. Moorehead would look into the appeal process. I was forced to wait a week, on September 9<sup>th</sup> 2021 the next available appointment, (over 60 days from sentencing) I was informed by Mrs. Moorehead of the 30 days to file NOTICE OF APPEAL to the District Court. For this, and the Appellants lack of a law degree, I throw myself at the mercy of the Supreme Court of Montana to allow ~~an~~ <sup>this</sup> OUT-OF-TIME APPEAL. This appeal will allow the court to fix the grievous mistake made by the 13<sup>th</sup> Judicial Court of Montana. By 1 finding myself guilty and 2 incarcerating me on this charge with zero legal basis.

In being found guilty of operation of a non-commercial vehicle with a Bac. greater than .08 in lieu of count 1, Driving a motor vehicle while under the influence. Being as count 1 was "verbally" dismissed for lack of any evidence a crime was committed. This fact alone should have also dismissed Count II of which was not a lesser included offence, of Operation of a motor vehicle, - was never discussed at trial; therefore an argument could never be made against it.

Having been arrested from "Private" Property, where the State has no legal <sup>EMSL</sup> authority to arrest for this charge. 61-8-406(a) States specifically (upon the ways of the State) Being privately owned and posted on May-3<sup>rd</sup> 2020 excludes this charge from having any legal representation.

OUT OF TIME APPEAL  
MRS. J. L. U.

Also as defined in 61-1-101 (52) "operator" means, a person in actual physical control of a motor vehicle. The appellant not owning any vehicle in his vicinity, nor was in possession of any means of operating a vehicle. (as in keys)

Furthermore any vehicle within the vicinity of the Appellant, was in fact on private property not on the ways open to the public, were not running or being operated in any form. So lacking in legal precedence of either charge.

Again first as I was on Private Property, not on a way open to the public or in possession of means to "operate" a vehicle. As defined in Montana Code Annotated, the State illegally found me guilty and sentenced myself in the same manner. Neither does the state have any documented proof to contradict these statements of fact. See exhibit A intake form from May, 3-2020 note possessions, therefore there was and is no irrefutable evidence or legal basis for this guilty verdict. It now falls on the Higher Court, The Supreme Court of Montana to correct this mistake by the 13<sup>th</sup> Judicial Court of Montana. These errors should have been brought up before/or during court, However my attorney at the time Justin Stark refused too.

I respectfully petition the Supreme Court to overturn the guilty verdict, and immediately release myself Mike S Letherman of DC 20-0508 and custody. If the Supreme Court of Montana fails to immediately overturn this charge, I formally request a hearing in person on this matter.

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

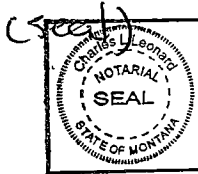
Dated this 8 day of November, 2021



Mike S Letherman



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



Charles L Leonard  
NOTARY PUBLIC for the  
STATE OF MONTANA  
Residing in Billings, MT  
My Commission Expires  
8/17/2022



Exhibit "A"



# Inmate Property Inventory Report



Print Date/Time: 05/03/2020 22:41  
Login ID: cmyrup

Yellowstone County Sheriff's Office  
ORI Number: MT0560000

Inmate: Letherman, Mikel Stetson

Booking Number: 2020-00002084

## Possessions

Possession	Condition	Quantity	Location	Container	Bag #
Monies at Remand <b>Description:</b> 4.00	Used	1	YCDF Property	Property Room	109
All Property <b>Description:</b> pnk shirt, blu jns, no sox, brn shoes,	Used	1	YCDF Property	Property Room	109
All Property <b>Description:</b> brn belt, chew tobacco, brn wallet w/contents	Used	1	YCDF Property	Property Room	109

## Issued Items

Item	Condition	Size	Color	Quantity	Issued By
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This certifies that the above items are correct.

Officer: \_\_\_\_\_

Date: \_\_\_\_\_

Inmate: \_\_\_\_\_

Date: \_\_\_\_\_

CERTIFICATE OF SERVICE

I certify that I filed this

Petition

Motion

Other PETITION FOR AN OUT-OF-TIME APPEAL  
[Name of document]

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 other party not represented by counsel as follows:

Attorney General  
[Name of opposing counsel]  
215 N Sanders St.

Helena, MT 59601 / PO Box 201401, Helena, MT  
[Address] 59620-1401

Counsel for Supreme Court of Montana

Mikel S Letherman  
[Other party representing himself or herself]  
3165 King Ave East, Billings, MT 59101  
-PO Box 693, Billings, MT 59103  
[Address]

DATED this 19 day of November, 2021.

[Signature]  
[Signature]

Mikel S Letherman  
[Print name]

