



ORIGINAL

FILED

05/09/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 22-0249

William Loren Saddler, AO 2073750
700 Conley Lake Rd.
Deer Lodge, MT 59722
Petitioner Pro Se

IN THE SUPREME COURT OF THE STATE OF MONTANA

FILED

Cause No. _____

MAY 09 2022

WILLIAM LOREN SADDLER
Petitioner,

v.

JAMES SALMONSEN
Respondent.PETITION FOR A WRIT
OF
HABEAS CORPUSBowen Greenwood
Clerk of Supreme Court
State of Montana

COMES NOW, I, William Loren Saddler, Petitioner Pro Se and petitions this Honorable Court to Grant this WIT OF HABEAS CORPUS pursuant to MCA 46-22-101.

Petitioner is restrained of liberty at the Montana State Prison (MSP) located in Deer Lodge, MT., in the custody of Warden James Salmonsens, under unlawful restraint pursuant to MCA 46-22-201(1)(A) through (C).

Petitioner hereby commands the Warden, James Salmonsens to have him in front of an Honorable Judge in the Supreme Court of the State of Montana, for this Writ of Habeas Corpus on or before the 15th day of May, 2022, by 3:00 PM MST.

STATEMENT OF JURISDICTION

MCA § 46-22-202 Granting writ of habeas corpus: Section (1) A writ of habeas corpus may be granted by any Justice of the Supreme Court or by any district court judge upon petition by or on behalf of any person restrained of liberty within the justice's or judge's jurisdiction.

A writ of habeas corpus is appropriate to challenge the legal cause of incarceration, MCA 46-22-101(1): Gates v. Missoula County Comm. 235 Mont. 261, 766 P.2d 844 (1988). Likewise, a writ of habeas corpus is appropriate to determine the legality of a state prisoners length of confinement. Prieser v. Rodriguez, 411 US 475, 93 S.Ct. 1827 (1973).

Pursuant to MCA § 3-2-201(1) the Montana Supreme Court has original jurisdiction.

Pursuant to MCA § 3-3-202(1) In the exercise of its original jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, and HABEAS CORPUS.

As this is an Original Writ of Habeas Corpus being filed with the Supreme Court of the State of Montana, the supreme court has the jurisdiction to review this extraordinary common law writ and the power to grant the relief sought.

STATEMENT OF THE CASE

On the 19th day of October, 2019, the petitioner was arrested and charged with: Count I-Assault with a weapon, a felony in violation of MCA section 45-5-213(1)(b), and Count II-Assault with a weapon, a felony in violation of MCA section 45-5-213(1)(b), in Cause No. ADC-2019-511, MT First Judicial District Court, Lewis and Clark County.

Petitioner was given a \$ 20,000.00 Bond.

Petitioner was also held on a no bond parole hold for ADC-2011064, ADC-2011-211, and ADC-20130165 during this time.

On the 30th day of September, 2020, the Petitioner was sentenced to a 10yr commitment to the Montana State Prison for Count I., Count II was dismissed in accordance with the plea agreement.

Petitioner remained in custody in this matter in the Lewis and Clark County Jail from 10/19/2019 to 9/30/2020 for a total of 347 days. Petitioner did not post bail.

At sentencing on 9/30/2020, petitioner was denied credit for the 347 days he remained in County Jail in this matter. The specific reason the Court gave for this denial was "the defendant is NOT given credit time served because he was on parole when he committed this offense and has been serving sentences in causes ADC-2011-64, ADC-2011-211."

Petitioner demanded that his Attorney file an appeal with the Supreme Court of Montana to raise this one issue of credit for time served, his Attorney refused to do so.

As petitioner is a layman and has no legal training he was unable to file a notice of appeal on his own and thus was deprived of his constitutional rights due to ineffective assistance of counsel, and no direct appeal was taken.

Subsequently the petitioner filed a Writ of Habeas Corpus for Credit Time Served in the Montana Third Judicial District Court, Powell County, on the 28th day of March, 2022, Cause No. DV-22-23.

On the 29th day of March, 2022, Judge Dayton erroneously entered his Order Dismissing Petition for a Writ of Habeas Corpus.

On the 10th day of April, 2022, petitioner filed a motion for reconsideration in this matter.

On the 15th day of April, 2022, Judge Dayton once again entered an erroneous Order Denying Motion for Reconsideration. The reason that he gave was in error because he cites MCA § 46-22-101(2): "The writ of habeas corpus is not available to attack the validity of the conviction or sentence of a person who has been adjudged guilty of an offense in a court of record and has exhausted the remedy of appeal."

It is plainly clear from the record that the petitioner never took a direct appeal do to ineffective assistance of counsel and therefore Judge Dayton's rulings were in error.

ARGUMENT

The District Court Errored and abused its discretion in denying the petitioner his 347 days credit time served in Cause No. ADC-2019-511, Montana First Judicial District Court, Lewis and Clark County.

Section § 46-18-403(1), MCA, titled Credit for Incarceration Prior to Conviction, provides: "A person incarcerated on a bailable offense against whom a judgment of imprisonment is rendered MUST be allowed credit for each day of incarceration prior to or after conviction, except that the time allowed as credit may not exceed the term of the prison sentence rendered."

Section § 46-18-201(9), MCA, titled Sentences that may be imposed, provides: "When imposing a sentence under this section that includes incarceration in a detention facility or the state prison, as defined by § 53-30-101, the court SHALL provide credit time served by the offender before trial or sentencing."

Both section §46-18-403(1), MCA, and section § 46-18201(9), MCA were passed and effect prior to the petitioners sentencing on the 30th day of September, 2020.

In Killam v. Salmonsens, 2021 MT 196, it was held that: "Defendant was entitled to a Writ of Habeas Corpus regarding credit for time served because, while the district court advised defendant that he would not receive credit for time served as he was on parole when the new offense was committed, the advisement did not override the mandate of MCA § 46-18-201(9), which mandated credit for time served before sentencing, and pre-conviction jail time credit toward a sentence was a matter of right."

MCA § 46-18-201(9) provides that a sentencing court must give credit for pre-trial or pre-sentencing incarceration regardless of whether the defendant was also held in relation to another criminal matter. Which leaves no discretion to the sentencing court to determine whether a defendant incarcerated on a bailable offense receives credit for incarceration time prior to or after conviction.

CONCLUSION

The Montana First Judicial District Court Errored and Abused its discretion in refusing to grant the petitioner credit for jail time served in the amount of 347 days in Cause No. ADC-2019-511 in its sentencing held on the 30th day of September, 2020, thereby rendering the petitioners length of sentence illegal.

RELIEF REQUESTED

Petitioner prays that this Honorable Court GRANT this Writ of Habeas Corpus and give the petitioner credit for jail time served in the amount of 347 days, and issue an order directing the MDOC to apply this credit time served immediately or sooner to his sentence in Cause No. ADC-2019-511.

sooner to his sentence in Cause No. ADG-2019-511. And any other relief that this Honorable Court believes to be just and equitable.

VERIFICATION UOPN OATH OR AFFIRMATION

STATE OF MONTANA)
 : ss
POWELL COUNTY)

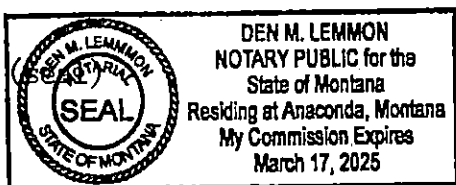
I Swear that everything stated in this Writ of Habeas Corpus for Credit Time Served is true and correct to the best of my knowledge.

Dated this 25 day of April, 2022.

William L. Saddler

William Loren Saddler, AO 2073750
Petitioner Pro Se

SUBSCRIBED AND SWORN to before me this 25th day of April, 2022.



Den M. Lemmon

Notary Public for the State of Montana

CERTIFICATE OF SERVICE

I, William Loren Saddler, hereby certify that I have served true and accurate copies of the foregoing documents:


- Writ of Habeas Corpus for Credit Time Served.
- Affidavit.
- Sentencing Judgment.
- Motion to Proceed in Forma Pauperus.
- Omis Crono. Notes.
- Case Register.
- District Courts Order dismissing petition for writ of habeas corpus for credit time served.
- Motion for Reconsideration filed in the district court.
- District Courts Order Denying Motion for Reconsideration.

to the following parties through the United State's Postal Service, first class mail, postage pre-paid to the following:

Montana Attorney Generals Office
P.O. Box 201401
Helena, MT 59620

County Attorney
Leo J. Gallagher
Lewis and Clark County
Courthouse - 228 Broadway
Helena, MT 59601

Dated this 30 day of April, 2022.

 # 2073750

William Loren Saddler, AO 2073750
Petitioner Pro Se