



ORIGINAL

FILED

05/24/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 22-0247

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 22-0247

FILED

MAY 24 2022

Bowen Greenwood
Clerk of Supreme Court
State of Montana

HARLEY DANE BIG DAY,

Petitioner,

v.

ORDER

JAMES SALMONSEN, Warden,
Montana State Prison,

Respondent.

Representing himself, Harley Dane Big Day has filed a Petition for Writ of Habeas Corpus, indicating that he is entitled to more credit for time served before his sentencing in the Thirteenth Judicial District Court, Yellowstone County.

Big Day requests credit for time served from March 16, 2016 to July 20, 2018. He states that he was arrested in March 2016 for the pending criminal case, and that he was sentenced on July 20, 2018. He provides that he tried to exhaust his other remedies for his additional credit through his counsel and the Montana State Prison. Big Day adds that he faces revocation of his sentence, including a copy of a March 31, 2022 Report of Violation.

We secured a copy of Big Day's sentencing judgment. After accepting a plea of guilty to felony criminal endangerment, the Yellowstone County District Court committed Big Day to the Department of Corrections (DOC) for a ten-year term with five years suspended. The court awarded credit for time served from June 28, 2016 to July 20, 2018. We also secured a copy of a Nunc Pro Tunc Order. On March 17, 2021, the District Court amended the credit for time served to read: "IT IS FURTHER ORDERED that Defendant will receive credit for time spent in pre-trial [i]ncarceration as follows: March 16, 2016 through July 20, 2018."

“A question is rendered moot when, due to some event or happening, the issue ceases to exist and the court cannot grant effective relief.” *Cape v. Crossroads Corr. Ctr.*, 2004 MT 265, ¶ 25, 323 Mont. 140, 99 P.3d 171. Last year, the District Court acted on his requests or his counsel’s motions for additional credit for time served. Big Day has received the credit he now claims in his Petition. Thus, his claim is moot.

Big Day has not demonstrated an illegal sentence or illegal incarceration. Section 46-22-101(1), MCA. Big Day is not entitled to release or habeas corpus relief here. Therefore,

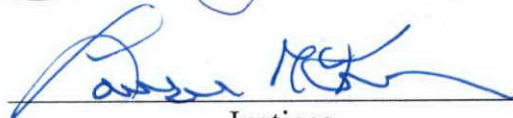
IT IS ORDERED that Big Day’s Petition for Writ of Habeas Corpus is DENIED.

The Clerk is directed to provide a copy of this Order to counsel of record and to Harley Dane Big Day along with the provided copy of the March 17, 2021 Yellowstone County District Court Nunc Pro Tunc Order.

DATED this 24th day of May, 2022.



Chief Justice



Justices