



ORIGINAL

FILED

07/12/2022

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 22-0320

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 22-0320

FILED

JUL 12 2022

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

RANDALL JAY DUGAN II,

Petitioner,

v.

MONTANA FIFTH JUDICIAL COURT  
in and for MADISON COUNTY,  
MATT BOXMEYER, Jail Commander,

ORDER

Respondents.

Randall Jay Dugan has filed a petition for a writ of habeas corpus, challenging the decisions made in his cases by the Madison County District Court regarding bail, which is currently set at \$425,000. We amend the caption to include the Jail Commander’s name at the Gallatin County Detention Center where Dugan is being held.

Dugan argues his “continued incarceration is in violation of the Montana Codes Annotated, the Montana Constitution, and the United States Constitution.” He states that he lacks financial resources and, citing § 46-9-101, MCA, contends he is being punished prior to adjudication of guilt in violation of due process of law. He states he already paid “excessive bail” to the District Court for a 2019 case, and that the District Court previously revoked his bond in his 2019 and 2021 cases. Dugan contends the District Court has not been reasonable “has not followed the criteria of bail.”

Section 46-22-103, MCA, provides:

When a person is imprisoned or detained in custody on any criminal charge for want of bail, the person is entitled to a writ of habeas corpus for the purpose of giving bail upon averring that fact in the person’s petition, without alleging that the person is illegally confined.

We obtained the charging documents and registers of actions for Dugan’s pending criminal cases. In July 2019, the State of Montana charged Dugan with six counts, including felony intimidation, felony criminal endangerment, and felony stalking. The

court initially set bail at \$40,000, which Dugan met and thereby obtained his release. However, in October 2021, the State filed a Petition to Revoke Bail due to four new charges the State filed against Dugan, including assault.

Dugan is not entitled to habeas corpus relief. He has not provided supporting argument or evidence that he is being detained “for want of bail,” pursuant to § 46-22-103, MCA. A district court has the discretion to grant or deny release and bail. *Grafft v. Mont. Fourth Judicial Dist. Court*, 2021 MT 201, ¶ 11, 405 Mont. 192, 492 P.3d 1213. Under Montana statutes, a court may consider multiple criteria as well as the safety of any person or the community. *Grafft*, ¶ 12. Dugan was initially released on bail, but he committed new offenses in contradiction to the court’s release order. Section 46-9-108(1)(a), MCA. While a court may consider the financial ability of the accused, pursuant to § 46-9-301(6), MCA, the District Court here increased bail because of other statutory criteria, including “sufficien[cy] to protect any person from bodily injury[.]” Section 46-9-301(3), MCA.

Dugan should refrain from filing pleadings on his own behalf with this Court while he is represented by counsel in the District Court. M. R. App. P. 10(1)(c).

Dugan has not demonstrated that he is illegally incarcerated. Section 46-22-101(1), MCA. He is not entitled to release. After his proceedings have concluded in District Court, Dugan retains the remedy of appeal of the court’s final judgments to this Court. Accordingly,

IT IS ORDERED that Dugan’s Petition for Writ of Habeas Corpus is DENIED and DISMISSED.

The Clerk is directed to provide a copy of this Order to: the Honorable Luke Berger, Fifth Judicial District Court, Madison County; Carmin Hill, Clerk of District Court, Madison County, under Cause Nos. DC-2019-14 and DC-2021-37; Matt Boxmeyer, Jail Commander; Justin R. Ekwall, Deputy County Attorney; Michael P. Sinks, Defense Counsel; counsel of record, and Randall Jay Dugan II personally.

DATED this 12<sup>th</sup> day of July, 2022.

A handwritten signature in blue ink, appearing to read "Jim Rice", is written over a horizontal line.

*Justice G. J. ...*

*Justice M. K. ...*

*Justice ...*

*Justice ...*

Justices