



ORIGINAL

FILED

01/31/2023

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 22-0626

James William Walker  
A.O. #3019013  
Montana State Prison  
700 Conley Lake Road  
Deer Lodge, MT  
Pro se 59722

IN THE SUPREME COURT OF THE STATE OF MONTANA

Cause No. DA 22-0626

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STATE OF MONTANA,  
Respondent and Appellee,

vs.

JAMES WILLIAM WALKER,  
Defendant and Appellant

FILED

JAN 31 2023

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

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BRIEF IN ANSWER TO STATES BRIEF

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COMES NOW, the Defendant/Appellant, James William Walker, and presents this Brief in answer to the States Brief filed January 17th, 2023.

WHEREAS, the State has once again by and through another attorney, Katie F. Schulz, filed an unlawful, unconstitutional deceptive and riddled with erroneous falsehoods response which, does not recognize defendant/appellant's lawful " Motion in the Nature of Writ of Error Coram Nobis " as Held by the United States Supreme Court in it's Precedent Case Law, U.S. v. Morgan, 346 U.S. 502 (1954), filed on June 23rd, 2022.

Instead, the State wishes to continue with, the "Red Herring" tactic that defendant/appellant filed a "Civil Proceeding Postconviction-Petition for Relief" which is without merit or standing in law.

The State has had multiple opportunities to address, and answer defendant/appellant's "Motion in the Nature of Writ of Error-Coram Nobis" but, because the State has no answer and is "caught", the State has repeatedly chosen to deny said Motion's lawfulness, availability and that said Motion is in fact, "A step in the criminal-case, DC-15-333C" as authorized by U.S. v. Morgan, (Supra).

#### STATEMENT OF THE ISSUE

Did the District Court err when it treated defendant/appellant's "Motion in the Nature of Writ of Error Coram Nobis" as a Civil Proceeding Postconviction Petition for Relief under §§ 46-21-101, (MCA) -102, and - 103, and denied relief in disregard of United States Supreme Court Standing Precedent Case Law, United States v. Morgan, 346 U.S. 502, authorizing said Motion.

- ° There is no doubt the District Court erred when it failed to recognize United States Supreme Court Precedent Case Law U.S. v. Morgan, 346 U.S. 502 (1954), as Supreme Law of the land under the Supremacy Clause of Art. VI of the U.S. Constitution which enjoy's legal superiority over any conflicting provision of a State constitution or law. The District Court has denied defendant/appellant access to the Court in direct violation of Federal Due Process and equal justice rights.

The Gallatin County Attorney "Afton M. Jessop" has committed "fraud" upon the District Court, and Katie F. Schulz has committed "fraud" upon this Honorable Court acting for the Montana Office of the Attorney General. As such, defendant/appellant invokes MT. R. Civ. P. Rule 60 (b)(3) in conjunction with Rule 60 (d)(3)-Fraud on the Court.

The Deputy County Attorney "Chris Gregory" has also committed "fraud" upon the District Court and MT. R. Civ. P. Rule 60 (b)(3) in conjunction with Rule 60 (d)(3) is hereby invoked against him because, He knew and had the duty to know that the information contained within his charging document was outdated and false but, he presented it in spite of those facts. (See, Motion in the Nature of Writ of Error-Coram Nobis, page 2, & 3, and said Motion's Exhibit B,).

As for the States response's to defendant/appellant's Motion in the Nature of Writ of Error Coram Nobis, defendant/appellant has repeatedly clarified the legal standing of his Motion so that there can be no

confusion or uncertainty as to the Motion's lawfulness, availability and that the Motion is "A step in the original criminal case DC-15-333C, as authorized by The United States Supreme Court Precedent Case U.S. v. Morgan, (Supra).

Such clarification was made clear in all of the following; "Openig Brief" Motion in the Nature of Writ of Error Coram Nobis;

Answer to States response to Movant's Motion in the Nature of Writ of Error Coram Nobis;

Motion to set evidentiary hearing;

Notice of Appeal;

Motion for appointment of counsel;

- ° At no time has the State chosen to recognize or address in a lawful manner said Motion to which, the State of Montana must adhere.

The States reliance upon the unlawful, unconstitutional determination and decision by the District Court, John Brown, has rendered it's position irrelevant and all of it's statements, and arguments moot. the States Attorney's cannot all be incompetent to the extent they are unable to comprehend Federal Law and the issues of law pretaining to filing's and of course, defendant/appellant's "Motion in the Nature of Writ of Error Coram Nobis".

Their responses have gotten progressively more and more transparent revealing the true nature of these false representatives who are not fit for office. The States Attorney's have gone from "fraud upon the Court" to actual "criminal deceit and collusion."

" Citing from the dissent " as if it were " Law " rather than being in conflict with the majority decision which is Law!.

The State is "caught" and exposed for "All" to see and know. no longer will the criminal duplicity be hid from the public or the highest Law enforcement officer's in the Federal government. There will be accountability for all who act in a corrupt manner within their positions.

- ° The State of Montana has contrived a false prosecution under the pretense of a trial based upon decit and collusion coupled with fabricated evidence in conjunction with false testimony and outdated information. The State paid a known perjurer and

then repeatedly "vouched" for that known perjurer. It has obtained an illegal conviction and imposed an absurd prison sentence upon an innocent United States senior citizen of whom, the State knew was not guilty of the alleged crime.

- ° The State has not had the integrity to do the right thing and has continued to pretend it cannot read or comprehend published precedent law. The State is not a purveyor of justice but, rather a purveyor of "Injustice".
- ° Defendant/appellant's Motion in the Nature of Writ of Error Coram Nobis is lawful, available and a step in the criminal case DC-15-333C, and has set forth presumptively prejudicial "Structural Error" of a fundamental character which requires automatic reversal with no further analysis or review. "Courts should act in doing justice if the record makes plain a right to relief," U.S. V. Morgan, (Supra).
- ° The Courts applied statutory mandates cannot conflict with United States Constitutional Law, and Coram Nobis is now accepted American practice.

An example of the criminal duplicity perpetrated by the States Attorney's is the totally false statement by Katie F. Schulz appearing on page 2, of her Brief.

Wherein, she states, "In November 2015, Walker was charged with aggravated assault for pushing a woman down the stairs, causing her to break a bone in her spine".

This false statement was put forth to the Court as a statement of fact despite Ms. Schulz knowing no such injury occurred nor was any such claim put forth in discovery or at trial as testimony by the alleged victim-witness.

This false claim was made by the treacherous pathological liar "glawe" and it appears in the outdated and false information utilized by the corrupt deputy county attorney "Chris Gregory" who also criminally altered the official trial records.

The true facts are the defendant/appellant was falsely charged with this false information alleging that, defendant/appellant had pushed the States victim-witness down a set of stairs after punching her causing "injury" which caused her to have apprehension of serious

bodily injury or death, (See, Motion in the Nature of Writ of Error Coram Nobis, "Exhibit Q,").

The false statement of a "cracked bone in her back" came from page #9, of the false outdated information, (See, Motion in the Nature of Coram Nobis, "Exhibit B,").

The States alleged victim claimed she was seeing a nurse practitioner who preliminarily diagnosed her with a cracked bone in her back. This was after the attending physician conducted MRI, CT Scan, X-Rays and full body examination finding "nothing", absolutely no "injury" or injuries whatsoever. She was diagnosed with a "psychological" MENTAL DISORDER manifesting physical symptoms.

The States alleged victim-witness was never pushed down any stairs nor was she ever punched by defendant/appellant. the alleged crime was a malicious lie spoken into a cell phone by a "treacherous, pathological liar." The States desperation is extremely transparent.

At the unwarranted July 20th, 2017, sentencing hearing, the District Court "unjustly" sentenced defendant/appellant to an absurd 20, year prison term directly after defendant/appellant confronted deputy county attorney "chris gregory" in open court with extremely hard evidence that he criminally altered the official trial record. After obtaining a copy of the sentencing transcript, it was perfectly clear that Mr. gregory had also criminally deleted the entire confrontation of him criminally altering the trial record from the sentencing transcript. At any evidentiary hearing or civil trial proceeding, these facts will be made available to the general public and all attending news reporters, and have already been detailed to Federal Authorities.

The States opposition to defendant/appellant's Motion in the Nature of Writ of Error Coram Nobis is "fatally flawed".

The claim that said Motion is untimely under postconviction statutory provisions and also procedurally barred since, they could have been raised on direct appeal is irrelevant due to the fact defendant/appellant does not proceed under postconviction statutory provisions but rather under the authorization of the United States Supreme Court Precedent Case Law U.S. v. Morgan, (Supra).

And also by authority of the Montana Constitution Article 7, § 4,-  
District Court-(1).

The District Court's actions are in direct violation of both State  
and Federal Constitutions, and violate both, the State of Montana's  
"All Writs Act" and the Federal "All Writs Act".  
(See, defendant/appellant's " opening Brief" for a more detailed-  
explanation).

U.S. v. Morgan, (Supra) authorizes all claims and issues to be utilized  
when claiming "Structural Error" of a fundamental character, (See,-  
U.S. v. Morgan, 346 U.S. 502, page 2 of 13, HN6, justicability, exhaus-  
tion of remedies);

"continuation of litigation after final judgment and exhaustion  
or waiver of any statutory right of review should be allowed through  
the extraordinary remedy of coram nobis only under circumstances  
compelling such action to achieve justice."

There is no ambiguity regarding these facts or that defendant/appellant  
has suffered a "gross miscarriage of justice at the hands of corrupt  
State actors to corrupt for office."

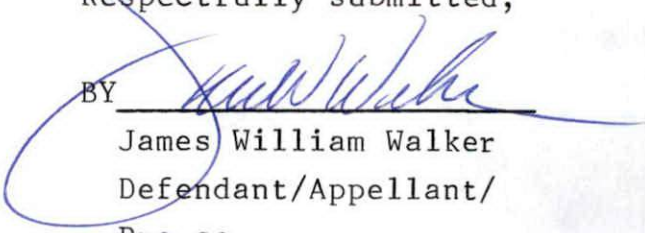
I will enlist the assistance of the Federal Court including the Ninth  
Circuit, and the United States Supreme Court should it be necessary to  
enforce United States Supreme Court Precedent Case Law.

This Court should act in doing justice if the record makes plain a  
right to relief, U.S. v. Morgan, (Supra).

Defendant/Appellant respectfully requests this Honorable Court remand  
back to the District Court, John Brown, and Order said Court to render  
justice in accordance with and required by U.S. v. Morgan, (Supra),  
or MT. R. Civ. P. Rule 60 (b)(3) in conjunction with Rule 60 (d)(3)-  
fraud on the Court without further delay as the Supreme Court of The  
United States has meant Coram Nobis to be an "expeditious" remedy and  
grant any and all other relief as may be just and proper.

Respectfully submitted,

This 26<sup>th</sup> day of January 2023.

BY   
James William Walker  
Defendant/Appellant/  
Pro se

UNSWORN DECLARATION

I, James William Walker, Declare under penalty of perjury that, the facts and matters set forth in the "Brief in answer to States Brief" are true, and accurate to the best of my knowledge and belief.

Submitted this 26<sup>th</sup> day of January 2023, at Deer Lodge, Montana.

BY 

James William Walker  
Defendant/Appellant/  
Pro se

CERTIFICATE OF SERVICE

The undersigned, certifies that on the 26<sup>th</sup> day of January 2023, an exact copy of the "Brief in answer to States Brief" was placed in the prison legal mail system, first class postage paid, and addressed to the parties listed below;

BY 

James William Walker/  
Defendant/Appellant/  
Pro se

Katie F. Schulz  
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