

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0090

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ALOYSIUS DENNIS BLACKCROW,

Defendant and Appellant.

BRIEF OF APPELLEE

On Appeal from the Montana Twentieth Judicial District Court,
Lake County, The Honorable Molly Owen, Presiding

APPEARANCES:

AUSTIN KNUDSEN
Montana Attorney General
TAMMY K PLUBELL
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
Phone: 406-444-2026
tplubell@mt.gov

ALOYSIUS DENNIS BLACKCROW
Connections Corrections Program
201 Orofino Way
Warm Springs, MT 59756

DEFENDANT AND APPELLANT
PRO SE

JAMES LAPOTKA
Lake County Attorney
106 4th Avenue East
Polson, MT 59860t

ATTORNEYS FOR PLAINTIFF
AND APPELLEE

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF THE ISSUE 1

STATEMENT OF THE CASE 1

SUMMARY OF THE ARGUMENT 9

ARGUMENT..... 9

I. The standard of review.....9

II. The district court properly dismissed Blackcrow’s successive petition as untimely and procedurally barred.....10

 A. Blackcrow’s petition is untimely and he cannot meet the fundamental miscarriage of justice exception.....10

 B. Blackcrow’s claims are also procedurally barred13

CONCLUSION16

CERTIFICATE OF COMPLIANCE.....17

TABLE OF AUTHORITIES

Cases

<i>Beach v. State (Beach I)</i> , 2009 MT 398, 353 Mont. 411, 220 P.3d 667	6
<i>Calderon v. Thompson</i> , 523 U.S. 538 (1998)	11-12
<i>Ford v. State</i> , 2005 MT 151, 327 Mont. 378, 114 P.3d 244	15, 16
<i>Herrera v. Collins</i> , 506 U.S. 390 (1993)	11
<i>Kenfield v. State</i> , 2016 MT 197, 384 Mont. 322, 377 P.3d 1207	10
<i>Kuhlmann v. Wilson</i> , 477 U.S. 436 (1986)	11
<i>McCleskey v. Zant</i> , 499 U.S. 467 (1991)	11
<i>Murray v. Carrier</i> , 477 U.S. 478 (1986)	12
<i>Sanders v. State</i> , 2004 MT 374, 325 Mont. 59, 103 P.3d 1053	16
<i>Sawyer v. Whitley</i> , 505 U.S. 333 (1992)	12
<i>Schlup v. Delo</i> , 513 U.S. 298 (1995)	4, 10, 12
<i>Skinner v. Allstate Ins. Co.</i> , 2005 MT 323, 329 Mont. 511, 127 P.3d 359	15
<i>Smith v. Murray</i> , 477 U.S. 527 (1986)	12
<i>State v. Beach</i> , 2013 MT 130, 370 Mont. 163, 302 P.3d 47	12

<i>State v. Blackcrow</i> , 1999 MT 44, 293 Mont. 374, 975 P.2d 1253	1, 8
<i>State v. Blackcrow (Blackcrow II)</i> , 2003 MT 41N	3, 14
<i>State v. Redcrow</i> , 1999 MT 95, 294 Mont. 252, 980 P.2d 622	6, 10, 12

Other Authorities

Montana Code Annotated

§ 46-21-102 (1995)	9, 10, 11, 12
§ 46-21-102(2)	5, 6
§ 46-21-105(1)	13, 16

STATEMENT OF THE ISSUE

Whether the district court properly dismissed as untimely Appellant's successive petition for postconviction relief challenging his convictions for robbery and aggravated burglary affirmed by this Court on March 16, 1999.

STATEMENT OF THE CASE

On June 14, 1996, the State charged Appellant Aloysius Blackcrow with robbery and aggravated burglary. (D.C. Doc 4.)¹ The district court held a jury trial on August 14-15, 1997. (8/14/97-8/15/97 Transcript of Jury Trial [Tr.]) Blackcrow did not call any witnesses at trial. (*See* Tr.) The jury found Blackcrow guilty of both charges. (Tr. at 333-34.) The district court sentenced Blackcrow to 40 years in prison for each conviction, to run consecutively, and imposed a 10-year weapon enhancement. (D.C. Doc. 82.)

Blackcrow appealed, arguing that (1) the district court erred in denying his motion to dismiss for insufficient evidence raised at the close of the State's case, and (2) the State presented insufficient evidence to convict him of the offenses.

State v. Blackcrow, 1999 MT 44, ¶¶ 2-3, 293 Mont. 374, 975 P.2d 1253.

Blackcrow first argued that the district court erred in denying his motion to dismiss

¹ The criminal case and the postconviction case are contained within one cause number, DC-96-63.

for insufficient evidence because the only evidence the State presented at trial connecting Blackcrow to the crimes was uncorroborated accomplice testimony in violation of Mont. Code Ann. § 46-16-213. *Id.* ¶ 19. This Court rejected Blackcrow’s assertion because its review was limited to whether any rational trier of fact, in viewing the evidence in the light most favorable to the prosecution, could have found that one of the State’s witnesses, Sandra, was not implicated in the offense, meaning that her testimony required no further corroboration. This Court found sufficient evidence in the record tending to show that Sandra was not an accomplice to make the question one for the jury. *Id.* ¶ 23.

In rejecting Blackcrow’s second argument, that the State presented insufficient evidence to support his convictions, the Court explained that Blackcrow only argued there was insufficient evidence to support the jury’s verdict that either the State’s witnesses were not accomplices or that the testimony of the accomplices was sufficiently corroborated, but Blackcrow never requested that the jury be instructed on accomplice testimony. The Court explained that this was fatal to Blackcrow’s sufficiency of the evidence claim because the Court was “presented with the impractical task of reviewing the sufficiency of the evidence to support a finding that was never made.” *Id.* ¶ 32.

According to the district court's case docket sheet, Blackcrow filed a petition for postconviction relief on February 4, 2000. (D.C. Doc. 97.)² The district court appointed Blackcrow counsel. (D.C. Doc. 98.)³ The State moved to dismiss the petition. (D.C. Doc. 104.)⁴ On March 6, 2002, the district court entered an order denying Blackcrow's petition for postconviction relief. (D.C. Doc. 105.)

Blackcrow appealed, arguing for the first time on appeal that he was denied his state and federal constitutional right to the effective assistance of counsel when his trial counsel did not offer jury instructions on accomplice testimony. *State v. Blackcrow (Blackcrow II)*, 2003 MT 41N, ¶ 3. Blackcrow conceded that he did not raise his ineffective assistance of counsel claim concerning accomplice jury instructions in his postconviction petition. *Id.* ¶ 5. This Court held that since Blackcrow did not raise the issue of counsel's failure to request jury instructions on accomplice testimony in his postconviction petition, he could not raise the issue for the first time on appeal, and it affirmed the order of the district court denying Blackcrow postconviction relief. *Id.* ¶¶ 6-7.

On September 2, 2021, Blackcrow filed a pro se motion for a new trial. (D.C. Doc. 111.) The State responded that Blackcrow's motion was untimely and

² This document is not included in the district court record submitted on appeal.

³ This document is not included in the district court record submitted on appeal.

⁴ This document is not included in the district court record submitted on appeal.

lacked merit. (D.C. Doc. 113.) On October 6, 2021, the district court denied the motion for a new trial. (D.C. Doc. 115.)

On October 20, 2021, Blackcrow filed a second petition for postconviction relief. (D.C. Doc. 116.) In sum, Blackcrow argued his trial counsel was ineffective, his right to a speedy trial was violated, he suffered from a developmental disability, and tribal officers lacked jurisdiction to handle any facet of his case. (*Id.* at 2.) On November 4, 2021, the district court entered an order dismissing the petition for postconviction relief. (D.C. Doc. 117.) The district court denied the petition as untimely, concluding that Blackcrow's grounds for relief were based on legal arguments that were either known or discoverable 20 years prior. Blackcrow offered no newly discovered evidence that could overcome his petition's untimeliness. (*Id.* at 2-3.)

On December 5, 2022, Blackcrow filed a third petition for postconviction relief in the district court. (D.C. Doc. 119.) Blackcrow appears to have argued that despite the untimeliness of his petition and that this was a successive petition, it was still appropriate for the district court to consider the merits of his ineffective assistance of counsel claims under the actual innocence fundamental miscarriage of justice exception explained in *Schlup v. Delo*, 513 U.S. 298 (1995). (*Id.* at 1.) Blackcrow appears to have argued that his new evidence of actual innocence was his recent discovery that he suffered from a brain injury caused by preterm birth.

(*Id.*) Blackcrow urged that this excused the petition’s procedural defects and its untimeliness and allowed the court to consider the merits of his three ineffective assistance of counsel claims. Blackcrow alleged his trial counsel was ineffective for: (1) failing to file a motion to dismiss the charges when 73 days elapsed between his initial appearance and the State filing an information in district court; (2) failing to make proper objections at trial; and (3) failing to request jury instructions concerning accomplice testimony. (*Id.*)

On December 7, 2023, the district court entered an order dismissing Blackcrow’s untimely, successive petition. (D.C. Doc. 121, attached as App. A.) In so doing, the court concluded that Blackcrow’s petition was not only a successive petition but was also untimely. The district court elaborated:

[The petition] is not saved by MCA § 46-21-102(2), which allows filing within one year of newly-discovered evidence. To fit within that saving statute, Defendant must show the petition was filed within one year of discovery of new evidence or one year of the time the evidence “*reasonably should have been discovered.*” This Petition is mainly based on legal arguments which were known or discoverable twenty years ago. Defendant lists these issues as:

1. There is evidence that creates doubt about his guilt (although he provides no evidence);
2. Developmental disability; and
3. Ineffective assistance of counsel.

These do not qualify as “newly-discovered evidence,” or even evidence, and these defenses or arguments were known at [the] time of the previous petitions, or reasonably discoverable.

(App. A at 2.)⁵

STATEMENT OF THE FACTS

In the direct appeal of Blackcrow’s criminal case, this Court summarized the relevant facts from Blackcrow’s trial as follows, verbatim:

Sometime shortly after midnight on February 22, 1996, Bruce Stinger (Bruce) and Stacey Worley (Stacey) were attacked by three unknown assailants inside their home in the Donna Jones Trailer Park in Pablo, Montana. The incident began when Bruce, who had fallen asleep in the living room, responded to a knock at the front door. Bruce opened the door to discover a young man standing on his porch. The man asked Bruce if a certain person was in the home. Bruce could not understand what was being asked and the man repeated this inquiry twice before pulling out a gun and pointing it at Bruce.

Bruch pushed the gun out of his face and attempted to push the man off the porch. Bruce then turned and fled into the house, leaving the door open. Inside the house, Bruce began running down the hall. When he realized he had not shut the front door, Bruce returned down the hallway and found the young man standing in the kitchen with the gun once again pointed at Bruce. Bruce grabbed the gun and attempted to get it away from the intruder.

⁵ Montana Code Annotated § 46-21-102(2) is not applicable to Blackcrow’s case since his crime occurred in 1996 and the 1995 code section applied. In 1995, the statute of limitations was five years, and subsection (2) did not exist. *See Beach v. State (Beach I)*, 2009 MT 398, ¶ 9, 353 Mont. 411, 220 P.3d 667. Even so, the district court’s rationale is equally applicable to the fundamental miscarriage of justice exception. *See State v. Redcrow*, 1999 MT 95, ¶¶ 33-34, 294 Mont. 252, 980 P.2d 622.

At this point, two more men entered the trailer home. The second man entering the trailer also carried a gun. The third man did not carry a gun, but was instead armed with a large knife. The second man ordered Bruce to release the gun held by the first man and get down on the floor. Bruce complied and lay down on the floor of the living room.

While he was on the floor, Bruce was pistol-whipped on the head by one of the men and asked repeatedly where the drugs and money were. Bruce answered that he did not have any.

This interrogation awakened Stacey, who had been sleeping in a bedroom down the hallway. Stacey turned on the light in the bedroom and began getting dressed when one of the men entered the bedroom and pushed her onto the bed. He was followed by another of the assailants, who jumped on top of Stacey, accosted her with a gun and a knife at either side of her head, and began asking her repeatedly where the guns and money were. Stacey responded that if he would let her up, she would get him some money.

The man released Stacey and she moved to the end of the bed, but an argument ensued between them when Stacey requested that she be allowed to finish dressing. The man then hit Stacey in the head with the gun. She grew angry at this and grabbed for the man's hand holding the gun. The gun fired, and both assailants fled the room. The shot missed Stacey, leaving her uninjured, and she followed the men as they fled down the hallway.

During the altercation between Stacey and the two assailants in the bedroom, the third man had remained behind in the living room with Bruce. This assailant continuously threatened Bruce with a large knife, ordering Bruce not to look at him or he would stab him. The assailant did in fact stab Bruce twice, once in the front and once in the back of one of Bruce's thighs. The assailant also cut a piece of hair and scalp out of the back of Bruce's head.

When the men from the bedroom rejoined the third man in the living room, all three exited the house through the front door. Stacey shut the door behind them and called 911. Lake County law enforcement officers and members of the Flathead Tribal Police

arrived on scene shortly thereafter. Bruce was taken by ambulance to the hospital and treated for stab wounds.

Stacey and Bruce provided the officers with a physical description of each of the assailants but could not identify their attackers. The only other evidence taken from the scene was the 9 mm bullet and shell casing from the shot fired inside the bedroom.

Blackcrow was eventually charged in connection with this case after an anonymous telephone caller informed investigators of the names of two women believed to have been involved in the attack on Bruce and Stacey. The women were identified as Blackcrow's wife, Sandro Boe (Sandra), and a friend of Blackcrow's named Denise Shields (Denise). Sandra and Denise were subsequently located and interviewed by law enforcement officers. In separate interviews conducted in different cities, both women identified Blackcrow, his brother Gerrard Blackcrow (Gerrard), and Timothy Konefes (Timothy) as the assailants who entered the home of Bruce and Stacey on February 22, 1996.

Blackcrow was charged with robbery and aggravated burglary for his participation in the events of that evening. Denise and Timothy both testified in person at Blackcrow's trial, and Sandra appeared by deposition testimony, parts of which were read to the jury.

According to Timothy's testimony and the physical description of the assailants given by Bruce and Stacey, it was Timothy who knocked on the door and first entered the trailer. He was also the man who first entered Stacey's bedroom and pushed her back on the bed. Blackcrow was the second man to enter the trailer. He was the one who pistol-whipped and interrogated Bruce and also the one who assaulted Stacey on the bed and fired the shot in the bedroom. Gerrard was the third man to enter the trailer. It was he who remained in the living room with Bruce during the assault on Stacey.

Blackcrow, 1999 MT 44, ¶¶ 4-15.

SUMMARY OF THE ARGUMENT

The district court properly dismissed Blackcrow’s third petition for postconviction relief because it was untimely by over two decades and included claims that should have been raised in his original petition and included in his direct appeal of the denial of his original petition.

Blackcrow’s claim that he suffers from a “brain disability” due to his preterm birth was known to Blackcrow in the time of his trial in 1997. He cannot now rely on this claim of alleged legal innocence to meet the fundamental miscarriage of justice exception this Court has adopted, in rare circumstances, to overcome the time bar to Mont. Code Ann. § 46-21-102 (1995).

All of Blackcrow’s postconviction claims are untimely and are procedurally barred on multiple grounds. Blackcrow’s attempt to gain postconviction relief on his untimely, procedurally defaulted claims decades after his conviction underscores the importance of enforcing the postconviction time bar and procedural bars except in the most extreme and rare cases.

ARGUMENT

I. The standard of review

This Court reviews a district court’s denial of a postconviction petition to determine if the court’s findings of fact are clearly erroneous, and if its conclusions

of law are correct. *Kenfield v. State*, 2016 MT 197, ¶ 7, 384 Mont. 322, 377 P.3d 1207.

II. The district court properly dismissed Blackcrow’s successive petition as untimely and procedurally barred.

A. Blackcrow’s petition is untimely and he cannot meet the fundamental miscarriage of justice exception.

Since Blackcrow committed his crimes in 1996, the 1995 version of Montana’s postconviction statutes controls. *See Beach I*, ¶ 9. Montana Code Annotated § 46-21-102 (1995) provided that a petition for postconviction relief “may be filed at any time within 5 years of the date of the conviction.” In *Redcrow*, this Court interpreted the term “conviction” as referenced above to mean when the jury entered its guilty verdict and the district court imposed its sentence. *Redcrow*, ¶ 29.

Here, Blackcrow’s jury found him guilty on August 15, 1997. (Tr. at 333-34.) The district court imposed its sentence on November 17, 1997.) (D.C. Doc. 82.) Blackcrow filed his third postconviction petition on December 5, 2022. (D.C. Doc. 119.) Blackcrow’s petition is untimely by over two decades.

Blackcrow seemingly recognizes the untimeliness of his petition based on his reference to *Schlup* and his assertion that his “brain injury” caused by preterm birth establishes he is actually innocent thereby allowing the untimeliness of his

petition to be excused and the merits of his underlying claims to be considered.

(Appellant's Br. at 8.) Blackcrow misunderstands the nature and application of the fundamental miscarriage of justice exception to the five-year time bar set forth in Mont. Code Ann. § 46-21-102 (1995).

Cases enforcing procedural bars to federal habeas relief are premised on the important public policy of ensuring finality of state court judgments. *McCleskey v. Zant*, 499 U.S. 467, 490-91 (1991). The State's interests in finality of convictions include serving the State's goal of rehabilitating criminals and its legitimate punitive interests, since when a prisoner is freed on a successive petition years after his crime, the State may be unable to successfully retry him. *Kuhlmann v. Wilson*, 477 U.S. 436, 453 (1986). This result "is unacceptable if the State must forgo conviction of a guilty defendant through the 'erosion of memory' and 'dispersion of witnesses' that occur with the passage of time that invariably attends collateral attack." *Id.* "Only with an assurance of real finality can the State execute its moral judgment in a case. Only with real finality can the victims of crime move forward knowing the moral judgment will be carried out." *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). To unsettle the expectation of finality is to profoundly injure "the State's powerful and legitimate interest in punishing the guilty." *Herrera v. Collins*, 506 U.S. 390, 421 (1993) (O'Connor, J. concurring). This

interest is “shared by the State and victims of crime alike.” *Calderon*, 523 U.S. at 556.

A fundamental miscarriage of justice is the safety valve in federal habeas for a petitioner who makes a compelling claim of actual innocence and who would otherwise have no avenue of review. *Murray v. Carrier*, 477 U.S. 478, 496 (1986). The exception is concerned with actual as compared to legal innocence and has a very narrow scope. *Smith v. Murray*, 477 U.S. 527, 537 (1986); *Sawyer v. Whitley*, 505 U.S. 333, 340 (1992).

This Court has relied upon federal case law and adopted the fundamental miscarriage of justice exception to the five-year time bar set forth in Mont. Code Ann. § 46-21-102 (1995). *Redcrow*, ¶¶ 33-34. In *Redcrow*, this Court explained that a petitioner seeking to excuse a procedural default to allow a court to consider the merits of constitutional claims must show that “a constitutional violation has probably resulted in the conviction of one who is actually innocent.” *Redcrow*, ¶ 33, quoting *Schlup*, 513 U.S. at 327. A fundamental miscarriage of justice exception is concerned with actual and not legal innocence. *Redcrow*, ¶ 33, citing *Sawyer*, 505 U.S. at 339-40. This Court recognized that the fundamental miscarriage of justice exception is extremely rare and is limited to extraordinary cases. *Id.*, citing *Schlup*, 513 U.S. at 324; (see also *State v. Beach*, 2013 MT 130, ¶¶ 95-97, 370 Mont. 163, 302 P.3d 47 (McKinnon, J., concurring opinion joined by

the majority) for a detailed explanation of the fundamental miscarriage of justice exception).

Here, Blackcrow's reliance upon the fundamental miscarriage of justice exception fails at the outset because it is based on his theory that he had a brain disability associated with his preterm birth. But this alleged disability and the resulting impact were known to him or should have been known to him at the time preceding and up to his trial. And his alleged brain disability claim is one of legal innocence not factual innocence as the fundamental miscarriage of justice exception requires. If Blackcrow believed that he did not have the ability to act with purpose or knowledge due to what he refers to as a brain disability originating from the time of his birth, then he needed to rely on mental disease or defect at the time of trial, or to have raised an appropriate ineffective assistance of counsel claim for trial counsel's failure to raise this defense, within five years of the jury's verdict and the district court's pronouncement of judgment.

Blackcrow cannot now rely upon this legal claim to meet the fundamental miscarriage of justice exception and excuse the untimeliness of his successive petition by over two decades. The district court properly denied Blackcrow's third postconviction petition as untimely.

B. Blackcrow's claims are also procedurally barred

Montana Code Annotated § 46-21-105(1) provides:

(1)(a) All grounds for relief claimed by a petitioner under 46-21-101 must be raised in the original or amended original petition. The original petition may be amended only once. At the request of the state or on its own motion, the court shall set a deadline for the filing of an amended original petition. If a hearing will be held the deadline must be reasonably in advance of the hearing but may not be less than 30 days prior to the date of the hearing.

(b) The court shall dismiss a second or subsequent petition by a person who has filed on original petition unless the second or subsequent petition raises grounds for relief that could not reasonably have been raised in the original or amended original petition.

Although for some reason Blackcrow's original postconviction petition is not contained within the district court record, it is evident from Blackcrow's appeal of the denial of the amended petition that the only claim Blackcrow raised on appeal was that his counsel was ineffective for failing to offer jury instructions on accomplice testimony. *Blackcrow II*, ¶ 3. This Court declined to consider the merits of that claim because Blackcrow did not raise the claim in his original postconviction petition. *Id.* ¶ 6.

The claims Blackcrow pled in his untimely, third postconviction petition—that his trial counsel was ineffective for: (1) failing to file a motion to dismiss the charges when 73 days elapsed between his initial appearance and the State filing an information; (2) failing to make proper objections at trial; and (3) failing to request jury instructions concerning accomplice testimony—all could have reasonably been raised in Blackcrow's original petition. It is evident from Blackcrow's appeal of the denial of his first postconviction petition that he did not raise the ineffective

assistance of counsel claim based on accomplice jury instructions in his original petition, but he reasonably could have raised that claim, so it is now procedurally barred based on Blackcrow's failure to do so.

Also, even assuming Blackcrow raised the two other ineffective assistance of counsel claims in his original petition, he did not include those claims in his direct appeal challenging the denial of his first postconviction petition. As such, Blackcrow abandoned those claims. *See, e.g., Ford v. State*, 2005 MT 151, ¶ 35, 327 Mont. 378, 114 P.3d 244 (finding that “we have no occasion to review the District Court’s decision” when the appellant abandoned certain contentions on appeal); *Skinner v. Allstate Ins. Co.*, 2005 MT 323, ¶ 9, 329 Mont. 511, 127 P.3d 359 (noting that after a party did not brief certain issues on appeal, “[t]hose issues, therefore, have been abandoned on appeal, and we do not address them”).

Finally, Blackcrow raises two claims on appeal that he did not raise in his successive postconviction petition—that his due process rights were violated when 72 days elapsed between his initial appearance and the State filing the information, and that his weapon enhancement resulted in a double jeopardy violation. These claims should have been included in his original petition *and* the resulting appeal of the denial of that petition. Blackcrow did not plead these claims in his second, successive petition, and he did not plead these claims in the instant third, successive petition for postconviction relief. These claims are procedurally barred

on multiple grounds. Mont. Code Ann. § 46-21-105(1); *Ford*, ¶ 35; *Sanders v. State*, 2004 MT 374, ¶ 16, 325 Mont. 59, 103 P.3d 1053.

CONCLUSION

The district court correctly dismissed Blackcrow's untimely, successive postconviction petition raising procedurally defaulted claims. The State requests that this Court affirm the order of the district court dismissing Blackcrow's third postconviction petition.

Respectfully submitted this 25th day of July, 2023.

AUSTIN KNUDSEN
Montana Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

By: /s/ Tammy K Plubell
TAMMY K PLUBELL
Assistant Attorney General

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 3,911 words, excluding the cover page, table of contents, table of authorities, certificate of service, certificate of compliance, signature blocks, and any appendices.

/s/ Tammy K Plubell

TAMMY K PLUBELL

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0090

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ALOYSIUS DENNIS BLACKCROW,

Defendant and Appellant.

APPENDIX

Order Dismissing Petition for Postconviction Relief,
December 7, 2022 (D.C. Doc. 121)..... Appendix A

CERTIFICATE OF SERVICE

I, Tammy K Plubell, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 07-25-2023:

Austin Miles Knudsen (Govt Attorney)
215 N. Sanders
Helena MT 59620
Representing: State of Montana
Service Method: eService

Steven N. Eschenbacher (Govt Attorney)
1106 4th Ave E.
Polson MT 59860
Representing: State of Montana
Service Method: eService

Aloysius Dennis Black Crow (Appellant)
AO#30845
Montana State Prison
700 Conley Lake Road
Deer Lodge MT 59722
Service Method: Conventional

Electronically signed by Janet Sanderson on behalf of Tammy K Plubell
Dated: 07-25-2023