

08/00/2023

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 23-0398

Jason Shewalter  
Name  
50 Crossroads Dr.  
Shelby MT 59474  
City State Zip  
N/A  
[e-mail address]  
Appellant  
[Designation of party]



ORIGINAL

JUL 20 2023

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. \_\_\_\_\_  
[to be assigned by Clerk of Supreme Court]

Shewalter,  
\_\_\_\_\_

Appellant,

v.

State of Montana,  
\_\_\_\_\_

Appellee.

**PETITION FOR  
AN OUT-OF-TIME  
APPEAL**

[To ask the Court to allow you to file an out-of-time appeal, give the reasons why the appeal was not timely filed. State in the petition or supporting affidavit the issues you wish to raise on appeal and explain in detail the reasons that you did not file a timely appeal. Give only true and accurate explanations that support your petition. Include a copy of the final order or judgment from which you wish to appeal. M. R. App.P. 4(6)]

I petition the Court to allow me to file an out-of-time appeal for the following reason: [Check one]

☐ I improperly filed a timely Notice of Appeal only with the District Court, as more fully explained below.



© Montana Supreme Court

OUT-OF-TIME APPEAL  
PAGE 1 OF 4

☒ I discussed filing a timely appeal with my attorney, but he or she failed to file it for me, as more fully explained below.

☐ I failed to file the Notice of Appeal for the following reason:

On October 13th, 2022 in Lake Co. Dist Court I protested that receive credit for probation time served & jail time served & did not receive either. I told my public defender Kimbely Durham of Lake Co. PDD during my time of sentencing that I wished to appeal Judge Kim Christopher's decision due to the fact it did not follow guide lines & was indeed an illegale sentence. Mrs. Durham has failed to file an appeal for DC-06-45.

☐ Attached as Exhibit "A," a copy of the judgment or order from which I wish to appeal.

As legal authority for filing an out-of-time appeal, I cite the following which supports this petition:

Judge Kim Christopher's revocation of my suspended sentence DC-06-45 does not follow 46-18-203, MCA section 7.

DATED this 2nd day of June, 2023.



[Signature]  
[Signature]  
Jason Shewalter  
[Print name]

**VERIFICATION UPON OATH OR AFFIRMATION**

STATE OF MONTANA       )  
  : SS.  
County of Toole       )

I swear that everything stated in this petition is true and correct to the best of my knowledge.

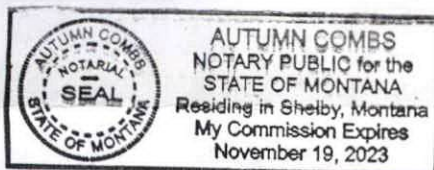
DATED this 2nd day of June, 2023.

[Signature]  
[Signature]  
Jason Shewalter  
[Print name]

Signed and sworn to or affirmed before me on this date by

Jason Shewalter.

[Seal]



[Signature]  
[Signature of Notary Public]  
Autumn Combs  
[Typed or printed name]  
Notary Public  
[Title]  
Shelby, MT  
[Residing at]  
My Commission expires: November 19, 2023



## CERTIFICATE OF SERVICE

I certify that I have filed a copy of this **Petition for an Out-of-Time Appeal** with the Clerk of the Montana Supreme Court and that I have mailed or hand delivered a copy to each attorney of record and any party not represented by counsel as follows:

Attorney General Austin Knudsen  
[Name of opposing counsel]

Justice B/DG. 215 North Sanders, P.O. Box 201401  
Helena, MT 59620-1401  
[Address]

Counsel for State of MT

N/A  
[Other party representing himself or herself]

\_\_\_\_\_  
\_\_\_\_\_  
[Address]

DATED this 2nd day of June, 2023.

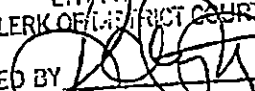
Jason Shewalter  
[Name]  
Jason Shewalter  
[Print name]



07/20/2023

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 23-0398

LYNN BOWEN  
CLERK OF THE DISTRICT COURT  
FILED BY 

2022 OCT 24 A 9:36

1 HON. DEBORAH KIM CHRISTOPHER  
2 20<sup>th</sup> Judicial District Court  
3 Lake County Courthouse  
4 106 Fourth Avenue E  
5 Polson, MT 59860  
6 (406) 883-7360

7 **MONTANA TWENTIETH JUDICIAL DISTRICT COURT, LAKE COUNTY**

8 STATE OF MONTANA,

Cause No. DC-06-45

9 Plaintiff,

**JUDGMENT ON  
SECOND REVOCATION**

10 vs.

11 JASON DANIEL SHEWALTER,

12 Defendant.

13  
14 The Defendant, JASON DANIEL SHEWALTER, came before the Court on October 13,  
15 2022 for his adjudicatory hearing on his Amended Second Petition to Revoke filed July 7, 2022.  
16 The State called Columbia Falls Police Officer Wayne Stufflebeem to testify for the second time but  
17 the first time with the Defendant actually present. Officer Stufflebeem was sworn and testified. The  
18 State called Probation & Parole Officer Linn, who was also sworn and testified. Plaintiff and  
19 Defendant's counsel made argument to the Court. Defendant also spoke. The Court determined the  
20 State evidence was proven by a preponderance sufficient to support the petition to revoke.

21 IT IS THEREFORE ORDERED the Defendant's suspended sentence entered on December  
22 6, 2018, for the offense of CRIMINAL POSSESSION WITH INTENT TO DISTRIBUTE, a  
23 Felony, as specified in MCA 45-9-103(1), is revoked.

24 IT IS FURTHER ORDERED the Defendant is sentenced to the Department of Corrections  
25 for a term of 5 years, with a recommendation for participation in NEXUS and mental health  
26 treatment. The Court recommends the Department of Corrections reimpose the Defendant's

109

1 original conditions in the initial judgment filed September 26, 2006 should the Department  
2 consider any sort of early or conditional release.

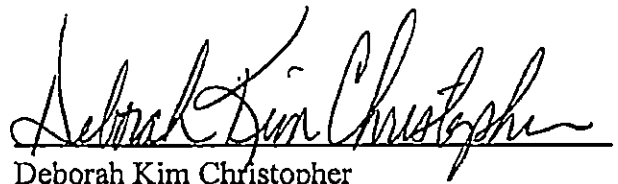
3 THE COURT STATES its reasons for said sentence are as follows:

- 4 1. It provides punishment to the Defendant for violating the terms of his probation;  
5 and  
6 2. It provides an opportunity for rehabilitation through chemical dependency and  
7 mental health treatment, so Defendant could be successful after completion of  
8 treatment.

9 If either party believes that the written Judgment filed herein does not conform to the oral  
10 pronouncement of this Court at the time of sentencing, either the Defendant or the State may  
11 request a hearing to modify the written, filed Judgment. **This request must be made by either**  
12 **the State or the Defendant within 120 days of the filing of the written Judgment.** In the event  
13 such a request is made, a hearing will be held to consider the motion at which the Defendant must  
14 be present unless Defendant waives the right to be present. If no request for modification is filed  
15 by either the State or the Defendant within 120 days, the right to a modification hearing shall be  
16 waived.

17 DONE in Open Court this 13<sup>th</sup> day of October, 2022.

18 DATED this 21<sup>st</sup> day of October, 2022.

19   
20 Deborah Kim Christopher  
21 District Judge

22  
23 10/24/2022/22  
24 cc: LCAO (Lapotka)  
25 OPD (Durham)  
26

Date: 7/20/2023

Time: 04:46 PM

Page 1 of 3

## Lake County District Court

## Case Register Report

DC-24-2006-0000045-IN

State of Montana vs. JASON DANIEL SHEWALTER

User: MRENSVOLD

07/20/2023

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 23-0398

Filed: 3/21/2006  
Subtype: Information

## Status History

Closed	9/21/2006
Reopened	7/26/2018
Closed	12/6/2018
Reopened	6/10/2022

## Prosecutors

YOUNG, MITCHELL A.	(No longer on case)	Do Not Send Notices
ESCHENBACHER, STEVEN	(No longer on case)	Do Not Send Notices
LAPOTKA, JAMES	(Primary attorney)	Send Notices

## Defendants

Def. no. 20 SHEWALTER, JASON DANIEL

## Attorneys

DORAN, GARY G.,	(No longer on case)	Do Not Send Notices
MARROW, JEREMIE		Do Not Send Notices
DURHAM, KIMBERLY	(Primary attorney)	Send Notices

## Charges

No.	Revision	Statute	Description
10 Original:	111111	45-09-0103	CRIMINAL POSSESSION WITH INTENT TO DISTRIBUTE
20 Original:	111111	61-08-0346	R. O. W. VIOLATION - FAIL/YIELD TO EMERGENCY VEHICLE
30 Original:	111111	45-10-0103	CRIMINAL POSSESSION OF DRUG PARAPHERNALIA

## Judge History

Date	Judge	Reason for Removal
3/21/2006	Christopher, Deborah K.	Current

## Register of Actions

Def.	Doc. Seq.	Entered	Filed	Text	Judge
20	1.000	03/22/2006	03/22/2006	Justice Court Record	Christopher, Deborah K.
20	2.000	03/22/2006	03/22/2006	Motion And Affidavit For Leave To File An Information	Christopher, Deborah K.
20	3.000	03/24/2006	03/24/2006	Order (Arraignment 4/6/06)	Christopher, Deborah K.
20	4.000	03/24/2006	03/24/2006	Information	Christopher, Deborah K.
20	5.000	04/06/2006	04/06/2006	Minute Entry	Christopher, Deborah K.
20	6.000	04/06/2006	04/06/2006	Acknowledgment Of Rights	Christopher, Deborah K.
20	7.000	04/10/2006	04/10/2006	Motion For Discovery	Christopher, Deborah K.
20	8.000	04/11/2006	04/11/2006	Order For Discovery	Christopher, Deborah K.
20	9.000	04/24/2006	04/24/2006	Motion For Discovery	Christopher, Deborah K.
20	10.000	05/23/2006	05/23/2006	Order	Christopher, Deborah K.
20	11.000	05/25/2006	05/25/2006	Defendant's Motion To Suppress	Christopher, Deborah K.
20	12.000	05/25/2006	05/25/2006	Minute Entry	Christopher, Deborah K.
20	13.000	06/14/2006	06/14/2006	Memorandum In Support Of Defendant's Motion To Suppress	Christopher, Deborah K.

State of Montana vs. JASON DANIEL SHEWALTER

Register of Actions

Def.	Doc. Seq.	Entered	Filed	Text	Judge
20	14.000	01/11/2017	06/23/2006	Motion to Continue Evidentiary Hearing	Christopher, Deborah K.
20	15.000	06/26/2006	06/26/2006	State's Answer To Defendant's Motion To Suppress	Christopher, Deborah K.
20	16.000	06/29/2006	06/29/2006	Order (Evid. Hrg. Con't 7/20/06)	Christopher, Deborah K.
20	17.000	07/06/2006	07/06/2006	Defendant's Reply Brief Re: Defendant's Motion To Suppress	Christopher, Deborah K.
20	18.000	07/20/2006	07/20/2006	Minute Entry	Christopher, Deborah K.
20	19.000	07/31/2006	07/31/2006	Motion To Continue Omnibus Hearing	Christopher, Deborah K.
20	20.000	08/04/2006	08/04/2006	Order Denying Defendant's Motion To Suppress	Christopher, Deborah K.
20	21.000	08/09/2006	08/08/2006	Unopposed Motion To Continue Omnibus Hearing	Christopher, Deborah K.
20	22.000	08/09/2006	08/09/2006	Waiver Of Speedy Trial	Christopher, Deborah K.
20	23.000	08/09/2006	08/09/2006	Order (Oh Con't 8/24/06)	Christopher, Deborah K.
20	24.000	08/24/2006	08/24/2006	Acknowledgment Of Rights And Plea Agreement	Christopher, Deborah K.
20	25.000	08/24/2006	08/24/2006	Minute Entry	Christopher, Deborah K.
20	26.000	09/13/2006	09/13/2006	Pre-sentence Investigation Report	Christopher, Deborah K.
20	27.000	09/21/2006	09/21/2006	Minute Entry	Christopher, Deborah K.
20	28.000	09/21/2006	09/21/2006	Order	Christopher, Deborah K.
20	29.000	09/26/2006	09/26/2006	Judgment And Commitment	Christopher, Deborah K.
20	30.000	09/26/2006	09/26/2006	Notice Of Right To Apply For Sentence Review	Christopher, Deborah K.
20	31.000	12/19/2006	12/19/2006	Petition For Disposition Of Evidence	Christopher, Deborah K.
20	32.000	12/20/2006	12/20/2006	Order	Christopher, Deborah K.
20	33.000	07/24/2018	07/24/2018	Report of Violation	Christopher, Deborah K.
20	34.000	07/26/2018	07/26/2018	Petition to Revoke	Christopher, Deborah K.
20	35.000	07/27/2018	07/27/2018	Warrant of Arrest Issued	Christopher, Deborah K.
20	36.000	10/22/2018	10/22/2018	Warrant of Arrest & Return	Christopher, Deborah K.
20	37.000	10/23/2018	10/23/2018	Notice of Appearance and Discovery Request	Christopher, Deborah K.
20	38.000	10/24/2018	10/24/2018	Defendant's Acknowledgment of Rights for Revocation Proceeding	Christopher, Deborah K.
20	39.000	10/25/2018	10/25/2018	Minute Entry	Christopher, Deborah K.
20	40.000	11/19/2018	11/19/2018	Addendum to Report of Violation	Christopher, Deborah K.
20	41.000	12/06/2018	12/06/2018	Minute Entry	Christopher, Deborah K.
20	42.000	12/14/2018	12/14/2018	Judgment	Christopher, Deborah K.
20	43.000	12/17/2018	12/17/2018	Notice of Right to Apply for Review of Sentence	Christopher, Deborah K.
20	44.000	03/13/2019	03/13/2019	Acknowledgment of Receipt of Sentence Review Forms	Christopher, Deborah K.
20	45.000	03/20/2019	03/20/2019	Application for Review of Sentence	Christopher, Deborah K.
20	46.000	03/22/2019	03/22/2019	Clerk's Certificate and Statement	Christopher, Deborah K.
20	47.000	07/01/2019	07/01/2019	Notice of Sentence Review Hearing (8/1/19)	Christopher, Deborah K.
20	48.000	09/03/2019	09/03/2019	Sentence Review Decision (Affirmed)	Christopher, Deborah K.
20	49.000	06/09/2022	06/09/2022	Report of Violation	Christopher, Deborah K.
20	50.000	06/10/2022	06/10/2022	Petition to Revoke	Christopher, Deborah K.
20	51.000	06/16/2022	06/16/2022	Warrant of Arrest Issued	Christopher, Deborah K.



State of Montana vs. JASON DANIEL SHEWALTER

Register of Actions

Def.	Doc. Seq.	Entered	Filed	Text	Judge
20	52.000	06/30/2022	06/30/2022	Addendum to Report of Violation Dated 6/8/22	Christopher, Deborah K.
20	53.000	07/07/2022	07/07/2022	Amended Petition to Revoke	Christopher, Deborah K.
20	54.000	07/13/2022	07/13/2022	Warrant of Arrest and Return	Christopher, Deborah K.
20	55.000	07/14/2022	07/14/2022	Minute Entry Hearing type: Hearing Answer Amended Pet. to Revoke Hearing date: 7/14/2022 Time: 8:14 am Court reporter: Connie Costanza	Christopher, Deborah K.
20	56.000	07/15/2022	07/15/2022	Return of Service	Christopher, Deborah K.
20	57.000	07/18/2022	07/18/2022	Notice of Assignment and Request for Discovery	Christopher, Deborah K.
20	58.000	07/21/2022	07/21/2022	Minute Entry Hearing type: Omnibus Hearing Hearing date: 7/21/2022 Time: 8:09 am Court reporter: Connie Costanza	Christopher, Deborah K.
20	59.000	07/21/2022	07/21/2022	Defendant's Acknowledgment of Rights for Revocation Proceeding	Christopher, Deborah K.
20	60.000	08/04/2022	08/04/2022	Minute Entry Hearing type: Adjudication Hearing Hearing date: 8/4/2022 Time: 8:04 am Court reporter: Connie Costanza	Christopher, Deborah K.
20	61.000	08/18/2022	08/18/2022	Bail Bond (\$25,000)	Christopher, Deborah K.
20	62.000	08/24/2022	08/24/2022	Motion for Defendant to Appear by Zoom for Adjudication Hearing	Christopher, Deborah K.
20	63.000	08/25/2022	08/25/2022	Order Denying Motion to Appear by Zoom Adjudication Hearing	Christopher, Deborah K.
20	64.000	08/25/2022	08/25/2022	Minute Entry Hearing type: Adjudication Hearing Hearing date: 8/25/2022 Time: 8:42 am Court reporter: Connie Costanza	Christopher, Deborah K.
20	65.000	08/29/2022	08/29/2022	Warrant of Arrest Issued	Christopher, Deborah K.
20	66.000	09/07/2022	09/07/2022	Warrant of Arrest and Return	Christopher, Deborah K.
20	67.000	09/08/2022	09/08/2022	Minute Entry Hearing type: Hearing on Merits Hearing date: 9/8/2022 Time: 8:19 am Court reporter: Connie Costanza	Christopher, Deborah K.
20	68.000	10/13/2022	10/13/2022	Minute Entry Hearing type: Adjudication Hearing Hearing date: 10/13/2022 Time: 7:55 am Court reporter: David Hix	Christopher, Deborah K.
20	69.000	10/24/2022	10/24/2022	Judgment on Second Revocation	Christopher, Deborah K.
20	70.000	10/26/2022	10/26/2022	Notice of Right to Apply For Review of Sentence	Christopher, Deborah K.
20	71.000	11/07/2022	11/07/2022	Acknowledgment of Receipt of Sentence Review Forms	Christopher, Deborah K.
20	72.000	11/07/2022	11/07/2022	Application for Review of Sentence	Christopher, Deborah K.
20	73.000	11/21/2022	11/21/2022	Clerk's Certificate and Statement	Christopher, Deborah K.
20	74.000	03/22/2023	03/22/2023	Notice of Sentence Review Hearing (5/5/23)	Christopher, Deborah K.
20	75.000	05/17/2023	05/17/2023	Decision from Sentence Review (Affirmed)	Christopher, Deborah K.