

FILED

08/07/2023

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 23-0426

Name
Jesus Villanueva
Deer Lodge MT 59723
City State Zip
(None)
[e-mail address]
Appellee Appellant
[Designation of party]

RECEIVED
AUG 04 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]

FILED

AUG 04 2023

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Jesus Villanueva,

Appellant,

v.

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.



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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:

I am 100% dyslexic and disgraphic which makes me unable to properly read or spell. I called Chad Write the head of Appellate Defenders for the forms which took time to obtain the Appeal Forms. Then I had to seek help from another Prisoner to help me fill out the Notice of Appeal. Then another prisoner had to read the forms back to me to insure they were correct. My Prisoner reading/writing aid was prohibited from helping me with my legal paperwork. My disability has prevented me from getting my appeal notice into the Clerk's office on time. I enlisted the assistance of five different inmates at the possibility of lost of documentation of information.

☒ Attached as Exhibit "A," a copy of the judgment or order from which I ^{task} wish to appeal. ^{that there be allowances & any inadequacies be corrected}

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

Statute: 46-14-103 MCA. Fitzpatric v. Crist, 165 Mont. 382, 387 (1974)
Under 46-14-102 Evidence of Mental disease or disorder of developmental disability admissible to prove state of Mind "46-14-101 Mental disease or disorder - purpose - definition. Please apply law of interpretation - pro se - and any law not stated here.

DATED this 28 day of July, 2023.



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OUT-OF-TIME APPEAL
PAGE 2 OF 4

Jesus Villanueva
[Signature]

Jesus Villanueva
[Print name]

VERIFICATION UPON OATH OR AFFIRMATION

STATE OF MONTANA)
County of Powell) : ss.

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

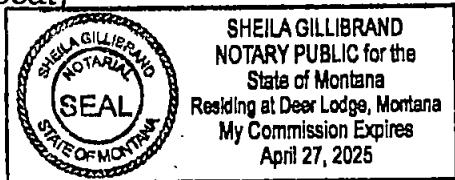
DATED this 1 day of August, 2023.

[Signature]

Jesus Villanueva
[Print name]

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

[Seal]



[Signature of Notary Public]

Sheila Gillibrand
[Typed or printed name]

Notary
[Title]

Deer Lodge, MT
[Residing at]

My Commission expires: 04/27/2025.



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:

A.G. Appellate
Services Division
215 N Sanders St
Helena, MT 59601

Yellowstone County Attorney
[Name of opposing counsel]

P.O. Box 35025

Billings MT 59107
[Address]

Counsel for Yellowstone County

Jesus Villanueva
[Other party representing himself or herself]

Montana State Prison, 700 Conley Lake Rd.

Deer Lodge, MT 59722
[Address]

DATED this 1 day of August, 2023.

[Signature]
[Name]

Jesus Villanueva
[Print name]

