

Jesse, Kaled, DuBray
Inmate Name

3009295
Inmate ID or AO#

Montana State Prison
Facility of Incarceration

700 Conley Lake RD.
Address of Facility

Deer Lodge MT 59722
City State Zip

FILED

09/25/2023



ORIGINAL

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 23-0565

FILED

SEP 25 2023

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP 23 - 0565
[The Clerk of Court will assign a number]

Jesse, Kaled, DuBray
NAME

PETITIONER,

v. Jim Salmonson

Lynn Guyer
NAME OF WARDEN/FACILITY ADMINISTRATOR,

RESPONDENT.

Petition for a Writ
of
Habeas Corpus

I, Jesse, Kaled, DuBray, am representing myself, and I
believe that I am entitled to a Writ of Habeas Corpus under § 46-22-101, MCA, for one
or more of the following reasons:

[Check the applicable box]:

- The Department of Corrections has incorrectly calculated my sentence which illegally extends my parole eligibility or discharge date.
- The Parole Board should have granted me a parole AND the Board violated my Due Process rights in denying me a parole.
- I am entitled to more credit for jail time served than I received.

My sentence is illegal because:

I was sentenced after April 28, 1999, and I received a sentence of more than 5 years to the Department of Corrections, none of which was suspended.

My sentence violates my right to be free from double jeopardy.

The length of my sentence is longer than the law allows.

I am entitled to good time that is not credited against my sentence.

I am being held in jail and I believe my bail is excessive.

Other reason incarceration is illegal.

Describe in detail why you are entitled to habeas corpus relief. Be specific. If possible, provide citations to legal authority. Attach any documents that help you explain why the Court should grant your petition. A copy of any judgments, orders or other documents that support your argument must be provided.

I was sentenced on the charge of Aggravated Assault by Accountability to 3 years MSP and I received 31 days credit from the time I sat in prison fighting this case. I was served a Notification by a regular Guard here saying I'm being charged with a crime, but a Sheriff never served the warrant on me it was the prison found. After that I never got my Due Process of getting an initial appearance or arraignment done on me until I done up my own motion to arraign me or dismiss the case. So Cascade county arraigned me and then I got finally sentenced on January 21 2021 and 31 days credit for the time I got

Arrested, which I can't remember and I don't have the ability to obtain those documents because I'm in prison and can't get those without a subpoena to show records of it. I was arrested somewhere in June or April or March of 2021 so I should have received 10 months or something like that total credit time served and only got 31 days credit. My public defender was Trevor Carlson. I have case law that states I'm entitled credit time served even if I'm serving another sentence. My case law is - (Killam vs. Salmonson 2021 MT 196) Also (State vs. Mendoza No. DA 19-0587) MCA § 46-18-201 (9) 46-18-403 1405 mont. 143, 492, P. 3d 512, 2021 mont Lexis 638 (mont. August 3, 2021).

My public defender and prosecutor told me I can't or they don't have to entitle me credit for time served because I was in prison serving another sentence. Under Killam vs. Salmonson 2021 MT 196 states they have to that the state has to give me credit for time served even if I was serving another sentence. I was granted parole when the state charged me and put a detainer on me and then violated my parole.

[Use extra pages if necessary]

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As relief, I request the following:

- my immediate release from prison.
- reduction of my sentence or that this Court remand this cause to the district court directing the court to resentence me to a lesser sentence.
- that the Department of Corrections recalculate my sentence as this Court directs.
- Other relief. Explain:

I Discharge December-21-2023 so if I'm
Granted the credit I'm entitled to then I would
Automatically Discharge

VERIFICATION

STATE OF MONTANA)
County of Lewis and Clark : ss.
~~Power~~)

I believe I am being incarcerated illegally. I certify that the contents of this petition are true and accurate to the best of my knowledge.

DATED this 16 day of September, 2023.

Jesse Kaled Dubray
Inmate Signature

Jesse, Kaled, Dubray
Printed Name