



ORIGINAL

FILED

01/16/2024

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 24-0008

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 24-0008

ALEX SMITH,

Petitioner,

v.

ORDER

PETER BLUDWORTH, WARDEN,  
CROSSROADS CORRECTIONAL CENTER,

Respondent.

Appearing on his own behalf, Petitioner Alex Smith contends that he is “being further deprived due process[.]” He explains that he has a pending petition for postconviction relief in the Cascade County District Court and contends that “the court itself is unresponsive[.]” Smith states that he has moved the District Court “to expedite [his] petition for postconviction relief and grant habeas corpus because [he] has been denied medical treatment for a severe, possibly life-threatening neurological disorder, since [his] arrest in August, 2021.” He provides no medical documentation. Smith includes copies of the pleading that he filed in the District Court as well as the November 16, 2022 Decision decreasing his sentence from the Sentence Review Division.

We secured a copy of the District Court’s register of actions. Smith filed an affidavit of inability to pay the filing fee and other costs on January 19, 2023. The court granted his pleading a week later. On May 10, 2023, Smith filed a “Motion to Amend Grounds for Relief in Petition for Postconviction Relief and Grant Early Release for Medical Needs.” He later filed a pleading, titled Notice. On July 10, 2023, the court issued an order setting a hearing and scheduling conference. Other pleadings have been filed. On September 7, 2023, the court held a status hearing and scheduling conference. Smith has filed several pleadings including some that were not served upon opposing counsel.

Smith has sought relief through the wrong remedy here. A writ of habeas corpus is not the remedy for constitutional claims or to interfere with a district court proceeding. Section 46-22-101(1), MCA; *Gates v. Missoula County Comm'rs*, 235 Mont. 261, 261-62, 766 P.2d 884, 884-85 (1988). Smith's claims do not go to the cause of his incarceration. *Gates*, 235 Mont. at 262, 766 P.2d at 885. Even if this Court were to deem his writ as one for supervisory control over the District Court, his pleading fails. Smith provides no dates about when he sought relief in the District Court and any delay. This Court had to seek more information. The District Court has been responsive in setting Smith's matter for a status hearing and scheduling conference. We point out that any of Smith's filings not served to opposing counsel are considered *ex parte* communication to which the court may not respond. Smith has not demonstrated that the court is proceeding under a mistake of law causing a gross miscarriage of justice. M. R. App. P. 14(3).

Smith has not demonstrated illegal incarceration. Section 46-22-101(1), MCA. He is not entitled to habeas corpus relief, based on the information provided. Therefore,

IT IS ORDERED that Smith's Petition for Writ of Habeas Corpus is DENIED and DISMISSED.

IT IS FURTHER ORDERED that this matter is CLOSED as of this Order's date.

The Clerk is directed to provide a copy of this Order to: the Honorable John Parker, Eighth Judicial District Court; Tina Henry, Clerk of Court, under Cause No. DDV-23-24; counsel of record; and Alex Smith personally.

DATED this 16<sup>th</sup> day of January, 2024.

**FILED**

JAN 16 2024

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana



Chief Justice



James Jeremiah Green

Peter F. Baker

Angela J. Smith

Justices