

02/08/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 24-0088

Richard Patterson
AO# 3007747
Saguaro Correctional Center
1252 E. Arica Road
Eloy, AZ 85131

ORIGINAL

FILED

FEB - 8 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

OP 24-0088

IN THE SUPREME COURT OF THE STATE OF MONTANA

RICHARD PATTERSON,
Petitioner Pro se,
V.GREG GIANFORTE/GOVERNOR,
BRIAN GOOTKIN/DIRECTOR OF D.O.C.,
JAMES SALMONSEN/WARDEN OF M.S.P.,
Respondents.WRIT OF HABEAS CORPUS 46-21-101 MCA,
FOR A PRELIMINARY INJUNCTION ON BEHALF
OF STATE SENTENCED PRISONERS TO STOP
D.O.C. & M.S.P. TRAFFICKING OF PERSONS
45-5-702 MCA, FOR THEIR POLITICAL AND
FINANCIAL GAIN IN VIOLATION OF THE LAW

The State, under color of law on behalf of M.S.P. & D.O.C., CANNOT ENFORCE State statutes to transfer prisoners out of State for the purpose of Committing the Crime 45-5-702 MCA, Trafficking of Persons, which involves their Participation in the Venture of Trafficking of Persons by involuntary Servitude for their Financial and Political Benefit.

To do so would imply to the Public that if a future Public Citizen were to be charged with the Trafficking of Persons, they could claim that per the Montana Supreme Court, and this case, the Court does not consider it a crime to Traffic Persons in Montana. Or, that it is okay for the State to commit the crime of Trafficking of Persons for their Financial and Political Benefit.

28 U.S.C.S. § 453. Before assuming Office, every Justice or Judge of the United States Courts must take the following Oath I [name] do solemnly swear [or affirm] that I will administer justice without respect to persons, and do equal right right to the poor and the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as [a judge] under the constitution and the laws of the United States. So help me God...A District court Judge is not empowered to do what he thinks is most fair - he is bound to follow the law. U.S. v. Cox 235 F. Supp. 3d

RULES OF JUDICIAL CONDUCT

Rule 1.1 Compliance with the law: A Judge shall comply with the law, including the Code of Judicial Conduct. **Rule 1.2 Promoting Confidence in the Judiciary:** A Judge shall at all times in a manner that promotes Public Confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. **Rule 2.2 Impartiality and Fairness:** A Judge shall uphold and apply the law, and shall perform all duties of Judicial

Office fairly and impartially. Rule 2.5 Competence, Diligence, and Cooperation:
A Judge shall perform Judicial and administrative duties competently and diligently.

Cox v. McLean, 49 F. Supp. 3d 765

[1] Plaintiff brought a facial and as applied challenge to the provisions of Montana law requiring confidentiality of the Montana Judicial Standards Commission proceedings. [2] He made a colorable claim that his First Amendment Rights have been infringed. [3] He wished to criticize government official and a government body for political reasons, but he was restricted from doing so by threat of civil or criminal prosecution. [4] Strict scrutiny applied to the restrictions on his speech. [5] The members failed to Justify the restrictions on plaintiffs speech, and he was likely to succeed on the merits of his as applied challenge to the laws. [6] Plaintiff allowed irreparable harm by demonstrating that his First Amendment Freedoms were likely being infringed. [7] The balance of the hardships tipped in his favor. [8] The Public interests favored issuing the injunction. ...Cox believes that the Commission failed to adequately investigate his complaint. Publishing the complaint and the dismissal letter provided Cox an opportunity to demonstrate that the political process is the only way to address his complaint against the Judge.

IT IS ORDERED that the motion for preliminary injunction (doc. 3) is GRANTED. Cox may publish his Judicial complaint [**774] and dismissal letter and the Defendants are enjoined from punishing him for contempt.

45-5-702 MCA, TRAFFICKING OF PERSONS

- (10) A person commits the offense of Trafficking of Persons if the person purposely or knowingly:
- (a) recruits, transports, transfers, harbors, receives, provides, obtains, isolates maintains, or entices another person intending or knowing that the person will be subjected to involuntary servitude or sexual servitude.
 - (b) Benefits financially or by receiving anything of value, from facilitating any conduct in subsection (1)(a) or from participation in a venture that subjected another person to involuntary servitude or sexual servitude.

SERVITUDE

Compulsory Service, Hard Labor, Imprisonment

COMMENT

The Politicians told the press that the prisoners sent to Arizona were volunteers. That was a lie. Therefore, our imprisonment in Arizona is involuntary which violates the State Statute 45-5-702 MCA for involuntary Servitude so they can benefit financially. We were coerced into signing the transport papers to Arizona under the threat of punishment and be forced on the bus the next morning.

RULES ABOUT THE TREATMENT OF PRISONERS

- Rule 1: Inmates are sent to prison as punishment, and not for punishment.
Rule 2: Correctional workers have a responsibility to ensure that inmates are returned to the community no more angry or hostile than they were committed.
Rule 23" Stress the value of rewarding good adjustment with privileges and amenities.
Rule 25: Send clear messages regarding the kind of behavior that cannot be tolerated.

18 u.s.c.s. § 242 DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the constitution or laws of the United States, or to different punishments, pains, or penalties on account of such person being alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned, or both.

LIBERTY

As the word is defined in the constitution, it means not only Freedom from servitude and restraint, but is deemed to embrace the rights of every man to be free in the use of his powers and faculties, and to adopt and pursue such advocacy or calling as he may choose.

State v. Bekemans, 2013 MT 368 Mont.

When a defendant is sentenced to one or more years of actual incarceration, an appellate court reviews a sentence for legality only. A sentence that commits the defendant to the custody of the Department of Corrections (D.O.C.) is not the same as a sentence of incarceration at a State prison. Mont. Code Ann. § 46-18-201(3)(c) A defendant who is sentenced to incarceration at a State Prison must serve her sentence in the State Prison facility. When a defendant is sentenced to the custody of the D.O.C., however, the D.O.C. determines the appropriate location for the defendant, which may be someplace other than a State prison.

COMMENT

State v. Bekemans clearly states a State sentenced person must serve their time in a State prison. And that D.O.C. only has the authority to house D.O.C. sentenced prisoners outside of the State prison. Patterson, and a lot of the other prisoners sent to Arizona are State sentenced by the Court.

ARGUMENT

D.O.C. & M.S.P. legislated the State for funds to build new facilities due to overcrowding, and to house prisoners out of State. Therefore, their claim is they need to warehouse the prisoners out of State, and to profit from it as well.

Montana has statutes of law to house prisoners out of State. Which is in complete contradiction of State v. Bekemans and 45-5-702. To enforce the State statutes to house prisoners out of State under color of law to violate 45-5-702, is a violation of Federal law U.S.C.S. § 242 Deprivation of Rights under color of law. (Using overcrowding as their excuse)

Overcrowding in Montana's Prisons is a self inflicted wound by those in control for the purpose of a financial gain, and as a punishment against citizens and prisoners for exercising their constitutional rights.

PART ONE
INDICTMENT AND HARM IN SUPPORT OF CLAIMS
OVERCROWDING

(1) Montana State Prison and the Department of Corrections are housing out of State prisoners for a Financial Gain. D.O.C. & M.S.P. are choosing to send Montana prisoners to other States rather than sending the out of State prisoners back to their State, because of how much money D.O.C. & M.S.P. are getting paid to house them at M.S.P.. Therefore, D.O.C. & M.S.P. are choosing not to open up bed space for Montana sentenced prisoners to cause overcrowding for a financial and political gain.

(2) Before the Parole Board will grant parole, the Parole Board often overrides the sentencing Judge's sentence of prisoners, without going to court to do so, to make prisoners take programs that are not ordered by the sentencing court, That way they can continue to warehouse prisoners for a financial gain.

The courts and the Parole Board order prisoners to take programs in order to be eligible for parole. This is a Big Money profiting business for the prison system. However, the State cannot prove that there is a high success rate in these programs to prevent prisoners from re-offending. Just look at how many drug related crimes are being committed by paroled prisoners. A.K.A. Re-Offending. Therefore, they parole prisoners that are more likely to re-offend makes the prison system money. Which cannot be justified in ordering prisoners to take the programs for any other reason than misappropriating tax payer money for their profit.

(3) The politicians that create the lengths of sentences are creating extreme lengths of time that are more severe than those of other States. Montana had a system to adjust to this problem called GOOD TIME. If a prisoner held clear conduct, they received day for day reduction in time for eligibility of parole. If you had a 100 year sentence, you could be parole eligible in 12½ years verses 25 years. But they took that away and did not change the lengths of sentences which is creating their overcrowding issues. All for Political and Financial gain.

(4) Judges and Prosecutors also add to this problem. If the State offers a plea deal because they do not have probable cause, and the accused exercises his constitutional right to a trial instead, the State tends to withhold evidence and information that could negate the charges. And if the accused has the proof, they misrepresent statutes of law to bar you from using it to prove someone else was responsible.

Or, they will use false evidence to mislead the jury to prejudice them into

convicting the accused. And at the same time misrepresent statutes to bar you from revealing the false evidence to the jury to show its true origins.

Under such fraudulent situations the Court will then give the accused the maximum sentence allowed even when the Judge has seen everything and knows you are innocent. Punishing the accused for exercising his constitutional rights to challenge the State's allegations.

The Court calls the prior two topics a Brady violation and False evidence. If you look up 45-~~5~~-207 MCA Tampering With or Fabricating Physical Evidence, they are the same things. However, when a prosecutor does this there is absolutely no accountability for the prosecutor. But when a citizen does this, they are criminally charged and sent to prison.

When the accused files a Petition for Postconviction Relief, and uses the Brady evidence and the False evidence as grounds for relief, the State and the Court make the false claims about evidence and facts to deny the claims. They rule against you even when the evidence was used in your Petitions and exhibits. Patterson can provide documented proof these things have taken place in his case and Petitions.

EXAMPLE ONE

Patterson had a Brady hearing for newly discovered evidence of other potential suspects that had an alleged history of sexually assaulting the victim. Both the State and Patterson's Court appointed attorney withheld information from Patterson and stonewalled the hearing for 5 years.

At the hearing, the Court allowed the State to disprove the suspect they wanted it to be, and DENIED Patterson the right to identify the actual suspect Patterson implied. They also DENIED Patterson the right to identify a second suspect that the State knowingly withheld from the defense. (Proven by Brady Hrg. Transcripts) How was Patterson's Brady issue ever addressed by the Court when the Court DENIED him the right to present the facts in the record to prove his claims?

A Brady violation is grounds for reversal. So when the Judge and Prosecutor do not allow the information to be put on record, it allows them to falsely claim it was addressed and ruled on to continue to knowingly DENY the accused, in any future Petitions access to the Court to prove his innocence by claiming it was addressed. Warehousing prisoners for financial gain.

EXAMPLE TWO

Ground One of Patterson's Revised Amended Petition for PCR. Which was for the State enforcing laws that violate his constitutional rights, that Federal law protects. Patterson showed that 45-5-511(2) MCA, Rape Shield Statute and the Courts erroneous ruling DENIED him the right to use semen DNA and other physical evidence to prove that someone else was responsible. That Federal Rules of Evidence Rule 412 (b)(1)(A)(C) clearly states the accused has the right to use semen and other physical

evidence to prove someone else was responsible. And part (C) clearly states to exclude such evidence would violate the defendant's constitutional rights.

The Judge, under the direction of the AG's Offices Proposed Order to Dismiss Petition, never addressed the ground for relief concerning Federal ~~law~~ v. State law. In fact, the Judge lied about facts and evidence to claim the trial and evidence does not exist or support Patterson's claims. Just as he was directed to do in the AG's Proposed Order to Dismiss Petition.

Patterson currently has a Writ in Federal District Court. This is a quote from the presiding Judge. "Moreover, to apply it in Patterson's case, the Montana Supreme Court did not consider the merits of any of his claims under Federal law."

All courts are equally obligated to enforce Federal law. Even State Courts. It is Patterson's belief that the reason the Montana Supreme Court did not consider Federal law, was to protect those from accountability and to keep Patterson in prison when the Court knew Patterson was innocent. Aiding to the problem of overcrowding of Montana's Prisons. And if Judges own stock in private prisons, it would imply it was for financial gain.

Patterson filed a writ of habeas corpus in the Montana Supreme Court explaining everything just mentioned, and more, to prove the court never addressed Patterson's grounds for relief, and how his sentence is illegal. Patterson provided over 300 pages of documents to prove his claims. The Montana Supreme Court DENIED Patterson's writ stating the following:

"Postconviction matters do not provide the means to relitigate claims that could have been raised previously and after an appeals final decision. Section 46-21-105(2) MCA." ... "Further collateral estoppel has wide application on its elements in various contexts including, inter alia, application in various special proceedings related to criminal proceedings. (e.g. direct appeal, postconviction proceedings, and habeas corpus review.) to preclude relitigation of claims or issues previously addressed by this court."

As Patterson has clearly shown, the State and the court have never addressed or even allowed Patterson to prove his Brady suspects and laws at the Federal level, to prove his rights were violated by the court by not addressing them, or using statutes of law under color of law to claim they were addressed and Ruled on to prevent Patterson from presenting the evidence to a higher court of appeal. Therefore, aiding in the overcrowding of Montana's Prisons.

GOVERNMENT CAUSED OVERCROWDING: SUGGESTED WAYS TO FIX

This can easily be taken care of. (1) Send the out of State Prisoners back to their own State. (2) Stop allowing the Parole Board from overruling a sentencing courts sentence for parole eligibility, without going to court just so the Parole Board can force Prisoners to take programs not ordered by the sentencing court.

(3) Stop allowing the Parole Board from flopping prisoners that are court compliant⁵ and have clear conduct that are less likely to re-offend, over the prisoners that are more likely to re-offend. (4) Stop giving maximum sentences that are far worse than those of other States. (5) Stop using statutes of law that Judge's know are not upholding the accused's constitutional rights. (6) Retroactively Re-instate GOOD TIME. (7) Change the laws that protect Prosecutors when they knowingly cause Brady violations or use False evidence. (Bring criminal charges against them) (8) Crack down on Judges that Rule as they are instructed to do by the AG's Proposed Order to Dismiss Petition, when the Judge knows the facts claimed by the State are not true. (A.K.A. 45-7-202 MCA, False Swearing)

PART TWO

INDICTMENT ON HARM TO PRISONERS CAUSED BY TRAFFICKING THEM

Patterson referenced the Rules about the Treatment of Prisoners, to reward good adjustment. Most of the prisoners sent to Arizona had a long history of clear conduct and meaningful employment. We were not volunteers like the Politicians told the press. Political Propaganda to mislead the Public. D.O.C. & M.S.P. punished us for our good adjustment by removing us from our meaningful employment to send us to Arizona, over those that did not have good adjustment.

They sent us to a prison that lacks enough jobs for the prisoners they sent to Arizona that had jobs. And the pay is far less than what they were making in Montana. Forcing us to remain indigent while D.O.C. & M.S.P. BENEFIT FINANCIALLY.

Quite a few prisoners have been getting money from their Banks sent directly to them for over two decades. When they tried to get money down here, the Banks informed them CoreCivic called them and told them they can't send them money.

One would have to ask how did CoreCivic know which Banks to contact? It would appear that M.S.P. or D.O.C. gave them the information. We were told that what we were allowed at M.S.P. would be allowed at CoreCivic. An intentional lie? Or as a punishment for good adjustment?

Some of us have on going legal cases in the Montana Court system. In Montana we had access to legal, and the ability to type up Petitions every day of the week. It took Patterson TWO MONTHS to get legal library time to have access to typewriters. If Patterson would have had to respond to the Court within 30 days, he would have been time barred or the case dismissed. Which would have caused a detrimental harm to a legal appeal system of justice for Patterson.

MEDICAL ISSUES

Patterson had prescriptions in Montana for the following: (1) Eye Ointment for extreme dry eyes. Without it it is like sandpaper on the eyes. (2) Denorex with Mentar (a shampoo) for his Dermatitis of the scalp. (3) Psoriasis Medication for his lower legs. (4) CELEBREX for his knees because Ibuprofen and Naproxin

do not have an effect or work. (5) Blood pressure medication. (6) Chloesterol medication.

When Patterson arrived in Arizona he met with the doctor to review his meds. They had access to Montana's database. The doctor told Patterson he could not have the CELEBREX, Eye Ointment, Denorex shampoo, or his psoriasis medication. Another words, no medication for what causes pain and discomfort. Subjecting us to cruel and unusual punishment to save money so they can profit at a higher rate.

Some of the prisoners were getting ready to take college courses and had Pell Grants in place. They lost their ability to take their preferred courses, because in Arizona, they do not have teachers in place to use the Pell Grants. Denying them the education they already had in place in Montana. (See Liberty, To Adopt and Pursue such Advocation or Calling as he may choose).

We were sent to Arizona during the Holidays! In Montana we had two free phone calls a week and free video visits with Family. In Arizona we do not. We were deprived our contact with family. We were only allowed to call people on our approved visiting list. Which does not match Montana's. Our families have been trying to get information from CoreCivic, but cannot get anywhere because they get transferred to multiple departments and end up back where they started from. M.S.P. are misinforming our families about what is going on down here.

We were told that what we were allowed at M.S.P., we will be allowed to have in Arizona. When we got here, they took a lot of personal property that cost us a lot of money, hobby property as well. This is an expense that neither M.S.P. or CoreCivic will reimburse or compensate us for. We lose money and property while they make money off of our involuntary servitude by trafficking us down here.

Refer back to the Rules about the Treatment of Prisoners. We are to be returned to the community less angry and hostile than when we were committed. **Reward Good Adjustment.** We lost everything that was good and are being punished for our good adjustment and conduct. All because M.S.P. & D.O.C. sent those less likely to be a problem than those with bad adjustment. Propaganda for the Public.

All the forementioned indictments can cause a long list of issues that have had a negative affect on us. **Depression, anger, hostility, loss of Self Worth, medical, meaningful employment, personal property, Choice of higher education, and Financial burdens.** All so those responsible **BENEFIT FINANCIALLY!**

We are treated far worse than other inmates at CoreCivic because we are not allowed to eat in the Chow Hall. **All of our meals are sent to the unit and are always cold.** We cannot be around other State prisoners at medical and Chow Hall for security issues. After all, most of us are alleged sex offenders. Therefore, D.O.C. & M.S.P. have knowingly placed us in harms way.

Unlike Native Americans who receives government checks, Retired inmates with a pension, or Bank accounts that are large enough to live on, Patterson is not financially stable. He has to rely on prison jobs for income. This prison and its policies prevent Patterson from working certain jobs and from taking educational schooling for trade jobs, due to the length of his sentence, parole eligiblity date, and his crime. He is forced to remain indigent while D.O.C. & M.S.P. PROFIT FINANCIALLY.

Montana gets about \$140.00 a day for prisoners. They are paying CoreCivic about \$90.00 a day per inmate. Both are profiting. On top of whatever the State gave them for building new alleged facilities.

CONCLUSION

The Montana Supreme Court should be required to have an investigation into those connected to this venture and facilitating of Trafficking of Persons, to look into their financial records to discover if those involved have stock in CoreCivic, the security company that transferred us, or any other facility that houses prisoners for profit. The Public have the right to know how the State is misappropriating tax payers taxes so they can profit.

Patterson hopes this court will consider the Trafficking of Persons Statute, Rules About The Treatment Of Prisoners, 242 Deprivation of Rights under color of law, and the mental and emotional harm that D.O.C. & M.S.P. are inflicting on the prisoners and their families for their financial and political reasons. And consider the fact that transferring us for overcrowding is something that the State can quickly correct without the need to transfer prisoners out of State.

DATED this 1st day of February, 2024.

Richard Patterson
RICHARD PATTERSON PETITIONER PRO SE

CERTIFICATE OF SERVICE

I hereby certify that on February 1st, 2024, I have mailed the
Petition for Habeas Corpus for a Preliminary Injunction to the following:

State of Montana
Office of the Attorney General
P.O. Box 201401
Helena, MT 59620-1401

Richard Patterson DATED this 1st day of February, 2024