

 ORIGINAL

FILED

02/20/2024

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 24-0073

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 24-0073

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FILED

FEB 20 2024

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

BRETT STEELE BERRY,

Petitioner,

v.

ORDER

CAPT. RAY VAUGHN,  
Butte-Silver Bow County Detention Center,

Respondent.

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Brett Steele Berry is detained in the Butte-Silver Bow County Detention Center. He petitions this Court for habeas corpus relief because he contends that “the facility is overcrowded causing it to admittedly violate [his] civil right to not be burdened in practicing [his] religion.” Berry states that his detainment impairs his ability to practice his religion as a Muslim inmate. Berry states that he does “not believe [his] continued incarceration [supersedes his] constitutional right to freedom of religion.” Berry asks for his immediate release.

A writ of habeas corpus cannot be the remedy for conditions of confinement or constitutional claims. *Gates v. Missoula County Comm’rs*, 235 Mont. 261, 262, 766 P.2d 884, 884-85 (1988). Referring to the habeas corpus statute, this Court opined: “This statute allows a prisoner to challenge the legal sufficiency of the *cause* for incarceration. The petitioners do not allege that the cause of their incarceration [is] unlawful. We conclude that habeas corpus is not an appropriate remedy.” *Gates*, 235 Mont. at 262, 766 P.2d at 884-85 (emphasis in original). Berry is not entitled to his immediate release, and this Court cannot address his claims through this writ.

Berry’s cause of his incarceration is due to his three pending criminal cases in the Butte-Silver Bow County District Court. Berry would have to seek a separate civil action

concerning his claims. Berry has not demonstrated illegal incarceration. Section 46-22-101(1), MCA. Therefore,

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

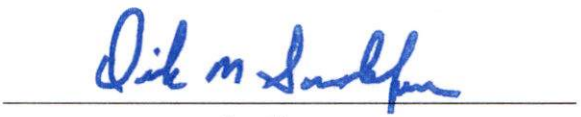
The Clerk is directed to provide a copy of this Order to: the Honorable Kurt Krueger, District Court Judge; Robert J. Whelan, District Court Judge; Beth Parks, Clerk of District Court, under Cause Nos. DC 21-024, DC 24-009, and DC 24-011, and for distribution to counsel of record; Ray Vaughn, Butte-Silver Bow County Sheriff; counsel of record, and Brett Steele Berry personally.

DATED this 20<sup>th</sup> day of February, 2024.

  
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Chief Justice

  
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Justices