



ORIGINAL

FILED

02/21/2024

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 23-0688

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 23-0688

FILED

FEB 20 2024

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

RAYMOND HOLMES,

Petitioner,

v.

JAMES SALMONSEN, Warden,  
Montana State Prison,

Respondent.

ORDER

Raymond Holmes has filed a Petition for Writ of Habeas Corpus, arguing that the Yellowstone County District Court intended that his sentence entered there to run concurrently with his sentences from Mineral County, not consecutively. In compliance with this Court's December 5, 2023 Order, the State has filed a response, arguing Holmes's Petition should be denied.

This Court is familiar with Holmes's sentencing history. *See Holmes v. Guyer*, No. OP 19-0381, Order (Mont. Jul. 16, 2019) (*Holmes I*); *Holmes v. Guyer*, No. OP 19-0459, Order (Mont. Nov. 12, 2019) (granting relief in part) (*Holmes II*). We have summarized that history, in pertinent part, as follows:

On February 24, 2016, Holmes was sentenced pursuant to a global plea agreement entered in the Fourth Judicial District Court, Mineral County. In DC-1987-546, Holmes admitted to violating probationary conditions and received a 10-year sentence to Montana State Prison (MSP). In DC-2015-[ ]47, Holmes pleaded guilty to bail jumping and received a 10-year sentence to MSP. And, in DC-2015-14, Holmes pleaded guilty to one misdemeanor count of violating an order of protection (Count One), for which he received a year, and 15 felony counts of violating an order of protection, (Counts Two through Sixteen), for which he received 2 years on each count for a total of 30 years. All but 10 days of the sentences for Counts Two through Sixteen were suspended. The 10-year sentence imposed in DC-1987-546 (probation violation) was to run concurrently to DC-2015-14 (violation of an order of protection) and consecutive to DC-2015-[ ]47 (bail jumping). The 10-year

sentence in DC-2015-[]47 for bail jumping was consecutive to the 30-year, partially suspended sentence imposed in DC-2015-14 for violations of an order of protection.

*Holmes II*, at 1-2.<sup>1</sup> Holmes' net sentence was forty years at MSP with all but twenty years and fifty days suspended. See *Holmes v. State*, No. DA 18-0458, 18-0549, and 18-0550, 2019 MT 94N, ¶ 3, 2019 Mont. LEXIS 145; *Holmes I*, at 1, and *Holmes II*, at 3-4.

Thereafter, on November 15, 2022, Holmes entered into a non-binding plea agreement to resolve new charges pending in the Yellowstone County District Court. The State agreed to recommend a five-year term commitment to the Department of Corrections (DOC), with all but two years suspended, in exchange for Holmes's plea of guilty to felony partner or family member assault. The agreement provided that this DOC sentence would run concurrently with Holmes' sentence for violation of an order of protection (DC-2015-14), but made no reference to the bail jumping sentence (DC-2015-47) from Mineral County. On January 25, 2023, the District Court entered a judgment, sentencing Holmes to the DOC for a five-year term, with three years suspended. The judgment referenced only Cause No. DC-2015-14 and a prior Justice Court case.

Holmes contends that his "Yellowstone County Judgment was to run [concurrently] to [his] Mineral County Cause Numbers." He adds that the District Court "forgot" one of his Mineral County cause numbers in the Judgment, and that his sentences running consecutively was "not the intent of the Judge or plea bargain."

However, as the State points out, Holmes has a total of three sentences from Mineral County and only two of them run concurrently; the third, for bail jumping, runs consecutively to the other two. Consequently, his Yellowstone County sentence would run concurrently with only those two sentences from the Mineral County. Holmes made no objection to this outcome before the Yellowstone County District Court and, in any event, the Yellowstone County District Court was not bound by the plea agreement, as Holmes

---

<sup>1</sup> In *Holmes II*, this Court inadvertently included a "5" in the cause number DC-2015-47 for the bail jumping case.

acknowledged in the plea agreement. The bail jumping sentence was not part of the plea agreement and runs consecutively. Holmes did not appeal his Yellowstone County sentence.

The State's arguments are dispositive. Holmes's bail-jumping sentence imposed in 2016, runs consecutively to any other sentence. His other two Mineral County sentences (Cause Nos. DC-2015-14 and DC-1987-546) run concurrently. His sentence from Yellowstone County thus may run concurrently only with those two sentences. Holmes has not demonstrated a present illegal sentence or incarceration. Section 46-22-101(1), MCA. Therefore,

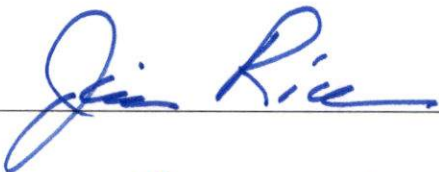
IT IS ORDERED that Holmes's Petition for Writ of Habeas Corpus is DENIED and DISMISSED.

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

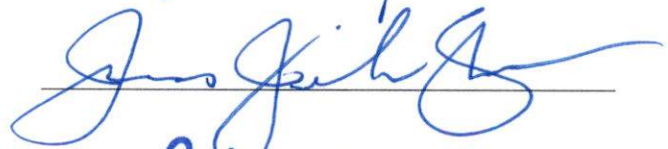
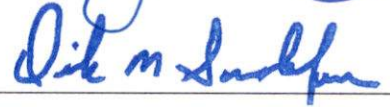
The Clerk is directed to provide a copy of this Order to counsel of record and to Raymond Holmes personally.

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

  
\_\_\_\_\_  
Chief Justice

  
\_\_\_\_\_  
Justice

  
\_\_\_\_\_  
Justice

  
\_\_\_\_\_  
  
\_\_\_\_\_  
Justices