

03/28/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 24-0196

FILED

MAR 28 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

DONALD P. ROGERS

41431

RAVALI COUNTY DETENTION FACILITY

205 BEDFORD

HAMILTON MONTANA 59840

IN THE SUPREME COURT OF THE STATE OF MONTANA
NO 24-0196DONALD P. ROGERS
PETITIONERSTATE OF MONTANA
MONT. DEPT OF JUSTICE REIDORS
DEPT. JUSTICE REIDORS / AUSTEN KUNDSEN
ATTORNEY GENERAL

RESPONDENT

PETITION TO EXPUNGE
RECORDS

I, DONALD P. ROGERS, PETITIONER BELIEVE THAT I AM
ENTITLED TO PETITION THIS COURT UNDER 46-32-105 MCA
AND 46-23-510 M.C.A. FOR ONE OR MORE OF THE FOLLOWING
REASONS;

(1) DISTRICT COURT FAILED TO PROTECT PETITIONERS RIGHTS
TO DUE PROCESS OF THE LAW.

(2) AUTHOR OF M.C.L.C. REPORT WITH MALFEASANCE HAS WITH
MALICE PLACED AND OR MANIPULATED PETITIONERS CRIMINAL
HISTORY WITH FAULTS CONVICTIONS, THAT EVERY LAW EN-
FORCEMENT, COURT SYSTEM, AND PROBATION AND PAROLE
ENTITY PLACES FAITH IN, VIOLATING UNITED STATES
CONSTITUTION TO EQUAL PROTECTION OF THE LAW.

(3) DEPARTMENT OF JUSTICE CRIMINAL RECORDS DIVISION
DID NOT TAKE OR FOLLOW THROUGH WITH PROPER PROCEDURES
TO ENSURE ACCURACY OF CRIMINAL HISTORY

OVER P1

SEE EXHIBIT; CHAPTER 6 CRIMINAL JUSTICE INFORMATION
PAGES 1, 2, 3, 4, AND 5 MCA 44-5-102, 44-5-201, 44-5-213,
44-5-305, 44-5-401, 44-5-402, 44-5-403 AND
44-5-404.

(4) MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY - VIOLATES MY RIGHTS TO BE FROM
DOUBLE JEOPARDY

FACTS

ON OR ABOUT 03-22-1996 PETITIONER WAS
CHARGED WITH ONE COUNT OF A.S.W.C AND ONE COUNT
FELONY ASSAULT. "STATE V ROGERS 2001" AT TRIAL THE
FOURTH DISTRICT COURT PROVIDED JURY INSTRUCTIONS WITH
MISDEMEANOR SEX ASSAULT AND MISDEMEANOR ASSAULT AS
LESSER INCLUDED OFFENSE OF THE (2) TWO CHARGED OFFENSES.

PETITIONER ATTORNEY REQUESTED ACQUITTAL FIRST
INSTRUCTION - WHICH PROVIDED THAT THE JURY WAS NOT
TO CONSIDER THE LESSER INCLUDED OFFENSE UNLESS
THEY FIRST ACQUIT ON THE GREATER OFFENSES.

THE JURY ACQUITTED PETITIONER OF A.S.W.C CHARGE
AND ITS LESSER SEX ASSAULT CHARGE, AND CONVICTED
ON FELONY ASSAULT, SENTENCED TO 10 YEARS WITH
10 YEARS FOR USE OF A WEAPON. DURING THE COMMISSION
OF FELONY ASSAULT.

PETITION REQUESTED AN APPEAL. THE ATTORNEY
OF RECORD LARRY MANCH REFUSED PETITIONER RIGHT TO
APPEAL. PETITIONER ATTEMPTED PRO SE MOTION TO PRESERVE
RIGHT TO APPEAL. PETITIONER LOST HIS DIRECT APPEAL.

SUPREME COURT APPOINTED CHAD WRIGHT ATTORNEY
FROM APPELLATE DEFENDER OFFICE.

1 CHAD WRIGHT FILED A POSTCONVICTION RELIEF, THE
2 FOURTH JUDICIAL DISTRICT COURT (JUDGE LARSON) RULED THAT
3 THE USE OF A WEAPON WAS DOUBLE JEOPARDY AND RE-
4 MOVED THAT CHARGE. PETITIONER THEN APPEALED THE
5 FELONY ASSAULT TO THE SUPREME COURT WITH CHAD
6 WRIGHTS HELP. THE SUPREME COURT REVERSED AND
7 REMANDED FELONY ASSAULT. ATTORNEY AT LAW BRYAN
8 TIPP OF MISSOULA MONTANA WAS APPOINTED BY THE
9 DISTRICT COURT. ATTORNEY BRYAN TIPP RESOLVED THE
10 FELONY ASSAULT WITH (1) ONE MISDEMEANOR CHARGE.
11 PETITIONER WAS RELEASE WITH NO PROBATION OR PAROLE
12 SEE STATE V ROGERS 2013 NOTES.

13 IN 2013 SUPREME COURT RULING AND I QUOTE
14 "WE REVERSED ROGERS FELONY ASSAULT WITH A WEAPON
15 CONVICTION AND REMANDED THE CASE FOR NEW TRIAL,
16 BECAUSE ROGERS ESTABLISHED BOTH ERROR AND PRE-
17 JUDICE UNDER STRICKLAND, STATE V ROGERS 2001
18 ROGERS CRIMINAL RECORD DOES NOT INDICATE HE WAS
19 CONVICTED OF CHARGES ON REMAND" SEE STATE V ROGERS
20 2013 NOTES

21 PETITIONER WAS ARRESTED FOR FELONY DUI OF
22 5 OR MORE ACTIVE NG'S OF T.H.C IN MY SYSTEM ON
23 OR ABOUT MARCH 18 2022. AND RECEIVED A N.C.I.C
24 REPORT ON OR ABOUT 9-16-2023. AT THIS POINT
25 LEARNING OF ALL THE IRREGULARITY'S FROM AMENDED
26 CHARGES "FIRST P.F.M.A" TO D.U.I'S ECT. BUT FOR THE
27 PURPOSE OF THIS PETITION - PETITIONER ADDRESSES THE
28 AUTHOR OF N.C.I.C MALFEASANCE AND MALICE PLACED
29 AND OR MANIPULATED PETITIONERS CRIMINAL HISTORY
PETITIONER TO EXPLUNGE P 3

1 WITH LISTING CONVICTIONS OF ASSAULT, FELONY ASSAULT,
2 MISDEMEANOR USE OF A WEAPON ALL DATED 9-26-1997
3 TURNING MISDEMEANOR ASSAULT INTO FELONY IN (CYCLES)
4 OF REPORT PAGE 116, 10 YEARS REMANDED BY SUPREME
5 COURT - COURT RULING 6 MONTHS JAIL.

6 ON PAGE 88 OF M.C.I.C REPORT PETITIONER IS LISTED
7 AS A VIOLENT OFFENDER WITH ONE (1) P.F.M.A THAT I NOW
8 QUESTION TO BE AN ILLEGAL SENTENCE. BUT FOR THE PURPOSE
9 OF THIS PETITION I "PETITIONER" TOTALLY QUESTION THE
10 ALLEGED AGGRAVATED ASSAULT DATE 9-16-1997, NOT
11 ONLY DO I "PETITIONER" NOT HAVE ANY CONVICTIONS OR
12 ARRESTS FOR THIS CHARGE. THE SENTENCE DATE OF
13 9-16-1997 AND THE STATUTE OF 45-5-202 DOES NOT
14 CONNECT TO ANY OF THE ABOVE LISTED.

15 LEGAL CLAIM

16 PETITIONER RELIES ON MONTANA SUPREME COURT
17 RULING STATE V ROGERS 2013 FOR THE ACCURACY OF PETITIONER
18 CRIMINAL HISTORY - "IN THIS COURT'S INVESTIGATION OF RECORD" AND
19 NOTES

20 PETITIONER ALSO RELIES ON M.C.A 46-23-510 FOR
21 RELIEF OF ABOVE LISTED AS WELL AS 46-32-105
22 WHICH READS AS FOLLOWS: EXPUNGEMENT (1) UPON ENTRY
23 OF CERTIFICATE OF INNOCENCE. THE COURT SHALL ORDER
24 THE ASSOCIATED CONVICTION AND ARREST RECORDS EXPUNGED
25 AND PURGED FROM ALL APPLICABLE SYSTEMS. THE COURT
26 SHALL ENTER THE EXPUNGEMENT ORDER REGARDLESS OF
27 WHETHER THE CLAIMANT HAS PRIOR CRIMINAL CONVICTIONS
28 IN OTHER CASES THAT ARE NOT THE SUBJECT OF THE
29 CLAIM FOR COMPENSATION

46-23-510 READS AS FOLLOWS; UPON FINAL REVERSAL
OF A CONVICTION OF A SEXUAL OR VIOLENT OFFENSE. THE
SENTENCING COURT SHALL ORDER THE EXPLUNGEMENT OF
ANY RECORDS KEPT BY A COURT, LAW ENFORCEMENT AGENCY
OR OTHER STATE OR LOCAL GOVERNMENT AGENCY UNDER
THIS PART.

FREEDOM FROM DISCRIMINATION AND DUE PROCESS OF
THE LAW, 49-1-101 RIGHT OF PROTECTION FROM
PERSONAL INJURY, = EVERY PERSON HAS THE RIGHT OF
PROTECTION FROM BODY RESTRAINT OR HARM, PERSONAL
INSULT, DEFAMATION, AND INJURY TO THE PERSONS
PERSONAL RELATIONS.

49-1-201 RIGHT TO STATES PROTECTION = EVERY
PERSON WHILE WITHIN THE JURISDICTION OF THIS
STATE IS ENTITLED TO ITS PROTECTION

SUMMARY

UPON REVERSAL AND REMAND OF ABOVE, CHARGES WERE
DISMISSED WITH THE ASSISTANCE OF ATTORNEY AT LAW
BRYAN TIPP OUT OF MISSOULA MONTANA.

THE CHARGE PLUS AGG. ASSAULT MAGICALLY
REAPPEARED AFTER SUPREME COURT RULING OF STATE
V ROGERS 2013.

THE FACT THAT I PETITIONER DID NOT HAVE REGISTRATION
REQUIREMENTS FOR AGG. ASSAULT IS HIGHLY QUESTIONABLE,
WITH THE LAW ENFORCEMENT CONTACTS BETWEEN THE YEARS
OF 2001 AND 2011.

PRAYS FOR RELIEF AS FOLLOWS

RELIEF FROM DISCRIMINATION OF ALLEGED CHARGES

1 AGG ASSAULT, FELONY ASSAULT, MISDEMEANOR USE OF
2 A WEAPON ETC. AS THIS IS THE FIRST THING ANY LAW
3 ENFORCEMENT ENTITY SEE UPON RECORDS CHECK -

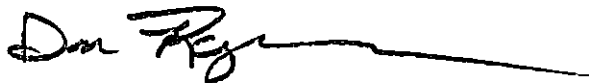
4 THAT THIS COURT ENTER JUDGEMENT GRANTING PETITIONER
5 DECLARATION AND CERTIFICATE OF INNOCENCE THAT THE
6 ACT DESCRIBED HEREIN VIOLATED PETITIONERS RIGHTS UNDER
7 MONTANA M.C.M CODES AND DUE PROCESS UNDER
8 MONTANA CONSTITUTION

9 PETITIONER ALSO PRAYS FOR A PRELIMINARY AND
10 PERMANENT INJUNCTION ORDERING THE STATE DEPARTMENT
11 OF JUSTICE CRIMINAL RECORDS DEVISSION, TO STOP AND
12 CORRECT HISTORY OF N.C.I.C DATA BANKS AND ALL
13 APPLICABLE SYSTEMS. AND ANY AND ALL ADDITIONAL
14 RELIEF THIS COURT DEEMS JUST, PROPER, AND
15 EQUITABLE.

16 RESPECTFULLY SUBMITTED

17
18 DATED THIS 19TH DAY OF MARCH 2024
19

20 DONALD P. ROGERS

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