



ORIGINAL

FILED

05/07/2024

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 24-0254

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 24-0254

JOSE MOSQUEDA,

Petitioner,

v.

CAPTAIN HASH, MISSOULA COUNTY  
DETENTION FACILITY,

Respondent.

ORDER

FILED

MAY - 7 2024

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

Self-represented Petitioner Jose Mosqueda has filed a Petition for Writ of Habeas Corpus, indicating illegal incarceration. He states that he comes before this Court “in hopes of this [Court’s] intervening on his behalf in his current criminal [trial].” Mosqueda adds that he was arrested on June 18, 2023, and that 276 days have elapsed when he signed his Petition on April 18, 2024. Mosqueda contends that his constitutional right to a speedy trial has been violated.

We secured a copy of the register of actions for Mosqueda’s pending case. On June 22, 2023, the State filed its Information after the Missoula County District Court granted leave to file. Counsel filed the notice of appearance within five days. At the most recent trial scheduling conference, held on April 23, 2024, the District Court continued the conference to the next week because Mosqueda’s former counsel had withdrawn two weeks prior. The court explained that Mosqueda could not advance to trial without representation from legal counsel.

Mosqueda’s cause of incarceration is due to his pending criminal case. *Gates v. Missoula Cty. Comm’rs*, 235 Mont. 261, 262 766 P.2d 884, 884-85 (1988). He has not demonstrated illegal incarceration. Section 46-22-101(1), MCA. His raised issue would

be better addressed in an appeal. Mosqueda may seek an appeal with this Court when he receives a final decision from the District Court. M. R. App. P. 4(5)(b)(i).

Mosqueda should refrain from filing petitions with this Court on his own behalf when he is represented by counsel in the District Court. M. R. App. P. 10(1)(c); *State v. Samples*, 2005 MT 210, ¶ 15, 328 Mont. 242, 119 P.3d 1191. Accordingly,

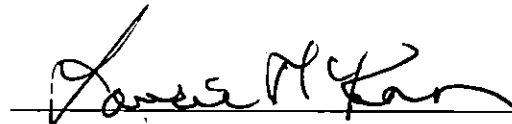
IT IS ORDERED that Mosqueda's Petition for Writ of Habeas Corpus is DENIED and DISMISSED.


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 Jason Marks, District Court Judge; Amy McGhee, Clerk of District Court, under Cause No. DC 2023-375; Buddy Dean, Missoula County Deputy Attorney; Missoula OPD; Captain Hash, MCDF; counsel of record, and Jose Mosqueda personally.

DATED this 24 day of May, 2024.

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

  
\_\_\_\_\_

  
\_\_\_\_\_

  
\_\_\_\_\_  
Justices