

 ORIGINAL

FILED

05/14/2024

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 24-0255

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 24-0255

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FILED

MAY 14 2024

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

SCOTT REUM,

Petitioner and Appellant,

v.

ORDER

STATE OF MONTANA,

Respondent and Appellee.

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Self-represented Appellant Scott Reum petitions this Court for an out-of-time appeal and includes several supporting documents. In his attached Notice of Appeal, he alleges an abuse of discretion and conflict of interest by the presiding judge in his 2003 criminal case. Reum includes a copy of the February 15, 2024 Order Denying Petition for Writ of Habeas Corpus, issued in the Twentieth Judicial District Court, Lake County, which he is attempting to appeal.

M. R. App. P. 4(6) allows this Court to grant an out-of-time appeal “[i]n the infrequent harsh case and under extraordinary circumstances amounting to a gross miscarriage of justice[.]” “Extraordinary circumstances do not include mere mistake[.]” M. R. App. P. 4(6).

Under Montana law, “[a] district court’s denial of a petition for writ of habeas corpus in a criminal proceeding is not appealable to this Court.” *Thomas v. Doe*, 2011 MT 283, ¶ 3, 362 Mont. 454, 266 P.3d 1255 (citing *Morrison v. Mahoney*, 2002 MT 21, ¶ 8, 308 Mont. 196, 41 P.3d 320) (internal citations omitted). This Court explained in *Thomas* that “a writ of habeas corpus may be granted by either a district court or this Court and, as a result, the denial of such a writ by a district court is not res judicata because it does not divest us of jurisdiction to grant a subsequent petition.” *Thomas*, ¶ 3 (citations omitted).

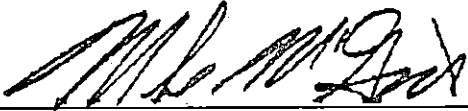
Reum cannot appeal the District Court's recent habeas decision, and is therefore ineligible for an out-of-time appeal. If he so chooses, Reum may file a petition for a writ of habeas corpus with this Court. Therefore,

IT IS ORDERED that Reum's Petition for an Out-of-Time Appeal is DENIED and DISMISSED.

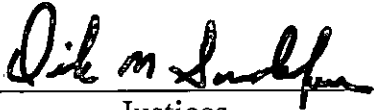
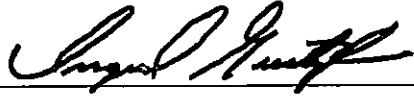
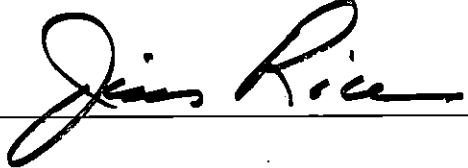
IT IS FURTHER ORDERED that the Clerk is directed to CLOSE this matter as of this Order's date.

The Clerk is also directed to provide a copy of this Order to counsel of record and to Scott Reum along with a copy of this Court's habeas corpus form and instructions.

DATED this 14<sup>th</sup> day of May, 2024.



Chief Justice



Justices