

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 24-0306

STATE OF MONTANA,

Plaintiff and Appellee,

v.

MICHAEL A. PARKER,

Defendant and Appellant.

ORDER

FILED

MAY 29 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

On his own behalf, Micheal A. Parker has filed a verified Petition for an Out-of-Time Appeal and a Motion for Appointment of Counsel.¹ We amend the caption to comport with M. R. App. P. 2(4) as the underlying matter concerns a conviction and sentence.

As grounds, Parker explains that he wanted to appeal timely and right after his sentencing in court, as he told his attorney at the time. He adds that his attorney did not respond to his repeated requests or file a Notice of Appeal. Parker provides that he is incarcerated and that he is unable to afford private counsel to assist him in an appeal.

We secured a copy of the final judgment. On February 13, 2024, the Eighth Judicial District Court, Cascade County, sentenced Parker after this Court’s remand to a fifteen-year term with two and a half years suspended for felony aggravated assault.² Parker received 900 days of credit for time served.

¹ This Court observes that Parker spells his first name as “Micheal” in his Petition and Motion, yet court documents have his name as “Michael”.

² On October 31, 2023, this Court remanded the underlying criminal case—based on the parties’ stipulation and motion to dismiss—to the District Court for resentencing. *State v. Parker*, No. DA 22-0528, Order (Mont. Oct. 31, 2023).

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[.]”

Parker has a recent sentence. This Court concludes that Parker is entitled to an appeal and that he may be entitled to representation of counsel. Section 46-8-104, MCA.

IT IS THEREFORE ORDERED that Parker’s Petition for an Out-of-Time Appeal is GRANTED.


IT IS FURTHER ORDERED that Parker’s Motion for Appointment of Counsel is GRANTED. The Appellate Defender Division shall have thirty days from the date of this Order within which either to file a Notice of Appeal or a Motion to Rescind this Order Appointing Counsel. If Parker qualifies for appointed counsel, the Appellate Defender Division shall immediately order the appropriate transcripts.


The Clerk of the Supreme Court is directed to provide a copy of this Order to: counsel of record; the Appellate Defender Division, and Micheal A. Parker personally.

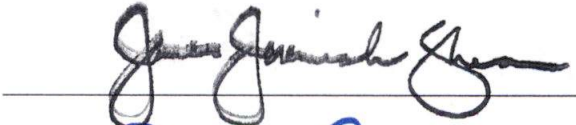
DATED this 29th day of May, 2024.

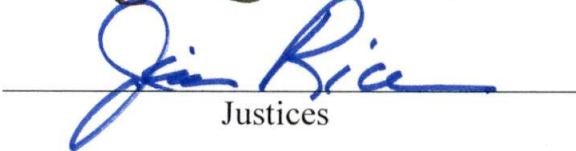


Chief Justice









Justices