



ORIGINAL

FILED

06/25/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 24-0372

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 24-0372

JENNIFER L. TRIPLETT,

Petitioner,

v.

ALTERNATIVE WRIT OF
MANDAMUS

CASCADE COUNTY CLERK OF DISTRICT
COURT,

Respondent.

FILED

JUN 25 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Through counsel, Jennifer Triplett seeks a writ of mandamus directing the Cascade County Clerk of District Court to reinstate in the records of the Eighth Judicial District the case information for that Court's Cause No. BDC-10-100(a), *State of Montana v. Wesley James Capps*. Triplett's Petition is accompanied by her signed affidavit. The victim of Capps's adjudicated felony negligent vehicular assault, Triplett alleges that the District Court unlawfully ordered expungement of the conviction and records in the case, despite the fact that it was a felony conviction not eligible for expungement under Montana law. Triplett points out that the 2011 Judgment, a copy of which is included with her Petition, ordered Capps to pay restitution in the amount of \$35,588.00, directing him to make monthly restitution payments until paid in full, "even after incarceration or supervision has ended." Triplett claims that Capps has not paid his restitution obligation and that she no longer has the ability to seek its enforcement. Triplett argues that the Clerk of Court has a clear legal duty to maintain the records of the court and that she has no speedy and adequate remedy in the ordinary course of law to secure reinstatement of the judgment against Capps.

Rule 14(2) of the Montana Rules of Appellate Procedure allows this Court to entertain an original proceeding for mandate, among other writs. The Rule provides that proceedings

“shall be commenced and conducted in the manner prescribed by the applicable sections of the Montana Code Annotated for the conduct of such or analogous proceedings and by these rules.” Proceedings for a writ of mandate, which also allow such a writ to be issued by this Court, are governed by Title 27, ch. 26, of the Montana Code Annotated. Having reviewed the Petition, finding it in compliance with the requirements for such an application, and in accordance with § 27-26-203, MCA, the Court

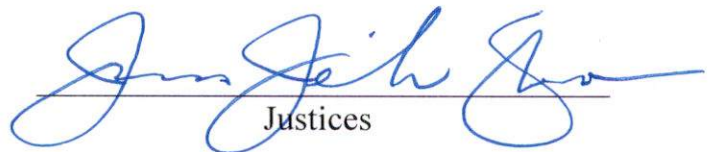
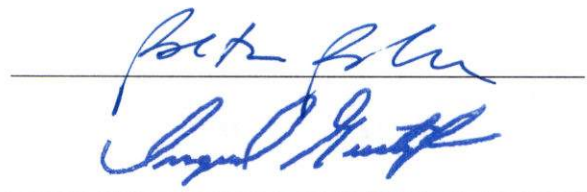
HEREBY ORDERS that the Respondent Clerk of District Court for the Eighth Judicial District, Cascade County, the Cascade County Attorney, or both, shall have thirty days from the date of this Order to show cause in writing, if any they have, why this Court should not vacate the District Court’s March 28, 2018 Order of Expungement and direct the Clerk to restore the April 26, 2011 Judgment in Cascade County Cause No. BDC-10-100(a).

The Clerk is directed to provide notice of this Order to counsel for the Petitioner, to the Cascade County Attorney, and to all parties upon whom the Petition was served.

DATED this 25th day of June, 2024.



Chief Justice



Justices