

JUSTIN Wade Brown  
700 Conley lake Rd  
Deer lodge MT 59722

FILED

07/31/2024

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 24-0450

IN THE SUPREME COURT OF THE STATE

OF MONTANA

\* \* \* \* \*

FILED

JUL 31 2024

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

JUSTIN WADE BROWN,  
Petitioner,

Cause No:  
OP 24-0450

vs

PETITION FOR WRIT  
OF HABEAS CORPUS

WARDEN OF M.S.P.,  
Respondant.

I Justin Wade Brown am representing myself, and I believe that I am entitled to a Writ of Habeas Corpus under § 46-22-101, MCA, because I am entitled to more credit for jail time served than I recieved.

AREVEMENT

On April 1<sup>st</sup> 2023 the above named petitioner was arrested in Havre, MT, and booked under cause No. DDC 23-118 at the petitioners sentencing hearing on April 24<sup>th</sup> 2024, the petitioners sentencing Judge, Judge Gurubich of the 8<sup>th</sup> Judicial District Court sentenced the petitioner to 5 years with 2 years suspended with only 198 days credit.

The petitioner argues before this Court that the petitioner should receive

credit for time served from the date of arrest (April 1<sup>st</sup> 2023) to the date of sentencing (May 6 2024) a total of 388 days.

Montana code Ann. § 46-18-201(9) requires that time spent incarcerated pre-trial and pre-sentencing be calculated towards an offender's sentence as credit for time served if the defendant was also being held on another matter."

A person incarcerated on a bailable against offense against whom a judgment of imprisonment is rendered must be allowed credit for each day of incarceration prior to or after conviction Montana Code Ann. § 46-18-403(1). The Supreme Court of Montana has recognized the confusion regarding the applicability of this statute created by the phrase 'a bailable offense'. It held in Killam that the legislature resolved any such confusion when it enacted Montana Code Ann. § 46-18-201(9) in 2017: when a sentencing court imposes a sentence that includes: incarceration in a detention facility or the state prison the court shall provide credit for time

served by the offender before trial or sentencing section 46-18-201(a) eliminated the need for sentencing court to determine what constitutes "a bailable offense".

The court discussed in Killam what pre-sentence incarceration must be credited when a court imposes sentence. If considered § 46-18-201(a) and decided that the statute requires sentencing courts to give offenders credit for time served prior to their sentencing regardless of what constitutes "a bailable offense" because the statute is unqualified.

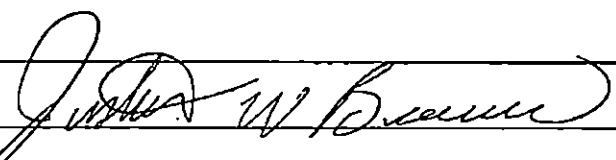
Thus Montana Law affords a sentencing court no discretion to grant credit for time served. KILLAM made clear that time spent incarcerated pre-trial and pre-sentencing must be calculated towards an offenders sentence as credit for time served.

### RELIEF SOUGHT

The petitioner ask this court to grant the petitioner an additional 388 days credit for time served.

Respectfully signed this 28th day of July, 2024

By:

  
Justin Wade Brown

### CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2024,  
I have mailed the Petition for a Writ of  
Habeas Corpus, ~~to~~ to the Office of the  
Attorney General, by placing a copy in the  
United States Mail, postage prepaid, to the below  
address on the below date:

State of Montana

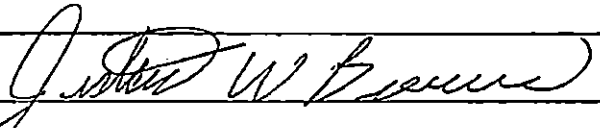
Office of the Attorney General

P.O. Box 201401

Helena, Mt. 59620-1401

Respectfully signed this 28<sup>th</sup> day of July, 2024

By:

  
Justin Wade Brown