

FILED

08/19/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 24-0491

Harlan Gerald Vaska

Inmate Name

#26663

Inmate ID or AO#

Crossroads Corectional Center

Facility of Incarceration

50 Crossroads Drive

Address of Facility

Shelby,

Montana

59474

City

State

Zip

FILED

AUG 19 2024

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Bowen Greenwood
Clerk of Supreme Court
State of Montana
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IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP 24-0491

[The Clerk of Court will assign a number]

Harlan Gerald Vaska

NAME

PETITIONER,

v.

Pete Bludworth

NAME OF WARDEN/FACILITY ADMINISTRATOR,

RESPONDENT.

Petition for Writ of
Habeas Corpus

I, Harlan Gerald Vaska

[Name of Inmate]

, am representing myself, and I believe that I am entitled to a Writ of Habeas Corpus under § 46-22-101, MCA, for one or more of the following reasons:

[Check the applicable box]:

☐

The Department of Corrections has incorrectly calculated my sentence which illegally extends my parole eligibility or discharge date.

☐

The Parole Board should have granted me a parole AND the Board violated my Due Process rights in denying me a parole.

☐

I am entitled to more credit for jail time served than I received.

☒ My sentence is illegal because:

☐ I was sentenced after April 28, 1999, and I received a sentence of more than 5 years to the Department of Corrections, none of which was suspended.

☐ My sentence violates my right to be free from double jeopardy.

☐ The length of my sentence is longer than the law allows.

☐ I am entitled to good time that is not credited against my sentence.

☐ I am being held in jail and I believe my bail is excessive.

☒ Other reason incarceration is illegal.

Describe in detail why you are entitled to habeas corpus relief. Be specific. If possible, provide citations to legal authority. Attach any documents that help you explain why the Court should grant your petition. A copy of any judgments, orders or other documents that support your argument must be provided.

On or about September 23, 2010 I was sentenced to 15 years with
10 years suspended in DC-09-136. As an persistent felony offender
I received 5 years for felony DUI in DC-09-136; 5 years for felony
DUI in DC-02-112; and 5 years for felony possession of 0.0576 grams
of marijuana in DC-87-66.

My sentence is illegal. There are 11 years between the discharge
of DC-87-66 on June 21, 1991 and the felony DUI in DC-02-112 on
August 8, 2002.

April 16, 2003 C.B. McNeil ordered the criminal record of Harlan
Vaska to be corrected on the PSI. The criminal record of Harlan
Gerald Vaska had discrepancies because of the criminal records of

two of Harlan Vaska's brother's were mixed in. Honorable C.B. McNeil ordered Larry Nistler to set the record straight before sentencing May 7, 2003. The Minutes from both April 16, 2003 and May 7, 2003 are attached. I had tried to accuire a copy of the transcripts from DC-02-112 on April 16, 2003 and May 7, 2003 but denied by the clerk and recorder Connie Costanza. Copy of KITE attached.

DC-09-136 is an active sentence. This makes DC-02-112 and DC-87-66 still active. Statute of limitation should not factor in.

On May 7, 2003 Honorable Deborah Kim Christopher presided over the sentencing hearing in DC-02-112 for C.B. McNeil whom was called to Helena. On page 8 of the Judgment and Commitment signed by the Honorable Deborah Kim Christopher proves she had prior knowledge of the exclusion of DC-87-66 from persistant felony offender consideration. Copy of DC-02-112 Judgment and Commitment attached.

Last, I have attached a copy of Report of Violation dated 06/02/2021 by Probation & Parole. This first page of the Report is further proof of the illegal sentence in DC-09-136. As you can clearly see DC-87-66 was discharged on 06/21/1991. The commission of DC-02-112 is on 05/07/2003. Clearly past the ten year statute of limitation to charge the defendant with any more time.

[Use extra pages if necessary]

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As relief, I request the following:

- ☒ my immediate release from prison.
- ☐ reduction of my sentence or that this Court remand this cause to the district court directing the court to resentence me to a lesser sentence.
- ☐ that the Department of Corrections recalculate my sentence as this Court directs.
- ☐ Other relief. Explain:

VERIFICATION

STATE OF MONTANA)
County of LAKE) : ss.

I believe I am being incarcerated illegally. I certify that the contents of this petition are true and accurate to the best of my knowledge.

DATED this 15th day of AUGUST, 2024.

Harlan G. Vaska
Inmate Signature

HARLAN GERALD VASKA
Printed Name

CERTIFICATE OF MAILING (SERVICE)

I hereby certify that on AUGUST 15, 2024, I have mailed the Petition for a Writ of Habeas Corpus, as noted by a check mark (✓), to the following attorney by placing a copy in the United States Mail, postage prepaid:



State of Montana

(see *INSTRUCTIONS* #9)

Office of the Attorney General

P. O. Box 201401

Helena, MT 59620-1401

or



_____ County Attorney (see *INSTRUCTIONS* #9)
[Write name of County]

Harlan G. Vaska
[Signature]

HARLAN GERALD VASKA
[Print name]