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ORIGINAL

Bowen Greenwood
Clerk of Supreme Court
State of Montana
CASE NUMBER: OP 24-0496IN THE SUPREME COURT OF THE STATE
OF MONTANA

BOBBY JOE DAVIS JR.,

Petitioner,

VS.

WARDEN SALMONSEN,

Respondent.

Cause No. OP 24-0496

PETITION FOR A WRIT

OF

HABEAS CORPUS

I, Bobby Joe Davis Jr., am representing myself, and I believe that I am entitled to a Writ of Habeas Corpus under §46-22-101, MCA, for the following reasons:

On, or about March 29, 2022, The Petitioner's sentence under Cause No. DC-18-322, was revoked.

At said revocation, the Petitioner was sentenced to a term in the Montana Department of Corrections.

The Petitioner was revoked based on a past criminal charge of assault. Said assault charge was dropped prior to the P.T.R. hearing. Based on the fact the alleged assault was deemed self defense, and dismissed with prejudice.

At said "sentencing hearing" the Petitioner sought credit for time served

On the fact that the Petitioner had served 3 months in C.C.P., one year and two months in the Helena Pre-Release Center, and 1 year and 7 months in various forms of D.O.C. programs (Supervision). The Petitioner's Sentencing Judge declined to credit the above time served to the Petitioner. Even though all of said time had been in some form of custody, or the other.

Based on the above. The Petitioner argues that the sentencing court erred by denying the Petitioner's requested elapsed time served under Mont. Code Ann. 346-18-203(7)(b), because the Petitioner is statutorily entitled to credit unless specific violations during the time in question are demonstrated. A simple blanket violation for "repeated violations of terms and conditions" without a connection to the claimed period is merely a generalized pattern of criminal behavior justification that is insufficient under the statute to deny the requested credit. Calculating credit for time served is not a discretionary act, but a legal mandate.

Furthermore, all the above discussed facilities that the Petitioner was housed in were "detention centers" under the plain meaning of Mont. Code Ann. 2-2-3

Ann. §17-32-2241 (1) as inmates are not free to leave.

Thus, Mont. Code Ann. §46-18-203(7) (b) provides that, upon revoking a criminal defendant's suspended sentence and imposing a new sentence, credit must be allowed for time served in a detention center or any other form of freedom restricting detention facility, i.e., pre-release, CCP, MASC, etc.

Based on the above facts, The Petitioner ask this Court to ORDER him to receive the 3 years credit for time served.

Respectfully Signed this 17th day of August, 2024

By: 

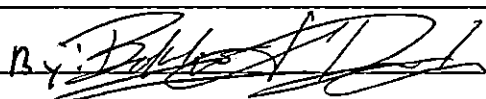
Bobby Joe Davis Jr.

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2024, I have mailed the Petition for a Writ of Habeas Corpus, as noted below, by placing a copy in the U.S. Mail, postage prepaid.

~~State~~ State of Montana, Attorney General
P.O. Box 201401 Helena, MT 59620-1401

Signed this 17th day of August, 2024

By: 

Bobby Joe Davis Jr.