



ORIGINAL

## IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 24-0487

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DARWIN J. BAILEY,

Petitioner,

v.

## ORDER

COMMANDER SHERYL ZEIGLER and/or  
CAPTAIN HASH, MISSOULA COUNTY  
DETENTION CENTER,Respondents.

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Darwin J. Bailey has filed a Petition for Writ of Habeas Corpus, contending that the Department of Corrections (DOC) has incorrectly calculated his sentence, thereby illegally extending his parole eligibility or discharge dates. Bailey does not provide a sentence calculation or any exhibits.

Bailey references his sentencing history, for which we have reviewed available electronic records. On February 2, 2007, the Missoula County District Court sentenced him to the DOC for a five-year suspended term for felony partner or family member assault. On April 10, 2007, the District Court revoked the suspended sentence and imposed a five-year DOC commitment with two years suspended, awarding credit for time served during 2006. Bailey discharged this sentence, as he mentions, on November 11, 2011.

In November 2012, the Missoula County District Court sentenced Bailey to ten years in the Montana State Prison (MSP), with nine years suspended, for felony criminal distribution of dangerous drugs. The District Court revoked the sentence on February 4, 2014, and imposed a suspended, nine-year term to MSP, awarding credit for time served. On July 21, 2014, the District Court revoked Bailey's sentence for a second time and imposed a nine-year term with five years suspended. Bailey received ninety-nine days of credit for time served.

On July 29, 2014, the Butte-Silver Bow County District Court sentenced Bailey to a four-year DOC commitment for felony burglary and a concurrent term of ninety days in the county jail for misdemeanor criminal trespass to property. The District Court awarded 145 days of credit for time served and ordered that the sentence run concurrently with his sentence upon revocation imposed in the Missoula County District Court. Bailey discharged this sentence on February 23, 2018.

On March 12, 2018, the Cascade County District Court sentenced Bailey for felony escape to a six-year DOC term with four years suspended, to run consecutively to any other sentence. On April 1, 2020, the Cascade County District Court held a dispositional hearing on Bailey's alleged probationary violations. Bailey admitted illegal drug use and violating laws and conduct by committing additional criminal offenses. The District Court revoked his four-year suspended term and imposed a four-year term to the DOC with three years suspended. The court also ran the sentence consecutively to any sentence that Bailey may be serving.

On March 22, 2022, the Missoula County District Court revoked Bailey's July 2014 sentence and reimposed his DOC sentence, awarding 57 days of credit for time served. The judgment stated that Bailey will be discharged from probation on November 30, 2022.

In October 2022, the State of Montana charged Bailey with felony criminal possession of dangerous drugs and two misdemeanors in the Butte-Silver Bow County District Court. Bailey entered guilty pleas to the misdemeanors in exchange for the felony's dismissal. In April 2023, the District Court imposed concurrent terms of six months with all but five days suspended and with credit for five days served. The misdemeanor sentence ran concurrently to Bailey's other sentences.

In his instant Petition, Bailey requests either his immediate release from prison or that the DOC correctly calculate his sentence. He puts this question to this Court regarding his Cascade County sentence for escape: "did [his] sentence start 7/25/2019 when it was alleged that [he] violated a condition of [his] probation for DDC-18-022 or on 3/5/2020 when a Petition to revoke was issued."

The answer to Bailey's question is no to each date. From the limited information here, the Cascade County District Court imposed the consecutive sentence upon revocation for escape on April 1, 2020, in open court, and followed with a written dispositional order the next day. At this time, as in both July 2019 and March 2020, Bailey would have been serving his second sentence upon revocation from the Missoula County District Court. Bailey discharged his third sentence upon revocation from the Missoula County District Court on November 30, 2022. Because it was consecutive to any other sentence Bailey was serving, the Cascade County District Court sentence upon revocation for escape would have started the next day—December 1, 2022. Bailey then would have started serving his sentence of a four-year term with three years suspended.

Bailey has not demonstrated an illegal sentence. Section 46-22-101(1), MCA. He may, however, request a sentence calculation from the MSP Records Department. This Court does not have all the information needed to verify the calculation of his sentence, and Bailey has not presented this Court with any supporting documentation. As presented, Bailey has a lawful sentence.




IT IS THEREFORE ORDERED that Bailey's Petition for Writ of Habeas Corpus is DENIED and DISMISSED.

IT IS FURTHER ORDERED that this matter is CLOSED as of this Order's date.

The Clerk is directed to provide a copy of this Order to counsel of record and to Darwin J. Bailey personally.

DATED this 10<sup>th</sup> day of September, 2024.

**FILED**  
SEP 10 2024  
Bower Greenwood  
Clerk of Supreme Court  
State of Montana

*Dick M. Sandberg*

*Jean Rice*

Justices