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ORIGINAL

FILED

10/09/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 24-0599

IN THE SUPREME COURT OF THE STATE
OF MONTANA

FILED

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OCT - 9 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

FLOYD THOMAS WING, JR.
Petitioner,
V.
JIM SALMONSEN,
Respondent

Cause No.:
OP24-0599

PETITION FOR WRIT
OF
HABEAS CORPUS

I, Floyd Thomas Wing, am representing myself, and I believe that I am entitled to a Writ of Habeas Corpus under § 46-22-101, MCA, for the below reason(s):

In 1992, the above-named petitioner was charged with Sexual Intercourse Without Consent, and sentenced to 10 years with 3 of those years suspended (Cause No: DC 92-049)

Upon his release from prison he was required to register as a Level 3 sex offender.

In 1995, the Montana Legislature amended the SVORA registration requirements to drop off only if the offender did not reoffend for 10 years.

In 2001, the Petitioner was charged with Failure To Register as a Sex Offender, and given a 10 years sentence, with 5 years suspended.

Under the statutory scheme in place in 1992, The Petitioner's registration requirements should have already been fulfilled.

In 2024, the Petitioner was again charged with failure to register as a sex offender and received a 5 year sentence, with no time suspended. Out of Lewis & Clark County,

The Petitioner is currently held to SVORA requirements at M.S.P.

The petitioner believes these conditions and his current failure to register conviction is illegal, and are Ex-Post-Facto application of a law passed long after his conviction.

This Court's analysis should begin with two constitutional provisions: the ex post Facto clause in Article I, section 10, of the U.S. Constitution and the ex post facto clause in Article II, section 31, of the Montana Constitution. These constitutional rules generally accomplish the same protective purpose - to prevent the retroactive application of criminal laws.

The SVORA amendments in 2007 and 2013 fundamentally abandoned the limited nature of the restraint SVORA conditions imposed on a convicted person. A person convicted in 1992 had much more "leadway" in his SVORA registration requirements.

Thus, this Court has previously held that "there is simply no question that these rules place affirmative physical restraints on SVORA registrants." This Court as well held that "the present SVORA scheme that includes the amendments from 2007 and thereafter cannot constitutionally be applied retroactively." *State v. Himmman*, 2023 mt. 116

CLOSING

In closing the Petitioner ask for the following relief:


1. The Petitioner's failure to register conviction ~~to~~ from 2001 be unylasized for its legality.

2. The Petitioner's new conviction for failure to register out of Lewis & Clark County be vacated as ex post facto.

and

3. The Petitioner's registration requirements be VACATED as illegal application of Ex-Post-Facto law.


Respectfully signed this 5th day of Oct. 2024

By: 
Floyd Thomas Wing JR.

CERTIFICATE OF SERVICE

I certify that I filed this Petition with the clerk of the Montana Supreme Court and that I have mailed a copy to the Attorney General of the state of Montana, on the below listed date:

Signed this 5th day of October, 2024

By: 
Floyd Thomas Wing JR.