

In the Supreme Court for the State of Montana
Supreme Court No. OP 24-_____

HENRY MARTYN HALL, IV
Petitioner,

-vs-

JEREMIAH PETERSEN
Missoula County Sheriff,
Head of Missoula County Detention Center,

BRIAN M. GOOTKIN,
Director, Montana Department of Corrections,
Respondents.

Petition for A Writ of Habeas Corpus

APPEARANCES:

Robin Ammons
Attorney at Law, PLLC.
415 Keith Ave.
Missoula, MT 59801

Attorney for Petitioner

Sheriff Jeremiah Petersen
Missoula County Sheriff's Office
200 West Broadway
Missoula, MT 59802

Andres Halladay
MT Dept of Corrections
PO Box 201301
Helena, MT 59620-1301

Attorneys for Respondents

PETITION

Through counsel, Henry Martyn Hall, IV respectfully moves this Honorable Court for a Writ of Habeas Corpus requiring Brian M. Gootkin, Director of the Montana Department of Corrections, hereinafter “DOC”, and Sheriff Jeremiah Petersen, head of the Missoula County Detention Center, hereinafter “MCDC”, to grant Petitioner’s requested relief. Specifically, Hall requests:

- 1) That he be released from MCDC, or that the DOC follow the Judgment by delivering him to the Gallatin County Re-Entry program.
- 2) That this Court order the DOC to correctly apply Hall’s credit for time served so that he is not confined beyond the expiration of his sentence and unlawfully imprisoned, and this be done to include three periods of time:
 - a) his pre-conviction incarceration;
 - b) his post-conviction incarceration while awaiting placement and treatment;
 - c) his time residing in a correctional facility for treatment for up to one year.

ARGUMENT

I. Preliminary Legal Matters and Criteria

This Court has jurisdiction over this matter pursuant to Mont. Code. Ann. §46-22-202 and Article II, §19 of the Montana Constitution. Pursuant to Mont. Code Ann. §46-22-201 the undersigned verifies and affirms the following facts and legal argument:

“[E]very person imprisoned or otherwise restrained of liberty within this state may prosecute a writ of habeas corpus to inquire into the cause of imprisonment or restraint and, if illegal, to be delivered from the imprisonment or restraint.” Section 46-22-101(1), MCA. The very purpose of habeas corpus is to remedy illegal imprisonment, including remedying a sentence which exceeds statutory or constitutional limits. *Lott v. State*, 2006 MT 279, ¶ 20, 334 Mont. 270, 150 P.3d 337. Confinement beyond the expiration of a sentence is an unlawful imprisonment or restraint, and habeas corpus actions are a proper means of challenging the proper crediting for time served. *Killam v. Salmonsén*, 2021 MT 196, ¶ 12, 405 Mont. 143, 492 P.3d 512.

II. Facts and Prior Procedure

On September 26th, 2024, Hall was convicted and sentenced in Missoula County District Court of Theft, Unauthorized Control over Property Exceeding \$1500 - 1st Offense. §45-6-301(1)[4]. Hall was remanded and taken to the Missoula County Detention Center (See Exhibit 1). A Commitment was filed stating that Hall shall report to the Department of Corrections for a period of three years DOC/all suspended, with DOC one year for placement and treatment. The sentence was to commence “forthwith” on September 26th, 2024 (See Exhibit 2).

However, Hall has not been transported “forthwith” to a DOC facility for treatment pursuant to Mont. Code. Ann §46-18-201(4)(i). Indeed, on October 15th,

2024, the DOC sent a Notice to the Court stating, “Please be advised that the above-named defendant was not delivered to the Department of Corrections within 10 days of the receipt of sentencing documents for the following reason(s): In screening process for placement.” (See Exhibit 4).

Since then, Hall received notice that he was accepted into the Gallatin County Re-Entry Program, but there is no specific bed date. For more than two months Hall has been incarcerated at MCDC, held by the DOC, where he is not receiving treatment.

In addition, Hall has been informed by the DOC that he is not receiving any credit for time served while incarcerated in MCDC against the one-year commitment for placement and treatment for the two months he has been awaiting a placement. (See Exhibit 5, ¶ 6). According to the DOC, this credit for time served will apply only to his three-year suspended sentence. (Id).

The DOC has also informed Hall that the same is true for the pre-conviction credit for time served of 49 days granted in the Judgment. Again, according to the DOC, this credit applies to his three-year suspended sentence, not his one-year placement with the DOC for treatment. (Id at ¶ 5).

Strikingly, according to the DOC once Hall is admitted to the Gallatin Re-Entry Facility, none of the time served in that facility applies as active time to his three-year suspended DOC commitment. The stated rationale is that Hall is on

probation for a suspended sentence. (Id at ¶ 10). He will get no credit for time served during what is likely his longest period of incarceration, which is at the Gallatin Re-Entry Facility receiving treatment. (Id). This is estimated to be at least six months. This time spent in the Gallatin Re-Entry Facility is necessary to fulfill his placement with the DOC for up to one year for treatment. (Exhibit 3).

In the Judgment, the court addressed Hall’s needs, the level of security at a correctional facility, and public safety. The court issued a written Judgment on October 1st, 2024, imposing a three-year commitment to DOC, all suspended, including a placement for “treatment” for up to one year pursuant to Mont. Code Ann §46-18-201(4)(i). (Id). In the pertinent part of the Judgment, the Court explicitly stated why Hall would be placed in a correctional center. Reason 12(a) states, “The interest of justice and the needs of public safety do require the level of security provided at a correctional center.” *Judgment* pg. 7, ¶ 12(a). (Id). Reason 12(b) states, “Your [Hall’s] needs cannot be better served in a community facility or program.” *Judgment* pg. 7, ¶ 12(b). (Id).

III. Analysis

Hall was sentenced under §46-18-201(4)(i) Mont. Code Ann., which states:

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose on the offender any reasonable restrictions or conditions *during the period of the deferred imposition or suspension of sentence*. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available and that the offender is a suitable candidate, *an order that the offender be placed in a chemical dependency treatment program, prerelease center, or prerelease program for a period not to exceed 1 year;*
(Emphasis added)

Hall was sentenced on September 26th, 2024 and remanded into custody.

The Commitment filed stated that he shall report “forthwith” to the DOC for three years suspended with DOC one year for placement with treatment. On October 15th, 2024, the DOC wrote a letter to the Court stating they could not place him yet, "Please be advised that the above named defendant was not delivered to the Department of Corrections within 10 days of the receipt of sentencing documents for the following reason(s): In screening process for placement." More than two months have gone by since Hall was incarcerated and he requests to be released from MCDC, or that the DOC should follow the Judgment by delivering him to the Gallatin County Re-Entry Facility. Habeas relief is warranted because the plain language of the above statute and the Judgment do not grant the DOC discretion to continue to keep him incarcerated at MCDC without treatment.

Any time Hall spent in a detention facility preconviction and postconviction awaiting transfer to a DOC facility should count as credit against the one-year unsuspended portion of his sentence. See 46-18-201(9) (“When imposing a sentence under this section that includes incarceration in a detention facility or the state prison, as defined in 53-30-101, the court shall provide credit for time served

by the offender before trial or sentencing.”); 46-18-403(1)(a) (“A person incarcerated on a bailable offense against whom a judgment of imprisonment is rendered must be allowed credit for each day of incarceration prior to or after conviction. . . .”). Instead, according to DOC’s interpretation of the judgment and/or statute, Hall is receiving *no credit* against his placement order of up to one year for any of the time he served prior to sentencing or for the two months and counting that he is sitting in the detention center before placement. Any presentencing credit and time spent awaiting a bed must be deducted from the order of placement for up to one year that the district court imposed. DOC’s contrary interpretation—that this credit counts only against his three-year “suspended” sentence, and not against the up to one year he can be held in a DOC treatment facility.

Hall’s sentence also has another period of active time within the suspended sentence, which is when he is at the Gallatin Re-Entry Facility engaging in treatment. According to the DOC, he will not receive any credit for time served for that portion. (See Exhibit 5 at ¶ 9). This amount of time is up to one year, minus the time he is incarcerated at MCDC awaiting placement. Habeas relief is warranted for this portion because the plain language of the above statute and the Judgment do not grant the DOC discretion to not give him credit for time served while placed in a DOC correctional facility by court order. According to the DOC,

he will not get credit because he is a probationer on a suspended sentence. (Id at ¶ 10).

The DOC's interpretation of the statute and/or judgment in this case is wrong and could result in Hall's overdetention and illegal incarceration beyond the sentence authorized by the statute and imposed by the court, unless corrected by this Court. Apparently, the DOC is not giving him credit for time served because he is on probation for a suspended sentence, despite being in a DOC correctional facility (Id), and the court explicitly stating that his needs could not be better served in a community facility or program, and that his placement in a correctional facility and the security that provides was necessary for public safety. (Exhibit 3).

CONCLUSION

Hall is being illegally detained in the Missoula County Detention Center. He should either be immediately delivered to the Gallatin County Re-Entry program or released from custody pending a bed date.

This Court should order DOC to recalculate his credit for time served and discharge date to reflect that he received a three-year suspended sentence, up to one year of which could be spent in a DOC treatment program. Hall must receive the following credit for time served against that one-year order of placement, which also is part of his three-year suspended sentence, for 1), 49 days of time

served presentencing, and 2), any postconviction time served in a detention facility or treatment program, either awaiting placement or receiving treatment.

Dated November 29th, 2024.

VERIFICATION

I certify that the contents of this petition are true and accurate to the best of my knowledge.

Respectfully submitted this 29th day of November, 2024.

/s/ Robin Ammons
Robin Ammons,
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Robin Ammons, hereby certify that I have served true and accurate copies of the foregoing Petition for a Writ of Habeas Corpus to the following on November 29th, 2024:

Sheriff Jeremiah Petersen
Missoula County Sheriff's Office
200 West Broadway
Missoula, MT 59802
Service: hand delivered

Andres Halladay (Govt Attorney)
Montana Dept of Corrections
PO Box 201301
Helena, MT 59620-1301
EService

/s/ Robin Ammons
Robin Ammons
Attorney for Petitioner

CERTIFICATE OF COMPLIANCE

Pursuant to Rules 11 and 14(7) of the Montana Rules of Appellate Procedure, I certify this Petition is double spaced (except for point headings, footnotes and quotes), printed with proportionately spaced Times New Roman Typeface, 14 point, and contains not more than 1989 words as calculated by MSWord excluding any table of contents, table of citations, certificate of service, certificate of compliance, and appendix or exhibits.

Dated November 29th, 2024.

/s/ Robin Ammons

CERTIFICATE OF SERVICE

I, Robin Ammons, hereby certify that I have served true and accurate copies of the foregoing Petition - Writ to the following on 12-02-2024:

Andres Nicholas Haladay (Attorney)
5 S LAST CHANCE GULCH
HELENA MT 59601-4178
Representing: Department of Corrections
Service Method: eService

Brandon Lee Zeak (Govt Attorney)
200 W Broadway
Missoula MT 59802
Representing: Missoula County Sheriff
Service Method: eService

Electronically Signed By: Robin Ammons
Dated: 12-02-2024