

ORIGINAL

FILED

05/15/2025

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 25-0349

FILED

MAY 15 2025

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Bowen Greenwood
Clerk of Supreme Court
Bowen Greenwood
Clerk of Supreme Court
State of Montana

Archie Davis
Inmate Name

AO# 3004040
Inmate ID or AO#

Montana State Prison
Facility of Incarceration

700 Conley Lake Road
Address of Facility

Deer Lodge MT 59722-8711
City State Zip

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP 25-0349
[The Clerk of Court will assign a number]

Archie Davis
NAME

PETITIONER,

v.

Jim Salmonsens - Warden
NAME OF WARDEN/FACILITY ADMINISTRATOR,

RESPONDENT.

**Petition for a Writ
of
Habeas Corpus**

I, Archie Davis, am representing myself, and I
[Name of Inmate]
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.

Exhibits: Plea Agreement Count II - Assault w/weapon, 45-5-213
...not to exceed 20 years...- PFO , 46-18-502 ... 5 -
100 years

* Minute Entry, Court accepted Plea Agreement - Change
of plea on March 27, 2014

* Acknowledgment of Rights , Count II - Assault w/weapon
45-5-213 - Time set for sentencing , 30 yrs w/10 suspended
on June 12, 2014.

* Judgment and Commitment - pg 2 line 25 - Count II -

Assault w/weapon ...Thirty (30) years with ten (10)
years suspended... on June 12, 2014

* Amended Judgment and Commitment pg3 line 2 - Amended
from November to September

* Order - Defendant sentenced to incarceration

* Montana DOC - Reappearance Report 02-2025

3 Court cases and offenses appearing on
-DDC 2013-302

--Offense 54-5-213 - Assault with a weapon - Persistent
Felony Offender TERM: 30 years /0month/0days/10 years
0/months/0days

* Sentence Calculation and Good Time Calculation

FACTS

The ROA for Cause DC-25-2013-0000302 on pg 3 '7/30/2014 - SENT JAIL -

~~Sentenced (45-5-213 Assault with a weapon) Confinement Terms: JAIL: 30 years SUSPENDED JAIL: 10 years. The defendant signed a Plea Offer Agreement on 3/26/2014. The Minute Entry on March 27, 2014 shows a Change of Plea, where defendant entered an Alford plea to a PFO SS46-18-502, MCA, see pg3 ln 6-9. The Minute Entry of June 12, 2014, shows the court accepted the plea agreement... 30 years with 10 years suspended. The Acknowledgment of Rights signed by the defendant on 3/20/2014 on pg1 ln 18-20 shows the Count Two: Assault with a weapon, a felony... 45-5-213(1)(b), MCA. "...period not exceed 20 years..." The judgment and commitment on pg2 ln 24-26, shows count II - Assault with a weapon 30 years, with 10 years suspended. The Amended Judgment and Commitment signed on August 1st, 2017 changed the dates of credit for time served to September from November 15, 2013.~~

~~NOTE: the defendant made numerous requests to obtain the transcripts from the day the defendant was sentenced, but the district court Clerk informed the defendant those transcripts were destroyed after 10 years. Attempts to contact the retired court reporter and see if those transcripts still existed were fruitless. The order on June 12, 2014 sentenced defendant to MSP. The DOC has in its records contained in OMIS that the defendant has been incarcerated on an offense of : 5455213 Assault with a weapon - persistent felony offender TERM: 30 years/0months/0days /10 years/0months/0days. The DOC has sentence and goodtime calculation sheets and forms showing a 30 year sentence w/10 suspended.~~

ARGUMENT

~~The defendant is incarcerated on an illegal sentence. The plea agreement the defendant agreed to was not followed at all. The defendant agreed to a sentence on a charge of PFO with an alford plea. The court sentenced the defendant to the underlying charge of Count II - Assault with a weapon, which carries a maximum time of 20 years per MCA code. The sentence of 30 years w/10 suspended exceeds the maximum allowed by law. The defendant was not sentenced as a PFO under SS46-18-502, MCA. Therefore the defendant's sentence exceeds the maximum allowed by 10 years. It was clearly the intention of the judge to have suspended time on the charge of Assault with a weapon.~~

RELIEF REQUESTED

~~The defendant is asking the MT Supreme Court to remand this illegal sentence back to the originating District Court to amend the judgment to reflect the maximum of 20 years for Assault with a weapon and suspend 10 years, as was clearly indicated in the original judgment and Amended judgment. The defendant is reserving the right to withdraw his guilty plea if the District Court sentences the defendant to anything other than 20 years with 10 years suspended, since the alford plea was not followed by the District Court at all.~~

RESPECTFULLY SUBMITTED this 12 day of May, 2025

[Use extra pages if necessary]

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CERTIFICATE OF MAILING (SERVICE)

I hereby certify that on May 12, 20²⁵, 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

Jim Salmons
MSP
400 Conley Lake Road
Deer Lodge, MT 59722-870

or

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

Archie Davis
[Signature]

Archie Davis
[Print name]