

Andrew Ray Wachtman
50 Crossroads Drive
Shelby, MT 59474

IN THE SUPREME COURT OF THE STATE OF MONTANA

ANDREW RAY WACHTMAN,
Petitioner,

vs.

WARDEN D.J. GODFREY,
Respondent.

)
)
) CAUSE NO. OP-25-0449
)
)

) PETITION FOR WRIT OF
) HABEAS CORPUS
)

COMES NOW, the above-named Petitioner, Andrew Wachtman, by and through himself, pro se, and files with this Court this Petition For Writ Of Habeas Corpus, with the belief he is entitled to relief under § 46-22-101, MCA.

BACKGROUND

On or about October 10th, 2024, the above-named Petitioner was charged with one count of Theft of a Motor Vehicle, a felony (see Att. "4").

The Petitioner was, contradictory to well established legal standards, not arraigned until December 3rd, 2024, fifty four days after being charged (see Ex. 1, and Ex. 2).

On November 19th, 2024, 13 days after being criminally charged the Petitioner was appointed a public defender.

As of today, June 1st, 2025, the Petitioner has had no commun-

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Bowen Greenwood
Clerk of Supreme Court
State of Montana

ication with his attorney, and feels the overall discussed delay requires this Court to dismiss this matter per the discussion below.

STANDARD OF REVIEW

Whether an initial appearance is sufficient to satisfy statutory requirements is a question of statutory construction, which the Supreme Court of Montana reviews for correctness. A court's ruling on a motion to dismiss in a criminal case also presents a question of law that the Supreme Court of Montana reviews to determine if the district court's conclusion of law is correct. The standard of review of discretionary trial court rulings in the criminal cases is whether the trial court abused its discretion, and the reasonableness of a delay is a discretionary decision which is factually driven.

ARGUMENT

The historic origins of the Sixth Amendment right to a speedy trial are traced in some detail by the Chief Justice of the Supreme Court of the United States. In his opinion for the U.S. Supreme Court in *Klopfer*, supra, at 233-36, and the Petitioner will not review that history in the interest of judicial expediency, yet suffice to remember that this constitutional guarantee has universally been thought essential to protect at least three basic demands of criminal justice in the American legal system: (1) to pre-

vent undue and oppressive incarceration prior to trial, (2) to minimize anxiety and concern accompanying public accusation, and (3) to limit the possibilities that long delay will impair the ability of an accused to defend himself. *United States v. Ewell*, 383 U.S. 116, 120. These demands are both aggravated and compounded in the case of an accused who is imprisoned by another jurisdiction.

At first blush it might appear that a man already in prison under a lawful sentence is hardly in a position to suffer from "undue and oppressive incarceration prior to trial." But the fact is that delay in bringing such a person to trial on a pending charge may ultimately result in as much oppression as is suffered by one who is jailed without bail upon an untried charge. First, the possibility that the defendant already in prison might receive a sentence at least partially concurrent with the one he is serving may be forever lost if trial of the pending charge is postponed. Secondly, under procedures now widely practiced, the duration of his present imprisonment may be increased, and the conditions under which he must finish his sentence greatly worsened, by the pendency of another criminal charge outstanding against him. And while it might be argued that a person already in custody would be less likely than others to be affected by "anxiety and concern accompanying public accusation," there is reason to believe that an outstanding untried charge (of which even a convict may, of course, be innocent) can have fully as depressive an effect upon a prisoner as upon a person who is at large. Cf. *Klopfer v. North Carolina*, *supra*, at 221-222.

The Petitioner points out to this Court that he has sat in custody on a pending felony hold since December, 2023, and based on that elapsed time the Petitioner can clearly no longer have a fair trial. Since all evidence required to prepare a proper defense against the criminal allegations has been lost with the passage of such an extraordinary amount of time.

I. Initial Appearance Violation

The Petitioner argues not only that the district court has erred in its determination of the Petitioner's constitutional right to a fast and speedy trial. Since said delay had delayed the Petitioner's parole. Thus, violating the legal requirement that required no delay in taking a criminal defendant before the charging court.

This Court has held that "an important purpose behind requiring an initial appearance is to protect the defendant from being jailed for an indefinite period of time and to prevent him from being held incommunicado for a protracted time. Gatlin, 22 (citation omitted).

Therefore, the Petitioner believes he has carried the burden of proving an issue(s) exist that requires this Court to dismiss the criminal complaint with prejudice.

II. Fast and Speedy Violation

The Petitioner next argues in this portion of this Petition that the State's delay in taking the Petitioner to trial has violated his constitutional right to a fast and speedy trial. Especially since the Petitioner's attorney has failed to have any comm-

unication with the Petitioner. Even though his trial is scheduled for this July, 2025. Leaving the Petitioner little hope of being able to go to trial on time.

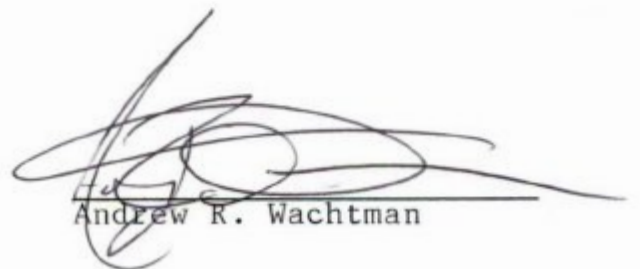
A criminal defendant's right to a speedy trial is guaranteed by U.S. Const. amend. VI, XIV, and Mont. Const. Art II § 24. If the delay between accusation and trial exceeds 200 days, the Supreme Court of Montana requires that the district court evaluate a defendant's fast and speedy claim by the "four factor balancing test."

Clearly, the right to a speedy trial begins when a person has been formally accused or charged by the prosecution, whether by arrest, the filing of a complaint, or by indictment or information. Once the 200-day threshold is triggered, a presumption of prejudice arises and a speedy trial is mandated. The further the delay stretches beyond the trigger date, the stronger the presumption that the accused has been prejudiced by the delay.

CLOSING

In closing the Petitioner MOVES this Court to DISMISS the criminal allegations, with PREJUDICE.

DATED this 1st day of June, 2025.



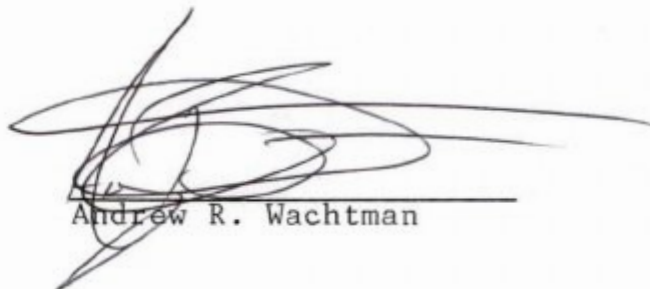
Andrew R. Wachtman

CERTIFICATE OF SERVICE

I, Andrew Wachtman, hereby swear that a true and accurate copy of this Petition For Writ Of Habeas Corpus was served on the following via U.S. Mail:

Austin Knudson
Montana Attorney General
P.O. Box 201401
Helena, MT 59620-1401

DATED this 1st day of June, 2025.



Andrew R. Wachtman