

ORIGINAL

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07/22/2025

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 24-0163

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 24-0163

FILED

JUL 22 2025

Bowen Greenwood
Clerk of Supreme Court
State of Montana

HOLLY ANNE MATHIS,

Petitioner and Appellant,

v.

ORDER

STATE OF MONTANA,

Respondent and Appellee.

One of the issues in the present appeal before this Court is whether or not Mathis's trial counsel rendered ineffective assistance in representing Mathis in her criminal trial when—after the State failed to produce for in camera review the March 2018 forensic interviews of N.M. and J.M., and the April 2018 forensic interview of T.N., as ordered to do so by the District Court—Mathis's trial counsel abandoned the matter and proceeded to trial without the in camera review ever being conducted.

The State has acknowledged that at least one of the interviews contained information that was “likely favorable” to Mathis. *State v. Mathis*, 2022 MT 156, ¶ 35, 409 Mont. 348, 515 P.3d 758. But because the State never produced the interviews for in camera review, they were never made part of the court record. Accordingly, neither the District Court, nor this Court, has ever seen the interviews so there is no way for us to properly judge for ourselves what, if any, exculpatory material may be contained in any of these interviews beyond what the State has already acknowledged. As it pertains to Mathis's ineffective assistance of counsel claim, without being able to review the interviews ourselves, we cannot make a determination as to whether Mathis's trial counsel's failure to pursue the in camera review after it had been ordered prejudiced Mathis's defense.

This Court has long held that “[w]hen a defendant requests a crime victim's confidential records, the district court has a ‘duty to conduct an in camera review to ascertain

whether there [is] any exculpatory evidence in the files.” *State v. Stutzman*, 2017 MT 169, ¶ 29, 388 Mont. 133, 398 P.3d 265 (quoting *State v. Johnston*, 2014 MT 329, ¶ 9, 377 Mont. 291, 339 P.3d 829). In *State v. Little*, 260 Mont. 460, 861 P.2d 154 (1993), we held a district court to be in error for denying a defendant’s motion for discovery regarding the crime victims’ confidential records without first conducting an in camera review. We held that an in camera review of the records was necessary “to complete the record on appeal.” *Little*, 260 Mont. at 466, 861 P.2d at 158. Toward that end, we issued an interlocutory order directing the district court to conduct an in camera review of the materials at issue and “enter appropriate findings and an order concerning whether or not such files contain information that should have been disclosed to the Defendant [and] that such findings and order and the sealed files be thereafter forwarded to this Court in supplementation of the record on appeal.” *State v. Little*, No. DA 92-0560, Order (Mont. Jun. 23, 1993). We have determined that a similar order is appropriate in this case.

Accordingly,

IT IS ORDERED that the District Court conduct an in camera review of the March 2018 forensic interviews of N.M. and J.M, and the April 2018 forensic interview of T.N. that were conducted in connection with the criminal prosecution of Timothy Norling.

IT IS ORDERED that the District Court enter appropriate findings and an order as to whether any of the interviews contain information that should have been disclosed to Mathis in her criminal case.

The District Court’s findings and order and the sealed records shall then be forwarded to this Court in supplementation of the record on appeal.

Dated this 22nd of July, 2025.



Chief Justice



Katherine M. Bidegari

Angel J. Smith

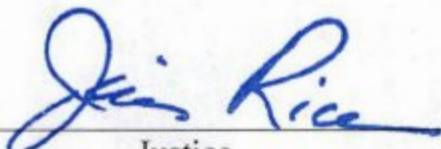
Justices

Justice Jim Rice, dissenting.

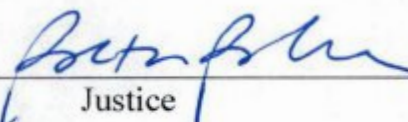
I respectfully dissent. The issue raised in Mathis's petition for postconviction relief was fully litigated and resolved in her direct appeal and is therefore barred under both the doctrine of *res judicata* and the law of the case. "To succeed on a postconviction petition based on newly discovered evidence, a petitioner must produce newly discovered evidence that, if proved, would show that he did not commit the crime for which he was convicted." *Main v. State*, 2024 MT 215, ¶ 16, 418 Mont. 159, 556 P.3d 940; Section 46-21-102(2), MCA. As this Court has repeatedly held, "claims which were raised on direct appeal are barred from being raised again in a petition for postconviction relief" by the doctrine of *res judicata*. *Hagen v. State*, 1999 MT 8, ¶ 13, 293 Mont. 60, 973 P.2d 233. Moreover, under the law of the case, "a prior decision of this Court resolving a particular issue between the same parties in the same case is binding and cannot be relitigated." *State v. Gilder*, 2001 MT 121, ¶ 9, 305 Mont. 362, 28 P.3d 488 (citing *State v. Wooster*, 2001 MT 4, ¶ 12, 304 Mont. 56, 16 P.3d 409).

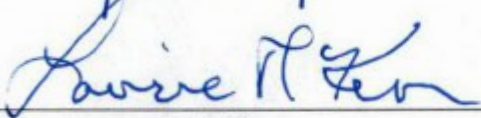
Here, Mathis seeks to relitigate whether forensic interviews conducted in connection with Norling's case would show she did not commit the crime for which she was convicted. However, in Mathis's direct appeal, we conclusively stated such interviews were "likely 'favorable' to the defense," recognizing that, "all parties involved in the trial, including the District Court" accepted the exculpatory value of at least one interview. *Mathis*, ¶¶ 33, 35. We thus gave Mathis the benefit of assuming the exculpatory nature of the evidence, but nonetheless determined it would not have affected the outcome of her trial. *Mathis*, ¶ 39. This Court's precedent exists to protect the finality of judgments and the integrity of its

rulings and, further, “[s]tate [postconviction] procedural requirements which are not strictly or regularly followed” will not be honored in later federal review. *Barr v. Columbia*, 378 U.S. 146, 149, 84 S. Ct. 1734, 1736, 12 L. Ed. 2d 766 (1964). I would not remand for any further proceedings.


Justice

Justices Beth Baker and Laurie McKinnon join in the Dissent of Justice Jim Rice.


Justice


Justice