

ORIGINAL

FILED

01/09/2026

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 26-0025

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
DAWSON COUNTY, STATE OF MONTANA

— AND / OR —

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 26-0025

IN RE THE HABEAS CORPUS OF
JUSTIN LEE FITCH, DOC # 3020651, Petitioner
Case No. _____

FILED

JAN 09 2026

Bowen Greenwood
Clerk of Supreme Court
State of Montana

PETITION FOR WRIT OF HABEAS CORPUS
(With Integrated Memorandum in Support)

Jurisdictional Statement

This Petition is brought under Article II §§ 4, 17 & 19 of the Montana Constitution, the Fourth and Fourteenth Amendments to the U.S. Constitution, and Mont. Code Ann. §§ 46-22-101 et seq.

The Seventh Judicial District Court of Dawson County has original and mandatory jurisdiction because the Petitioner is confined within its territorial bounds and alleges unlawful restraint by the Dawson County Sheriff. Habeas corpus is a sacred writ that “shall not be suspended except in cases of rebellion or invasion.” (Art. II § 19, Mont. Const.)

Nature of the Action

This is an emergency petition to restore liberty to one held more than three weeks without judicial review. Habeas corpus is the ancient remedy for unlawful detention, the lamp of conscience by which justice finds the imprisoned. Let it be done in honor and in truth that no man or woman be left unheard before the law.

1. Personal Information

Petitioner, Justin Lee Fitch, is presently confined in the Dawson County Detention Center, Glendive, Montana.

- Petitioner: Justin Lee Fitch (DOC # 3020651)
- Custodian: Ross Canen, Sheriff of Dawson County
- Place of Confinement: Dawson County Detention Center, 207 W. Bell St., Glendive MT 59330

2. Basis of Custody / Statement of Facts

- **Sept 30 2025 – Arrest:** Petitioner was arrested in Butte–Silver Bow County under a Dawson County warrant (Cause No. DC-16-051).

- **Butte Appearance:** He was taken before a Butte District Judge who stated that all matters would be “deferred to Dawson County” and took no judicial action on probable cause, bail, counsel, or advisement of rights.
- **Transport:** Around Oct 2 2025, Petitioner was transported to the Dawson County Detention Center.
- **Continued Detention:** He remains there without further appearance or appointment of counsel.
- **Next Date:** His first scheduled appearance, Oct 22 2025, is over three weeks after arrest.

This deferral does not satisfy the statutory or constitutional duty of a prompt judicial determination and appearance under § 46-6-311 MCA, § 46-18-203(4) MCA, and *Gerstein v. Pugh*, 420 U.S. 103 (1975).

As of the date of this petition, more than 15 days have passed since arrest, and no lawful initial appearance, appointment of counsel or probable-cause hearing has occurred.

3. Grounds for Relief

1. **Failure to Bring Before a Judge Without Unnecessary Delay.**
 - Under § 46-6-311(1) MCA, an arrested person must be taken “without unnecessary delay before the nearest and most accessible judge.”
 - The Butte hearing was perfunctory and did not satisfy this mandate.
 - Petitioner’s extensive confinement is as such unlawful.
2. **Violation of Probation Revocation Procedure.**
 - Under § 46-18-203(4) MCA, a probationer arrested on a revocation warrant must be brought before the court “without unnecessary delay.”
 - Petitioner has been held for over allowed days with no revocation hearing or advisement.
 - Petitioner’s extensive confinement is as such unlawful.
3. **Constitutional Violation — 48-Hour Benchmark.**
Under *Gerstein* and *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991) and *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), a judicial finding of probable cause must occur **within 48 hours**. That limit has been egregiously exceeded.
4. **Denial of Right to Counsel.**
Petitioner is indigent and has received no appointed attorney despite his right under § 46-8-101 MCA, Article II § 24 of the Montana Constitution and the Sixth Amendment.
5. **Due Process and Unlawful Restraint.**
The combination of delayed judicial review, lack of counsel, and continued detention constitutes unlawful restraint under § 46-22-101 MCA and violates Article II § 17 of the Montana Constitution and the Fourteenth Amendment to the U.S. Constitution.
6. **Jurisdictional Deferral Does Not Toll Constitutional Deadlines.**
Although Petitioner was briefly presented in Butte–Silver Bow County, that appearance was purely ministerial. Jurisdictional transfer does not suspend the 48-hour rule; the State still bears the duty to provide a prompt judicial determination in whichever county holds the prisoner.

7. **Ongoing Harm / Irreparable Injury.**

Each additional day of confinement without judicial review constitutes a new constitutional injury that cannot later be cured.

8. **Failure of Other Remedies.**

With no attorney and no active court process, habeas corpus is the **only** avenue available to prevent continuing restraint.

9. **Unlawful Detention Under Trezevant.**

In *Trezevant v. City of Tampa*, 746 F.2d 815 (11th Cir. 1984), even a 23-minute unlawful detention was held a compensable deprivation of liberty. Petitioner's weeks-long confinement without review constitutes a continuing violation of equal or greater magnitude.

10. **Montana Precedent.**

State ex rel. Hinz v. District Court, 159 Mont. 58 (1972), and *State ex rel. McDonald v. District Court*, 165 Mont. 436 (1974), confirm habeas lies when a person is held without lawful judicial order.

11. **Exhaustion and Good Faith.**

Petitioner has exhausted all reasonable remedies and files this Petition in good faith to protect fundamental liberty interests.

4. Relief Requested

Petitioner respectfully prays that this Court:

1. **Issue a Writ of Habeas Corpus** ordering the Dawson County Sheriff Ross Canen to bring Justin Lee Fitch before this Court immediately for advisement, bail review, and appointment of counsel; or, if no prompt hearing can be held, **order his immediate release;**
2. **Appoint counsel forthwith** under § 46-8-101 MCA;
3. **Issue an Order to Show Cause** directing the Dawson County Sheriff Ross Canen and County Attorney to justify the continued restraint of Petitioner within five (5) days.
4. **Recognize and credit all time unlawfully served from September 30, 2025, forward,** as constitutionally compensable detention under *Trezevant v. City of Tampa*, 746 F.2d 815 (11th Cir. 1984), which held that even short unlawful detention constitutes a deprivation of liberty warranting remedy; The Court should note the number of days of unlawful restraint for record and equitable credit and
5. **Grant Alternative Remedies** if full release is withheld:
 - immediate initial appearance before any available judge;
 - fixing of reasonable bail under Art. II § 22 Mont. Const.; or
 - expedited revocation hearing within 72 hours.
6. **Grant any other just and equitable relief as conscience and law.** Require the Court deems proper, including restoration of liberty, correction of the record, and preservation of Petitioner's rights under *Gerstein v. Pugh*, *County of Riverside v. McLaughlin*, and the Montana Constitution, Article II §§ 17 and 22.

Equity will not suffer a wrong without a remedy. To leave a man confined without lawful process is to invert justice itself. This Court's conscience and law alike command intervention.

Date: Oct 17, 2025

Signature: Justin Lee Fitch

Name: Justin Lee Fitch (DOC # 3020651)

Mailing Address c/o Dawson County Detention Center,
440 Colorado Blvd Glendive MT 59330

CERTIFICATE OF SERVICE

I certify that I filed this

Petition

Motion

Other Habeas Corpus
[Name of document]

with the Clerk of the Montana Supreme Court and that I have mailed or hand delivered a copy to each attorney of record and any other party not represented by counsel as follows:

Office of Montana Attorney General
Justice Building Third Floor
215 North Sanders
PO BOX 201401
Helena MT 59620-1401

[Address]

Counsel for _____

Justin Fitch
440 Colorado Blvd
Glendive MT 59330

[Address]

DATED this 5th day of December, 2025.

Justin Lee Fitch
[Signature]

Justin Lee Fitch
[Print name]

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by Brenda Held
via USPS PM#
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5339-3586-08

