

ORIGINAL

FILED

03/25/2025

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 25-0168

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 25-0168

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MICHAEL A. BUCK,

Petitioner,

v.

DON BELL, SHERIFF, LAKE COUNTY JAIL

Respondent.

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ORDER

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MAR 25 2025

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

Self-represented Petitioner Michael A. Buck has filed a Petition for Writ of Habeas Corpus, indicating illegal incarceration because his sentence is longer than the law allows and requesting more credit for time served. He includes attachments.

By way of background, in January 2019, the State charged Buck with felony operation of noncommercial vehicle by person with alcohol concentration of 0.08, fourth or subsequent offense, in the Twentieth Judicial District Court, Lake County. Section 61-8-406, MCA (2017). The maximum penalty is five years of imprisonment in the Department of Corrections (DOC). Section 61-8-731(3), MCA (2017). Buck includes a copy of the minute entry for this criminal case. On July 31, 2019, after testimony and discussion, the District Court committed Buck to the “DOC for five (5) years with two (2) years suspended on the conditions set forth in the PSI as amended.” In the attached written judgment, the District Court committed Buck to the DOC “for 5 years with *all but 2 3 months*/years suspended.” (Emphasis added.) The Judge crossed out “3” with an X and hand-wrote “2” next to it, adding his initials. The court awarded 208 days of credit for time served.<sup>1</sup>

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<sup>1</sup> The written Judgment was filed on August 1, 2019, and listed as the twenty-fifth document. To add to the confusion, DOC’s Offender Management Information System (OMIS) has two filed Judgments with the same time, date, and file stamp of August 1, 2019—the uncorrected version and the corrected version. The District Court’s register of actions, however, only contains the corrected version of the Judgment.

Through counsel, Buck appealed. The District Court record on appeal contained the Judgment with the hand-written correction and initials. *State v. Buck*, No. DA 19-0558. Buck's counsel later moved to withdraw, pursuant to § 46-8-103(2), MCA, and *Anders v. Ca.*, 368 U.S. 738, 87 S. Ct. 1396 (1967). On September 29, 2020, this Court dismissed his appeal. *State v. Buck*, No. DA 19-0558, Order (Mont. Sept. 29, 2020).

On October 19, 2022, the State filed a Petition to Revoke because Buck failed to comply with the probationary conditions and included a copy of the October 14, 2022 Report of Violation. On November 16, 2022, the Lake County District Court revoked his suspended sentence, committing him to the DOC for a three-year, suspended term. The court awarded forty-two days of credit for time served.

We secured a copy of the court's register of actions and pertinent documents. On December 22, 2022, the State filed another Petition to Revoke along with a Report of Violation. The District Court issued an arrest warrant on January 2, 2023, and Buck was arrested on September 13, 2024. After an appearance of new defense counsel and assumption of jurisdiction with a different District Court Judge, the court held a hearing on February 25, 2025, revoking his sentence. The court committed Buck to the DOC for a three-year term and awarded 166 days of credit for time served, noting that he also received forty-two days in the 2022 Judgment. The court did not award Buck any elapsed time credit "because he absconded immediately upon imposition of the 11/16/2022 Judgment."

In his instant Petition, Buck indicates that he is due more credit for time served, that he is serving a longer sentence, and that his sentence calculation is incorrect. He contends that his sentence was changed from a two-year suspended to a three-year suspended. Buck requests that the criminal case be completed and discharged "due to original error by the Lake County Courts[.]" Buck also raises the claim about the retrocession of Public Law 280 (PL-280) and how law enforcement and the court lack jurisdiction after March 2024.

Buck's argument about jurisdiction is not valid in a petition for habeas corpus relief. This Court has previously determined that the Confederated Salish and Kootenai Tribes of the Flathead Nation "consented to Montana's assumption of concurrent criminal

jurisdiction through the enactment of Tribal Ordinance 40-A[.]” *Lozeau v. Anciaux*, 2019 MT 235, ¶ 10, 397 Mont. 312, 449 P.3d 830. We point out that Buck was arrested in 2019 and before any consideration of changes to PL-280 occurred in this State. The District Court has jurisdiction over him and his criminal case.

Buck’s claims about his sentence length and calculation, however, have merit. The District Court’s oral pronouncement differs from the written Judgment, pursuant to § 46-18-116(1), MCA. “A district court’s oral pronouncement of a criminal sentence is the legally effective sentence and valid, final judgment.” *State v. Johnson*, 2024 MT 306, ¶ 30, 419 Mont. 366, 560 P.3d 1219. Instead of imposing a five-year commitment with two years suspended, as stated, the 2019 written Judgment imposed a five-year commitment with *all but* two years suspended, meaning that from the five years, three years are suspended, not two. Not only did Judge Manley miss the “all but” when he attempted to correct the written judgment, but so did this Court in 2020.<sup>2</sup>

Buck has presented a facially invalid sentence, and his subsequent revocations are invalid. Section 46-18-116(3), MCA. The oral pronouncement controls. *Johnson*, ¶ 30. In November 2022, he should have received a two-year, suspended commitment, and in February 2025, he should have received a two-year commitment. Section 46-18-203(7)(a)(iii), and -203(7)(b), MCA. Buck received credit for time served in both revocations, and he has not demonstrated that he is due any additional credit.

Given the foregoing, we conclude that it is appropriate to remand the matter to the Lake County District Court for resentencing to impose a sentence that comports with Montana law—a two-year commitment to the DOC. *State v. Heafner*, 2010 MT 87, ¶ 11, 356 Mont. 128, 231 P.3d 1087. Therefore,

IT IS ORDERED that:

1. Buck’s Petition for Writ of Habeas Corpus is GRANTED in part and Buck’s

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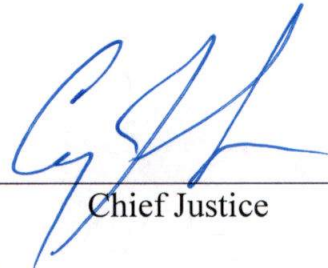
<sup>2</sup> This Court again reviewed the sentencing transcript from his appeal. As stated in the minute entry as well as in the transcript, the court imposed a five-year commitment to the Department of Corrections with two years suspended.

underlying criminal matter, Cause No. DC-19-13, is REMANDED to the Twentieth Judicial District Court, Lake County, for resentencing;

2. Buck's remaining claims in his Petition for Writ of Habeas Corpus are all DENIED; and
3. this matter is CLOSED as of this Order's date.

The Clerk is directed to provide a copy to: the Honorable Danni Coffman, District Court Judge; Mary Rensvold, Clerk of District Court, under Cause No. DC-19-13; James Lapotka, Lake County Attorney; Scotti Ramburg, Defense Counsel; counsel of record, and Michael A. Buck personally.

DATED this 25<sup>th</sup> day of March, 2025.



Chief Justice



Justices