

ORIGINAL

FILED

03/04/2026

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA  
Case Number: DA 26-0146

IN THE SEVENTEENTH JUDICIAL DISTRICT COURT

OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF VALLEY

FILED

Cause No. DV-2025-20

DA26-0146

MAR 04 2026

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

**JAY D. WITKOWSKI,**  
Petitioner/Appellant,

v.

**STATE OF MONTANA,**  
Respondent.

**MOTION FOR PREPARATION OF DESIGNATED  
TRANSCRIPTS AND MATERIALS AT STATE EXPENSE**

COMES NOW, Petitioner/Appellant, **Jay D. Witkowski**, Pro Se, and respectfully moves this Court pursuant to Rule 8(3) of the Montana Rules of Appellate Procedure and Mont. Code Ann. §§ 46-15-401 et seq., for an order directing preparation of the transcripts and materials designated in Appellant's Rule 8(3) Transcript Designation and Certificate **at State expense**, and in support states as follows:

**I. Procedural Posture**

1. Appellant is incarcerated at **Montana State Prison** and is pursuing a postconviction appeal challenging:
  - The voluntariness of guilty pleas entered on August 16, 2017 (DC-17-05 and DC-17-35)
  - Ineffective assistance of counsel, including pre-plea substitution requests
  - Brady violations related to undisclosed evidence and witness credibility
  - Sentencing errors and statutory mitigation omissions
  - Cumulative constitutional and statutory violations affecting postconviction relief
2. Pursuant to Rule 8(3) of the Montana Rules of Appellate Procedure, Appellant has designated the following transcripts and materials as necessary for proper appellate review:
  - Change of Plea Hearing (August 16, 2017)
  - Sentencing Hearings
  - Substitution-of-Counsel / Conflict Hearing(s)

- Postconviction Dismissal Hearing (If Any)
  - All written or verbal communications, including phone calls, between US Luke Strommen and Charles Walette during 2017
  - Surveillance video of the Valley County attempted escape (August 2017)
  - Video from the trains passing the relevant area on the night of December 31, 2016
3. The transcripts and materials are necessary to adequately present the issues on appeal, including:
- Assessment of plea voluntariness and advisement of rights (*Boykin v. Alabama*, 395 U.S. 238; § 46-16-105, MCA)
  - Evaluation of ineffective assistance of counsel claims (*Strickland v. Washington*, 466 U.S. 668)
  - Brady violations and impeachment of witnesses (*Brady v. Maryland*, 373 U.S. 83; *State v. White*, 2001 MT 149)
  - Sentencing mitigation, concurrent sentencing, and statutory compliance (§§ 45-5-303(2) & 46-18-201, MCA)
  - Corroboration or refutation of factual events central to the convictions
  - I would also like to reserve the right to file a motion to supplement record.
- 

## **II. Indigency**

4. Appellant is indigent and does not have the financial means to pay for the preparation of these transcripts and materials. Preparation at State expense is necessary to ensure Appellant's meaningful access to appellate review and postconviction relief. Denial of these materials would effectively prevent Appellant from fully presenting the legal claims and factual disputes raised in his appeal.
- 

## **III. Necessity of Transcripts and Materials**

5. The designated transcripts and materials are essential because:
- They document the exact proceedings at which Appellant entered pleas, was sentenced, and sought substitution of counsel.
  - They provide evidence of communications between key witnesses and investigators critical to Brady claims and impeachment.
  - Surveillance videos are necessary to corroborate or refute alleged events (Valley County attempted escape, trains passing on Dec. 31, 2016) central to factual claims in DC-17-05 and DC-17-35.
  - Without these materials, Appellant cannot adequately challenge plea voluntariness, counsel performance, or sentencing errors.
- 

## **IV. Legal Basis**

6. Montana law provides the authority for Appellant's request:
    - o **Mont. R. App. P. 8(3)** permits a party to designate transcripts necessary for appeal and request their preparation at State expense where the appellant is indigent.
    - o **Mont. Code Ann. §§ 46-15-401 et seq.** allow preparation of necessary transcripts for indigent litigants so that they may pursue meaningful appellate review.
    - o Courts have repeatedly recognized that denial of access to necessary transcripts or materials constitutes a denial of due process and undermines the appellate process (Nelson, 1998 MT 227; Gallagher, 2001 MT 39).
  7. Preparation of the designated transcripts and materials at State expense is therefore both necessary and constitutionally mandated to ensure Appellant can fully present his claims.
- 

## **V. Prayer for Relief**

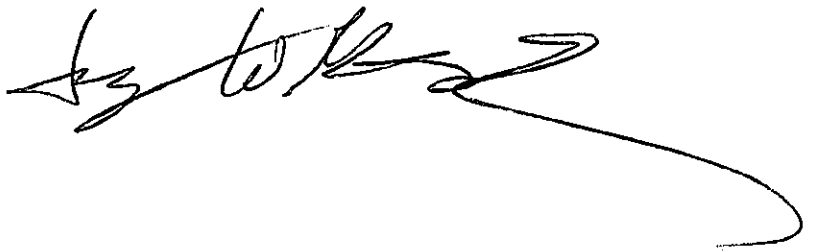
WHEREFORE, Appellant respectfully requests that this Court:

1. Direct the official court reporter and any relevant custodians to prepare the transcripts and materials designated in Appellant's Rule 8(3) Transcript Designation and Certificate;
2. Order that the preparation and production of these transcripts and materials be at State expense, due to Appellant's indigent status; and
3. Grant any additional relief necessary to ensure Appellant has adequate access to appellate review and postconviction remedies.

DATED this 2nd day of March, 2026.

---

**Jay D. Witkowski, Pro Se**  
Montana State Prison #3002444  
400 Conley Lake Road  
Deer Lodge, MT 59722



## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Preparation of Transcripts at State Expense was served by United States Mail, postage prepaid, upon:

Valley County Attorney's Office, 501 Court Sq. #20, Glasgow Mt. 59230

Montana Attorney General's Office, 215 N. Sanders, Third Floor, PO Box 201401,

Helena MT. 59620-1401

Clerk of Montana Supreme Court, PO Box 203003, Helena Mt. 59620-3003

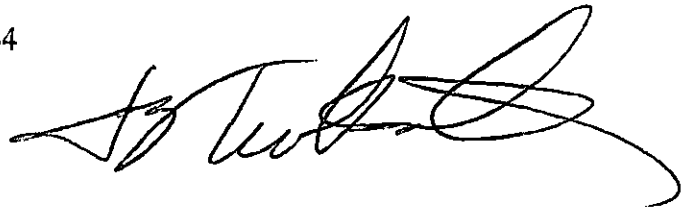
Official Court Reporter, Seventeenth Judicial District Court 501 Court Sq., Box 6, Glasgow Mt. 59230

on this 2<sup>nd</sup> day of March, 2026.

Jay D. Witkowski, Pro Se, #3002444

400 Conley Lake Rd.

Deer Lodge Mt 59722

A handwritten signature in black ink, appearing to read "Jay D. Witkowski", written in a cursive style.