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Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA
Case Number: DA 26-0306

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 26-0306

FILED
MAY 26 2026
Bowen Greenwood
Clerk of Supreme Court
State of Montana

STATE OF MONTANA,

Plaintiff and Appellee,

v.

TYREE KILO SELAGE,

Defendant and Appellant.

ORDER

We amend the caption to comport with M. R. App. P. 2(4). Tyree Kilo Selage has filed a verified Petition for an Out-of-Time Appeal, indicating that he failed to file a Notice of Appeal and listing several reasons, starting with the lack of an arrest warrant and an initial appearance. He adds that he had an arraignment two months after his arrest. He contends that the District Court did not have personal jurisdiction over him, resulting in prejudice by the Montana State Prison and the Board of Pardons and Parole (Board) with its actions. He lists his cases with this Court. Selage provides a copy of the Yellowstone County District Court's register of actions for a 2020 criminal case that was closed on December 14, 2021.

This Court has entertained four prior original proceedings,[1] filed by Selage, and three writs concerned his 2020 criminal case. *See Selage v. Salmonsen*, No. OP 22-0138, Order (Mont. Mar. 29, 2022) (*Selage II*); *Selage v. Bludworth*, No. OP 23-0510, Order (Mont. Oct. 17, 2023) (*Selage III*); and *Selage v. Bludworth*, No. OP 23-0708, Order (Mont. Jan. 2, 2024) (*Selage IV*). We provide his history as stated in 2022.

> On October 3, 2016, the Third Judicial District Court, Anaconda-Deer Lodge County, issued its Judgment convicting Selage of all charged offenses. The court sentenced him to a five-year term with the Department of Corrections

[1] Selage's first writ concerned a 2016 criminal case. *See Selage v. Green*, No. OP 21-0558, Order granting habeas corpus relief in part (Mont. Jan. 18, 2022) (*Selage I*).

(DOC) on the felony DUI, to run consecutively to a prior sentence, and to a concurrent six-month sentence for the obstructing a peace officer offense. Earlier this year, we granted Selage habeas corpus relief in part to amend this sentence for the award of 212 days of credit for time served. [*Selage I*].

From his attachments, on December 14, 2020, the Thirteenth Judicial District Court, Yellowstone County, sentenced Selage to Montana State Prison (MSP) for felony DUI for a five-year term. On February 3, 2021, the Yellowstone County District Court sentenced Selage to MSP for a five-year term for felony DUI, to run consecutively to his prior sentence. The court awarded him credit for time served in both cases. On June 7, 2021, the Sentence Review Division (SRD) of the Montana Supreme Court reviewed both sentences and found his sentences to be clearly excessive. The SRD modified Selage's sentences from a MSP sentence to a DOC sentence.

Selage II, at 1-2. At that time, Selage challenged the Board's denial of parole because he wanted to be placed in treatment. We explained:

> Selage's relief is not with this Court. Upon review of his attachments, the Board granted Selage parole a second time on September 3, 2019.[] His Parole Officer filed a Report of Violation on March 30, 2020, because Selage was charged with felony DUI, along with having other compliance violations, committed two days before the Report. The Report noted that Selage's adjustment to supervision was poor: "[Selage] left his sober living home 5 days after his arrival. Since that time, he has continued to decline with alcohol use, drug use, and now has new charges since being paroled 206 days ago." Selage had been granted parole, and then he violated his parole again with two felony DUIs. After his imprisonment in 2020, he sought to be placed at a DUI Court with the Board. The Board denied his request in an August 4, 2020 letter. He sought other relief regarding the commencement of his sentences. In October 2021, Selage appeared remotely from the Dawson County Correctional Facility before the Board. The Board denied his request for commencement and scheduled Selage for a reappearance in October 2022.

Selage II, at 2 (footnote removed).

This Court granted his third writ of habeas corpus because the Yellowstone County District Court needed to amend his sentences after review by the SRD. *Selage III*. We explained:

On June 7, 2021, the SRD reviewed both sentences and found his sentences to be clearly excessive. The SRD modified both of Selage's sentences from a MSP sentence to a DOC sentence, pursuant to § 61-8-731(3), MCA. In both cases, the decision provided:

> Therefore, it is the unanimous decision of the Division that the sentence shall be **MODIFIED** to change the sentence from a Montana State Prison sentence to a **Department of Corrections** sentence for statute purposed in §[]61-8-731(3), MCA. The sentence, terms and conditions imposed in the Judgment of November 20, 2020 are not clearly excessive and are affirmed.

(Emphasis in original).

Selage III, at 2. We ordered that the District Court immediately amend its judgments, pursuant to § 46-18-904(3), MCA, in Selage's two 2020 criminal cases (Cause Nos. DC 20-449 and DC 20-582). *Selage III*, at 5.

M. R. App. P. 4(6) allows this Court to grant an out-of-time appeal "[i]n the infrequent harsh case and under extraordinary circumstances amounting to a gross miscarriage of justice[.]"

This Court secured a more recent copy of the court's register of actions. There has been no activity since 2024. Almost five years have elapsed since the District Court issued its judgment. Selage could have appealed his conviction and sentence within sixty days of his written judgment in 2021. M. R. App. P. 4(5)(b)(i). He did not do so. In October of 2023, this Court ordered amendment of his written judgments. *Selage III*. Selage only sought habeas corpus relief in this Court. We conclude that Selage is not entitled to his Petition for an Out-of-Time Appeal. Denial of his Petition will not cause a gross miscarriage of justice.

This Court cautions Selage from seeking further relief here with his petitions. If Selage persists in filing pleadings concerning his older sentences, this Court will impose a pre-filing requirement of a motion for leave.

Therefore,

IT IS ORDERED that:

1. Selage's Petition for an Out-of-Time Appeal is DENIED and DISMISSED; and
2. this matter is CLOSED as of this Order's date.

The Clerk of the Supreme Court is directed to provide a copy of this Order to: counsel of record and Tyree Kilo Selage personally.

DATED this 26th day of May, 2026.

Chief Justice

Justices