

ORIGINAL

FILED

06/09/2026

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: OP 26-0345

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 26-0345

ROBERT ALLEN BOYDEN,

Petitioner,

v.

JAMES SALMONSEN, Warden,  
Montana State Prison,

Respondent.

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Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

ORDER

Robert Allen Boyden has filed a Petition for Writ of Habeas Corpus, indicating that the Department of Corrections has incorrectly calculated his sentence and that he is entitled to more credit for jail time served than he received. He includes sixty-nine pages of attachments. For reasons detailed below, we conclude that Boyden has a valid sentence and that he has not presented a *prima facie* case for this Court to consider.

In his Petition, Boyden states “Credit for time served” and lists *State v. Kortan*, 2022 MT 204 (emphasis in original). He further states “Facially illegal sentence” where he lists six of this Court’s decisions. Finally, he writes “by not being able to complete boot camp as it is no longer offered.”

As a Petitioner, Boyden bears the burden of proof or persuasion in an original proceeding, such as this. He has not met his burden or presented a *prima facie* case for habeas corpus relief. *Miller v. Eleventh Jud. Dist. Ct.*, 2007 MT 58, ¶ 14, 366 Mont. 207, 154 P.3d 1186. “The petition must set forth . . . [t]he facts which make it appropriate that the supreme court accept jurisdiction; [t]he particular legal questions and issues . . . to be raised in the proceeding; . . . arguments and authorities . . . ; and . . . exhibits . . . necessary to make out a *prima facie* case or to substantiate the petition . . .” M. R. App. P. 14(5)(b)(i-iv). (Emphasis added.)

This Court, however, has some familiarity with Boyden's procedural and sentencing history. Boyden has had three prior proceedings with this Court. *See Boyden v. Mahoney*, No. OP 07-0318, Order dismissing his petition for habeas corpus relief on his motion (Mont. Jul. 11, 2007) (*Boyden I*) and *Boyden v. State of Montana*, No. OP 08-0440, Order denying his writ of mandamus because he could not demonstrate a clear legal duty for the Thirteenth Judicial District Court to provide him a copy of the file for his 1995 criminal case (Mont. Oct. 1, 2008) (*Boyden II*).

Currently, Boyden has a 1997 sentence from the Yellowstone County District Court and a 2016 sentence from the Yellowstone County District Court.

On May 13, 2025, this Court issued an Order after receiving a response from the State of Montana. *Boyden v. Linder*, No. OP 25-0048, Order (Mont. May 13, 2025) (*Boyden III*). We provide the history again.

Both Boyden and the State provide his history. Beginning thirty years ago, on June 8, 1995, Boyden entered guilty pleas to misdemeanor theft, felony theft, and felony escape in the Custer County District Court. The District Court deferred imposition of sentence of two, concurrent, three-year terms for the felony convictions (Cause No. DC-1995-3701) (first sentence).<sup>1</sup>

On February 27, 1997, the Yellowstone County District Court accepted Boyden's guilty plea to accountability for attempt (deliberate homicide) and sentenced him to the Montana State Prison (MSP) for a sixty-year term, awarding credit for time served of 487 days (Cause No. DC 95-654) (sixty-year sentence). The Yellowstone County District Court did not mention Boyden's first sentence.

In less than two months, the Custer County District Court held a dispositional hearing on the State's Petition to Revoke the deferred imposition of sentence for Boyden. In its written April 24, 1997 Order of Final Sentence, the Custer County District Court revoked the sentence and sentenced Boyden to MSP for a ten-year term for felony theft to run consecutively to his sixty-year sentence (first sentence upon revocation).

In a May 2, 2012 Order Granting Withdrawal of Guilty Plea to and Dismissing Count 3: Escape, the Custer County District Court entertained

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<sup>1</sup> On October 19, 1995, the Custer County District Court held its first hearing on the State's Petition to Revoke for the first sentence, and the court extended the deferred imposition of sentence for an additional three years.

Boyden's request for relief where the State responded that Boyden's deferred imposition of sentence for felony escape (Count 3) had since expired. The District Court dismissed the conviction.

On December 21, 2016, the Yellowstone County District Court committed Boyden to the Department of Corrections (DOC) for concurrent terms of ten years with five suspended for two counts of felony robbery (Cause No. DC-14-0954). The District Court awarded 725 days of credit for jail time served and ran the sentence consecutively to his sixty-year sentence.

*Boyden III*, at 1-2.

Several years later, Boyden sought relief in the District Court and challenged the running of his sentences.

Boyden returned to the Custer County District Court for habeas corpus relief in June 2020. Boyden argued that he received an illegal sentence upon revocation of his deferred sentence because of the effect on his parole eligibility due to the consecutive nature of his first sentence upon revocation and the sixty-year sentence. The court explained: "[Boyden] contends that although the two sentences run consecutively, he began serving the ten-year sentence [first sentence upon revocation] in 2010, once he became parole eligible under the sixty-year sentence (by having served one-quarter of the sentence, or 15 years)." (Footnote omitted). Citing to § 46-18-401(1)(a), MCA (1995), the District Court denied Boyden's petition for habeas corpus relief.

On March 5, 2025, the Custer County District Court entertained Boyden's renewed Motion for Time Served and Correction and Completion of Sentence.<sup>2</sup> The District Court determined that Boyden had fully served his first sentence upon revocation after application of *State v. Wolfblack*, 2024 MT 166, ¶ 13, 417 Mont. 376, 553 P.3d 9.

*Boyden III*, at 2.

Boyden received relief last year. We stated as much. "Due to the recent Custer County District Court's Order on Defendant's Pro Se Motion for Time Served, the State responds that Boyden has received relief." *Boyden III*, at 3. Boyden again puts forth that his sentence must be recalculated. His claim lacks merit. "The State provides that Boyden

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<sup>2</sup> Last year, the Custer County District Court also awarded Boyden fourteen days of credit for time served after Boyden moved the court for additional credit in his first sentence upon revocation.

has served his first sentence upon revocation and that the MSP Records Department has recalculated his sentence.” *Boyden III*, at 3. We deemed his Petition then moot and denied it. *Boyden III*, at 3.

Boyden cannot return with unsupported claims and arguments when he received relief last year. He does not demonstrate how he is entitled to additional credit for time served with his sentences. Boyden is not entitled to habeas corpus relief. Section 46-22-101(1), MCA.

We caution Boyden in seeking further relief with collateral attacks upon any of his current sentences in this Court. This Court will impose a pre-filing requirement upon his next original proceeding. Accordingly,

IT IS ORDERED that Boyden’s Petition for Writ of Habeas Corpus is DENIED and DISMISSED.

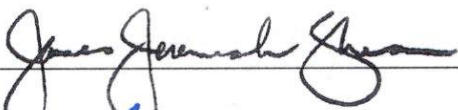

IT IS FURTHER ORDERED that this matter is CLOSED as of this Order’s date.

The Clerk is directed to provide a copy of this Order to counsel of record and to Robert Allen Boyden personally.

DATED this 5<sup>th</sup> day of June, 2026.

  
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Chief Justice

  
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Katherine M. Bidegray  
Justices