

# ORIGINAL

RE: Couture James In Re-Pro-Se  
v  
Berkebile David Et AL.  
USCA9 Case No 17-35906

{Petition} for Rehearing,  
Motion AND/or directing Clerk  
To file a petition for  
Writ of Certiorari out of  
Time.

5-22-19

IN response to the recent denial of Writ of Certiorari due to time restrictions, this will be my IN FORMA pauperis under Rule 39 AS required under Rule 12.2. I will state my grounds for good FAITH AND SUBSTANTIAL or controlling effect. It will be in the form of papers attached to This petition AND certificate of council to prove to this court that this case falls under the reviewable REASONS of extraordinary, substantial, exceptional circumstances that should warrant this courts discretionary powers to grant this petition, appoint AN ATTORNEY AND/OR review the Merits of this "UNIQUE" case, which has already been deemed that by The opinion of the Highest Court of review in this state of MONTANA, Without ANY relief afforded. This should ALSO be authorized by 28 U.S.C. §1651(A). The REASONS set forth ATTACHED to this petition, will be the ACTUAL FACTS that A SUBSTANTIAL CONSTITUTIONAL VIOLATION has occurred in the lower Court before direct APPEAL, which triggered critical review of the MONTANA Supreme Court. And that there was AN ACTUAL conflict of interest by a primary public defender THAT produced ANOTHER violation of the Due Process, which resulted in A SHAM TRIAL. Also, it will prove that according to the Appellate Defender at the Direct Appeal Level, he admits that I WAS prejudiced AND harmed, THAT was verified by the Supreme Court. And that there was FAULT by the Trial Judge, the prosecutor, AND my ATTORNEY'S. Also Due Process VIOLATIONS. And finally The Conclusion of the Supreme Court of MONTANA, 2010 Mt 201; 357 Mont. 398; 240 P.3d 987; 2010 Mont. Lexis 317. Here, they used the word "FAILED", WHICH HAS A very broad definition, but the MAIN ONE, I believe is, "MISCARRY", AS IN "MISCARRAGE OF JUSTICE". I PRAY this court will use its DISCRETIONARY Power AND review my CASE in full.

RECEIVED  
JUN 19 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

MT Prisoner  
# 2126323  
James Couture  
James Couture

Certification of Pro-Se Petitioner

I hereby state in Truth that the foregoing Petition/Motion is the best of my knowledge AND Ability AS A LOW-CLASS Pro-Se Litigant.

Signed, Printed, and  
Notarized ~~signature~~  
signature

Signed:

James Couture

Printed:

James Couture

Notarized

County of Tool

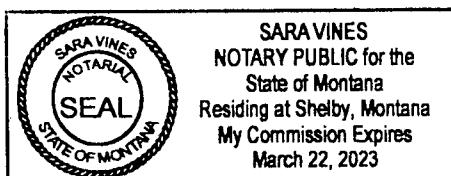
This instrument was signed or acknowledged before  
me on 5-24-19 by James Couture.

(Name of signer)

Sara Vines

(Notary Signature)

[Affix seal/stamp to the left or below]



**FILED**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAY 4 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JAMES ARTHUR COUTURE,

Petitioner-Appellant,

v.

DAVID BERKEBILE and ATTORNEY  
GENERAL FOR THE STATE OF  
MONTANA,

Respondents-Appellees.

No. 17-35906

D.C. No.  
9:15-cv-00080-DLC-JCL  
District of Montana,  
Missoula

ORDER

Before: BYBEE and BEA, Circuit Judges.

The motion for reconsideration (Docket Entry No. 7) is denied. *See* 9th Cir.

R. 27-10.

No further filings will be entertained in this closed case.

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

APR 2 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JAMES ARTHUR COUTURE,

Petitioner-Appellant,

v.

DAVID BERKEBILE and ATTORNEY  
GENERAL FOR THE STATE OF  
MONTANA,

Respondents-Appellees.

No. 17-35906

D.C. No.  
9:15-cv-00080-DLC-JCL  
District of Montana,  
Missoula

ORDER

Before: CLIFTON and CHRISTEN, Circuit Judges.

Appellant's filing received March 5, 2018 (Docket Entry No. 5) is construed as both a request for copies of documents and a motion for clarification of the order denying a certificate of appealability.

To the extent appellant requests copies of documents not in this court's docket for this appeal, the motion is denied. Requests for documents filed in the District of Montana should be made before that court.

To the extent appellant requests copies of documents in this court's docket for this appeal, the motion is granted. The Clerk shall serve those documents as well as a copy of the docket sheet on appellant.

The motion for clarification is granted insofar as this court clarifies that the request for a certificate of appealability was denied and the case is now closed.

The court sua sponte grants appellant through May 7, 2018, to file an optional motion for reconsideration.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**

---