

No. 22-7745

ORIGINAL

Supreme Court, U.S.
FILED

MAY 30 2023

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

JAMES WILLIAM WALKER — PETITIONER
(Your Name)

vs.

MIKE MCGRATH, CHIEF JUSTICE RESPONDENT(S) "ET AL"

ON PETITION FOR A WRIT OF CERTIORARI TO

MONTANA SUPREME COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JAMES WILLIAM WALKER
(Your Name)

700 CONLEY LAKE ROAD
(Address)

DEER LODGE, MONTANA 59722
(City, State, Zip Code)

MSP-3019013/PRO SE
(Phone Number)

QUESTION(S) PRESENTED

- I. Did, the Judicial Branch of Montana in denying Petitioner the opportunity for relief under Precedent Holding United-States v. Morgan, 346 US 502, (1954), by stating, Coram Nobis has been abolished in the State of Montana violate United States Supreme Court Precedent Law?.
- II. Did, the Judicial Branch of Montana violate the United States Constitution Article VI, and Amendment 14, (Due Process) and Amendment VI, (Petitioner's Right to Counsel) by changing his lawful Motion under Morgan, into a State Collateral Post-Conviction Petition?.
- III. Did, the State of Montana specifically in it's legislature and Judicial Branch violate Federal Law by passing and enforcing Rule 60(e) abolishing Coram Nobis in disregard of the United States Supreme Court Precedent Case Law, United-States v. Morgan, 346 US 502, (1954),?.
- IV. Is, the Montana State Judicial Branch in Contempt of the United States Supreme Court by ignoring United States Supreme Court Precedent Case Law, United States v. Morgan, 346 US 502, (1954), denying Petitioner relief under Morgan which authorizes said relief via Petitioner's Motion in the Nature of Writ of Error Coram Nobis?.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

JUSTICES: James Jeremiah Shea
Beth Baker
Ingrid G. Gustafson
Dirk Sandefur

Judge: John Brown

RELATED CASES

Walker v. McTighe, 2019 U.S. Dist. LEXIS 225563, U.S. Dist. Court for the District of Montana. Judgment entered Nov. 12, 2019.

Walker v. McTighe, 2020 U.S. Dist. LEXIS 10801, U.S. Dist. Court for the District of Montana. Judgment entered Jan. 22, 2020.

Walker v. McTighe, 2020 U.S. App. LEXIS 8876, U.S. Dist. Court for the District of Montana. Judgment entered Mar. 20, 2020.

Walker v. Montana, 2023 U.S. Dist. LEXIS 60295, U.S. Dist. Court for the District of Montana. Judgment entered Apr. 5, 2023.

Walker v. Montana, 2023 U.S. Dist. LEXIS 86598, U.S. Dist. Court for the District of Montana. Judgment entered May. 17, 2023.

Walker v. Salmonsen, 2023 U.S. Ct. App. 9th Cir. Docket 23-832.

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STATUTES AND RULES

United States Constitution Article VI,.
United States Constitution Amendment 14,.
U.S. Constitution Article VI, the Supremacy Clause,.
The All Writs Act 1651(a) of the Judicial Code,.
The Montana Constitution Article 7, § 4,(1),.
Montana civil Rules of Procedure Rule 60(e),.
Federal Rules Civil Procedure Rule60(b),.
Montana Code Ann. § 46-20-701,.

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at Pacific Reporter & Montana Reports; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[x] For cases from **state courts**:

The date on which the highest state court decided my case was 4-11-2023. A copy of that decision appears at Appendix A.

[] A timely petition for rehearing was thereafter denied on the following date: 5-9-2023, and a copy of the order denying rehearing appears at Appendix C.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Supremacy Clause under the United States Constitution Article

VI. The United States Supreme Court's legal Superiority.

The United States Constitution Amendment 14. Federal Due Process.

The United States Constitution Amendment VI. Right to Counsel.

The Montana Constitution Article 7, § 4,(1). Delegated Jurisdiction.

Federal Rule Civil Procedure Rule 60(b), Preserving Motion in the
Nature of Coram Nobis in Criminal Cases.

Montana Rule Civil Procedure 60(e), abolishing Coram Nobis in both
Civil and Criminal Cases.

STATEMENT OF THE CASE

The Eighteenth Judicial District Court, Judge John Brown, and the Montana Supreme Court Justices, Mike McGrath, Chief Justice, James Jeremiah Shea, Beth Baker, Ingrid G. Gustafson, Dirk - Sandefur, Justices, contradicted and violated United States Federal Law by ignoring, and rendering decisions, and rulings conflicting with, the United States Supreme Court Precedent Case Law, United States v. Morgan, 346 US 502, (1954) which, as the supreme law of the land under, the Supremacy Clause of Article VI, the United States Constitution enjoys legal superiority over any conflicting provision of a state constitution or law. On June 23rd, 2022, Petitioner as Movant filed a verified Motion in the Nature of Writ of Error Coram Nobis as authorized by United-States v. Morgan, 346 US 502, (1954).

Petitioner's Motion set forth multiple structural errors of a fundamental character pre-trial, and at trial that rendered the proceedings irregular, invalid and the conviction void. The Motion showed petitioner's actual innocence.

Petitioner's Motion exposed a criminally contrived malicious prosecution without probable cause, coupled with collusion.

Petitioner's Motion makes plain his right to relief, and requires automatic reversal, State v. Van Kirk, 2001 MT 184, (See, Exhibit-C, Appendix H,).

On September 6th, 2022, the state responded fraudulently, falsely claiming petitioner filed a civil collateral postconviction petition on June 21st, 2022, (See, Exhibit B-2, Appendix I,).

On September 19th, 2022, Petitioner filed answer to states response refuting the false claim and correcting, clarifying, and verifying by an exhibit that his Motion had been filed on June 23rd, 2022, and not as a civil proceeding petition for postconviction.

Petitioner further confirmed the lawful availability of the Motion as a step in the original criminal case DC-15-333C, as authorized by the United States Supreme Court's Precedent Case Law, U.S. v. - Morgan, (Supra), (See, Exhibit E, Appendix J,).

On October 25th, 2022, the district court, Judge John Brown ignored United States Supreme Court Precedent Case Law, U.S. v. Morgan, - (Supra), and treated petitioner's Motion as a state collateral postconviction civil proceeding petition and then dismissed the faux petition as out of time. the court then denied petitioner's lawful Motion without an evidentiary hearing as required. (See, Exhibit B, - Appendix B,).

On November 3rd, 2022, Petitioner filed notice of appeal to the Montana Supreme Court and requested appellate counsel. Said court denied the request for counsel based on it's stance against U.S. v. - Morgan, (Supra), (See, Exhibit C-3, Appendix D,).

Petitioner filed for rehearing of appointment of counsel and again was denied. (See, Exhibit D, Appendix E,).

Petitioner filed Opening Brief, and Brief in answer to States Brief without the assistance of counsel. (See, Exhibits F, & G, Appendix-K, & L,).

On December 7th, 2022, Petitioner filed petition for writ of habeas corpus for violating federal law regarding, U.S. v. Morgan, (Supra) under, the supremacy clause and by refusing to appoint appellate

counsel based on the denial of case law, U.S. v. Morgan, (Supra). On April 5th, 2023, Petitioner's habeas petition was erroneously denied and dismissed with prejudice by the United States District Court for, the District of Montana, (See, Exhibit E, Appendix F,). On April 11th, 2023, the Montana Supreme Court affirmed the Gallatin County District Court's denial of petitioner's Motion in the nature of writ of error coram nobis, (See, Exhibit A, Appendix A,). On April 20th, 2023, Petitioner filed Motion for leave to file a 2nd, habeas corpus petition based on the district court's false determination that permission was needed before petitioner could file in said court as, petitioner had filed a habeas petition in 2018, which was wrongfully dismissed as procedurally defaulted, and a certificate of appealability denied. Petitioner then filed for a COA with the 9th, Circuit Court of Appeals, and was again wrongfully denied, (See, Exhibit M, Appendix M,).

On May 3rd, 2023, Petitioner received docketing notice from the 9th, Circuit Court of Appeals: Case No. 23-832, Case Title: Walker v.-Salmonsen, (See, Exhibit N, Appendix N,).

On May 8th, 2023, Petitioner filed a petition for a writ of mandamus with, the U.S. District Court for the District of Montana seeking to have the court Order the State of Montana comply with federal law regarding, U.S. v. Morgan, 346 US 502 (1954).

Sadly, Petitioner soon discovered said court did not have jurisdiction over a state court with mandamus.

On May 17th, 2023, Petitioner's petition for writ of mandamus was dismissed, (See, Exhibit H, Appendix G,).

REASONS FOR GRANTING THE PETITION

The reasons for granting writ of certiorari on petitioner's behalf are germane to this High Court's ability to maintain conformity among the States comprising our union regarding this High Court's Precedent determinations and Holdings.

The State of Montana's Judicial Branches have rendered decisions and rulings that directly contradict this High Court's Precedent Determinations and Holdings in standing precedent case law, United-States v. Morgan, 346 US 502, (1954).

By these decisions and rulings, the State of Montana's Judicial Branches have challenged this High Court's Legal Superiority under the United States Constitution Article VI, the Supremacy Clause as having no authority in Montana's State Court's.

The Eighteenth Judicial District, Judge John Brown and the Montana Supreme Court Justices, Mike McGrath Chief Justice, James Jeremiah-Shea, Beth Baker, Ingrid G. Gustafson, and Dirk Sandefur have so far departed from accepted American judicial practice pertaining to this High Court's Standing Precedent Case Law, U.S. v. Morgan, 346-US 502, (1954), as to call for an exercise of this High Court's discretionary and supervisory power's to impose immediate intervention.

The Montana Supreme Court has sanctioned the lower court, the eighteenth judicial district, judge John Brown's departure from accepted American practice regarding, Motion in the nature of writ of error coram nobis as not being available in the State of Montana to achieve justice.

This Petitioner wishes to inform this High Court that a very important federal question which is:

° Does, the Montana Rule of Civil Procedure, Rule 60(e) abolishing writ of error coram nobis in both civil and criminal cases, give it's state court's superior authority to disregard Federal Rule of Civil Procedure 60(b) preserving Motion in the nature of coram nobis for criminal cases to achieve justice?.

The Eighteenth Judicial District Court, Gallatin County Judge John Brown, and Montana Supreme Court Justices, Mike McGrath, James Jeremiah Shea, Beth Baker, Ingrid G. Gustafson, and Dirk Sandefur have decided that important Federal question in the affirmative stating, the United States Supreme Court's Standing Precedent Case Law, United States v. Morgan, 346 US 502, (1954) has been abolished in Montana State Court's.

The Montana State Legislature has enacted Rule 60(e) of Civil Procedure making Federal Rule 60(b) of Civil Procedure nonexistent thus creating exceptional circumstances for this High Court's discretionary intervention.

At risk is judicial relief for countless wrongfully convicted United States citizens past, present and in the future.

The risk to this High Court's Power to Rule by it's Precedent Judicial Decisions and Holdings over All States keeping the States united in their judicial processes is unparalleled in our time. Without this High Court's discretionary intervention, many United States citizens will continue to suffer the injustice of false imprisonment by wholly corrupt state judicial systems which has

reached epidemic levels in the United States.

The State of Montana is attempting to evade accountability for it's wrongful actions by nullifying the relief this High Court's majority decision intended to make available to All United States citizens seeking to achieve justice.

The Eighteenth Judicial District Court, Judge John Brown engaged in deceit and collusion in treating petitioner's lawful Motion as a civil proceeding postconviction petition due also to, the fact petitioner's Motion was not subject to Montana's a harmless error statute found at Mont. Code Ann. § 46-20-701.

Judge John Brown had the duty and delegated jurisdiction to take cognizance of petitioner's Motion: Mont. Const. Article 7, § 4(1).

° "Any power granted by 1651(a) of the Judicial Code to Federal Court's to issue Writs of Coram Nobis comprehends the power of a district court to take cognizance of a Motion in the Nature of Coram Nobis," U.S. v. Morgan, (Supra).

Last but not least, the Montana Judicial Branches are committing gross fundamental miscarriages of justice against this petitioner and others similarly situated, and has every intention of continuing to ignor United States Supreme Court Precedent Case Law, and commit future injustices. Petitioner has been unable to obtain any just ruling from any Montana State Court and has zero confidence that the 9th Circuit will render any justice in this cause as, it has failed to do so in the past.

On behalf of petitioner and All United States citizens petitioner Prays for this High Court's immediate intervention.

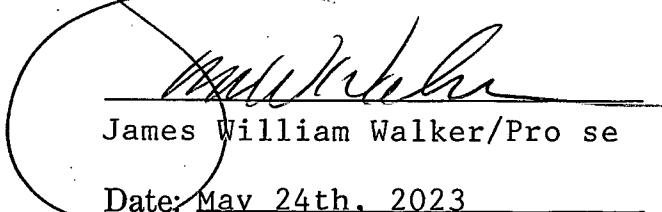
THEREFORE, BASED ON THE FORGOING FACTS, REASONS FOR GRANTING PETITION FOR WRIT OF CERTIORARI, AND EXHIBITS PRESENTED, Petitioner respectfully Prays this Honorable High Court Grant his petition and reverse the Montana Supreme Court's affirmation of the Eighteenth Judicial District Court's denial of petitioner's Motion in the Nature of Writ of Error Coram Nobis, and remand with an Order to dismiss with prejudice the wrongful conviction or, dismiss outright in the intrest of immeditate Justice.

Respectfully submitted

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


James William Walker/Pro se

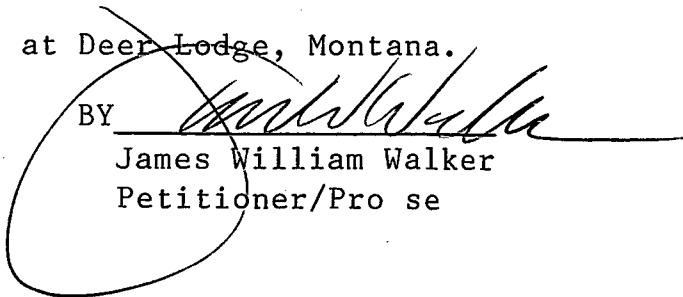
Date: May 24th, 2023

UNSWORN DECLARATION

I, James William Walker declare under penalty of perjury that, the facts and matters setforth in the Writ of Certiorari are true and accurate to the best of ~~my~~ Knowledge and belief.

Submitted this 24 day of May 2023, at Deer Lodge, Montana.

BY


James William Walker
Petitioner/Pro se