

25-7059

No. \_\_\_\_\_

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
Jeremy P. Opie - PETITIONER

vs.

Shawn Wead, Warden, Saguaro Correctional Center,  
Brian Gootkin, Director, Montana Department of Corrections,

- RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO  
the Supreme Court of the State of Montana

\_\_\_\_\_  
PETITION FOR WRIT OF CERTIORARI

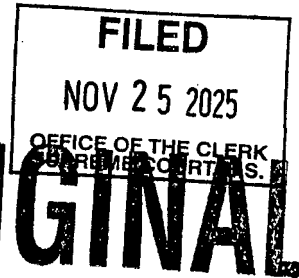
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Jeremy P. Opie # 2117333

Saguaro Correctional Center

1252 East Arica Road

Eloy, AZ 85131

(No telephone or e-mail due to incarceration)





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**LIST OF PARTIES**

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

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1           The facility also offers a computer workstation identical to that  
2 available in the facility library, which currently has an incomplete  
3 library for United States & Montana statute and judicial decisions, within  
4 the housing unit. This kiosk is available on a first come, first served  
5 basis to the population and services more than 300 Montana prisoners,  
6 making availability scarce.

7           Consequently, Opie relies on the courts' practice of pleadings being  
8 liberally construed and held to less stringent standards than formal  
9 pleadings drafted by lawyers. See Estelle v. Gamble, 429 US 97, 106, 50 L.  
10 Ed. 2d. 251, 97 S. Ct. 285 (1976) (A document filed pro se is to be  
11 liberally construed . . . however inartfully pleaded, must be held to less  
12 stringent standards than formal pleadings drafted by lawyers.). See also  
13 § 1-3-219, MCA; Rule 8, Fed. R. Civ. P.

14           Where possible, relevant citations are provided. Regardless, sound  
15 legal principles and germane facts are supplied supporting Opie's  
16 arguments.

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1 The opinion of the highest state court to review the merits appears  
2 at Appendix A to the petition and is not yet reported in the resources  
3 available to me.

4 **JURISDICTION**

5 The date on which the highest state court decided my case was  
6 September 9, 2025. A copy of that decision appears at Appendix A.

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

8 **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

9 The United States Constitution provides specific guarantees to all  
10 residents and citizens of this fair nation, even to those who are  
11 incarcerated or convicted of felony offenses. Among them, and pertinent to  
12 the instant petition are the Fifth Amendment right to due process, the  
13 Fifth Amendment right to be free of double jeopardy, the Sixth Amendment  
14 right to access to the courts, and the Fourteenth Amendment application of  
15 the Constitution to all citizens.

16 **STATEMENT OF THE CASE**

17 On or about July 29, 2002, Opie was adjudicated a delinquent youth  
18 by the Montana Tenth Judicial District Court, in and for Fergus County  
19 (Cause no. DJ 2002-15). This youth court proceeding did not result in a  
20 conviction of a crime, as defined by law, therefore no appeal was taken by  
21 Opie. The adjudication ordered Opie be confined in the Pine Hills School  
22 for Boys, a juvenile correctional facility and that the Montana Department  
23 of Corrections take custody and supervision of the juvenile Opie until his  
24 eighteenth birthday. A provision of the adjudication required Opie  
25 register as a sexual offender until his eighteenth birthday. A copy of the  
26 adjudication can be found at Appendix B.

27 A few months prior to his eighteenth birthday, the prosecutor  
28 petitioned the youth court to have the district court supersede

1 jurisdiction over the youth court case pursuant to § 41-5-208, MCA. This  
2 petition was subject to a hearing that occurred two days prior to Opie  
3 attaining the age of majority and was granted by the youth court. Two  
4 weeks after the youth court adjudication expired (September 8, 2006), the  
5 district court held a sentencing hearing and sentenced Opie to  
6 incarceration at the Montana State Prison until his 25th birthday. As a  
7 provision of that sentence, the district court ordered Opie must register  
8 as a sexual offender as required by statute. A copy of the sentencing  
9 document can be found at Appendix C.

10 This duplicate sentencing is a violation of Opie's Fifth Amendment  
11 rights to due process and to be free of double jeopardy. Nowhere in the  
12 available statute (Title 46, Chapter 18, MCA (2005)) does it permit a  
13 district court to pronounce an adult sentence upon a juvenile offender  
14 after the juvenile adjudication has expired. Further, the sentencing court  
15 failed to adhere to mandatory statutory requirements prior to pronouncing  
16 sentence, nor does the relevant statutes allow an exception to the  
17 mandatory requirements for juvenile transfers. This violated Opie's right  
18 to due process as guaranteed by the Fourteenth and Fifth amendments. See  
19 also Sandin v. Connor, 415 U.S. 472, 115 S.Ct. 2293, 132 L.Ed.2d 418  
20 (1995) (definition of a state created liberty interest requiring due  
21 process and importance of mandatory language schema).

22 Ironically, the Montana Supreme Court relies on the proviso that  
23 relief cannot be granted on an expired sentence in its final order (App.  
24 A) in order to deny Opie relief. Yet, still permits the district court to  
25 sentence Opie after the juvenile adjudication had expired on his  
26 eighteenth birthday. This paradox requires resolution.

27 In January 2024, Opie was convicted and sentenced for failure to  
28 register as a sexual offender and aggravated cruelty to animals. Upon his

1 return to incarceration, he began to research the details of his current  
2 and previous adjudication and sentences and discovered a number of  
3 anomalies. In an attempt to correct these errors, he petitioned the  
4 Montana Supreme Court for habeas relief, each petition limited to a single  
5 proposition due to page limit requirements established by the Montana  
6 Rules of Appellate Procedure, Rule 14.

7 In each of these instances the question presented for review was  
8 ignored by the Montana Supreme Court and the petition denied. In its most  
9 recent ruling, the Montana Supreme Court admonished Opie for challenging  
10 his illegal sentences and placed an additional obstacle of requiring leave  
11 of the court prior to making any additional filings. See Appendix A, Page  
12 2. This edict represents an unconstitutional suspension of the right to  
13 habeas corpus. See Mont. Const. Art. II, § 19. This is also a violation of  
14 Opie's rights to due process and access to the courts, as guaranteed by  
15 the Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution.

16 A quick review of the petition (App. D) and subsequent ruling (App.  
17 A.) will show the question presented by the petition was not addressed by  
18 the Montana Supreme Court's order.

19 **REASONS FOR GRANTING THE WRIT**

20 The Constitutions of the United States and the State of Montana  
21 state clearly that the right to habeas corpus shall not be infringed upon.  
22 Subsequent rulings by this Court have qualified this to mean that as  
23 long as any portion of a sentencing provision persists, the offender is  
24 eligible for habeas review. This philosophy is consistent with the Montana  
25 Supreme Court's holdings in State v. Mallak, 2007 Mt 78N, 168 p.3d 702,  
26 2007 Mont. LEXIS 181, and other decisions (Kadishnikov).

27 The current decision of the Montana Supreme Court contradicts this,  
28 and, as a result, has denied Opie the opportunity to challenge the illegal

1 sentence imposed by the state district court. This is a denial of Opie's  
2 Sixth and Fourteenth Amendment rights to access to the court and guarantee  
3 of due process and equal protection.

4 Many current and former prisoners are forever held to an obligation  
5 to register as a violent and/or sexual offender. For many of these former  
6 prisoners, the qualifying sentence requiring such registration has  
7 expired. Still, even with an expired sentence, these citizens are required  
8 to register or face additional criminal penalty. If circumstances present  
9 themselves, as they have in the instant case, these offenders should, at a  
10 minimum, be able to challenge the legality of the sentencing provisions  
11 that remain in force.

12 Further, the state courts are bound by the statutes that govern  
13 sentencing guidelines. Mont Code Ann. § 46-18-111, MCA, requires the  
14 district court to order the preparation of a presentence investigation  
15 report and psychosexual evaluation in all felony sex offenses. This is a  
16 protection for the court as well as the offender and in this case these  
17 reports were ignored and the sentencing court pronounced sentence  
18 arbitrarily. It further ignored the purpose of a -208 transfer which is to  
19 continue supervision, even in a secure institution, until the deficient  
20 portions of the original adjudication are remedied. For Opie, it was a  
21 failure to complete sex offender treatment and no mention of the SOP  
22 program is made in the Sentencing Order and Judgment (App. C). Opie still  
23 remained incarcerated until his release on parole in 2010, and supervision  
24 continued until his 25th birthday, even though he completed sex offender  
25 treatment in 2008.

26 By not holding the state courts responsible for strictly adhering to  
27 the legislative mandates, this egregious violation will continue to occur.

28 Further, the Montana Supreme Court has held on numerous occasions

1 that it will not answer a question that has not been asked. Yet, its  
2 current decision is an answer to a question that was not asked. This  
3 violates Opie's access to the courts and denies him due process of law,  
4 contrary to the Sixth and Fourteenth Amendments to the U.S. Constitution.  
5 If left unchecked, this egregious behavior will continue and more  
6 constitutional violations will occur.

7 **CONCLUSION**

8 THEREFORE, based on the foregoing and with good cause shown,  
9 Petitioner prays this honorable Court grant his petition for a writ of  
10 certiorari and any other relief the Court deems appropriate.

11 The petition for a writ of certiorari should be granted.

12 RESPECTFULLY SUBMITTED this 25 day of November, 2025.

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16 Jeremy P. Opie  
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