

ROOSEVELT COUNTY  
CLERK OF COURT

TIME MAR 31 2008 FILED

*Patricia Stearns*  
PATRICIA STEARNS  
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MONTANA FIFTEENTH JUDICIAL DISTRICT COURT, ROOSEVELT COUNTY

STATE OF MONTANA	)	Cause No. 1068-C
Plaintiff,	)	
-vs-	)	ORDER
BARRY ALLEN BEACH	)	
Defendant.	)	

This matter comes before the court on Defendant's verified petition for post-conviction relief.

In Montana the primary responsibility of the prosecution is to see that justice is accomplished. Prosecutors should seek justice and not simply convictions, and should not seek victory at the expense of a defendant's constitutional rights. Although Beach's petition is procedurally and time barred, the prosecutor's brief shows the prosecution has thoroughly reviewed the evidence and again interviewed witnesses. Had this shown that Beach was truly innocent, the prosecutors would be morally and ethically bound to act to see that justice was done.

Beach's petition is procedurally and time barred. Even if the court ignored the evidentiary problems and the new versus old problems, the cumulative evidence proffered by Beach does not warrant a finding of actual innocence in support of the fundamental miscarriage of justice exemption to the time requirements.

IT IS HEREBY ORDERED the verified petition for post-conviction relief is denied.

Dated March 28, 2008

*David Cybulski*  
David Cybulski, District Judge

CERTIFICATE OF SERVICE  
This is to certify that the foregoing was duly served by mail upon parties or attorneys of record at their address or addresses this 31 day of March, 2008

*Patricia Stearns*  
PATRICIA A. STEARNS  
Clerk of Court  
West Point, MT 59201

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