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ADVANCE SHEET HEADNOTE
June 1, 2026

2026 CO 37

Nos. 24SA315, 25SA256, *Gottorff v. Exec. Dir.* – Habeas Corpus – Filing Fee Waiver – Inmate Lawsuits.

In this combined opinion, the supreme court reviews two district courts' orders, denying petitioner's petitions for a writ of habeas corpus and ordering him to pay the filing fees associated with each petition. The court concludes that the habeas courts properly denied the petitions because petitioner raised arguments that prior courts have already reviewed and ruled on or that are more appropriately resolved in petitioner's pending direct appeal. Therefore, the supreme court affirms the habeas courts' denials of petitioner's petitions for habeas relief. However, the supreme court also concludes that the habeas courts erred by determining that, under section 13-17.5-103(1), C.R.S. (2025), because the petitions were groundless, petitioner wasn't eligible for waivers of the filing fees. Section 13-17.5-102(1), C.R.S. (2025), expressly excludes "an action for habeas corpus" from the provision prohibiting waivers for groundless petitions.

Therefore, the supreme court vacates the fee-payment related portions of the habeas courts' orders.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 37

Supreme Court Case No. 24SA315
Appeal from the District Court
Chaffee County District Court Case No. 24CV9
Honorable Patrick W. Murphy, Judge

Plaintiff-Appellant:

David J. Gottorff,

v.

Defendants-Appellees:

Jason Lengerich and Moses Stancil.

Order Affirmed in Part and Vacated in Part

en banc

June 1, 2026

* * * * *

Supreme Court Case No. 25SA256
Appeal from the District Court
Chaffee County District Court Case No. 25CV7
Honorable Dayna Vise, Judge

Plaintiff-Appellant:

David J. Gottorff,

v.

Defendants-Appellees:

Bryan Coleman, Warden of the Buena Vista Correctional Facility, and Moses Stancil, Executive Director of Colorado Department of Corrections.

Order Affirmed in Part and Vacated in Part

en banc

June 1, 2026

Plaintiff-Appellant David J. Gottorff, pro se
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PER CURIAM.

PER CURIAM.

¶1 David J. Gottorff, an inmate in the Colorado Department of Corrections (“CDOC”), seeks review of two district courts’ orders, denying his petitions for a writ of habeas corpus and ordering him to pay the filing fees associated with each petition. Because the orders address the same grounds for habeas relief and contain identical payment orders, we address them together. Gottorff’s petitions raised arguments that prior courts have already reviewed and ruled on or that are more appropriately resolved in his pending direct appeal. Therefore, we affirm the habeas courts’ denials of Gottorff’s petitions for habeas relief. But because we also conclude that the habeas courts erred by concluding that Gottorff wasn’t eligible for waivers of the filing fees, we vacate the fee-payment related portions of the habeas courts’ orders.

I. Facts and Procedural History

¶2 In October 2022, Gottorff was acquitted of one count of stalking and one count of criminal mischief in case number 22CR4 in Ouray County District Court for incidents involving his neighbors between April 2021 and April 2022. In July 2023, Gottorff was convicted of three counts of attempting to influence a public servant, one count of menacing, and one count of stalking in case number 22CR8 in Ouray County District Court for incidents involving several public servants

between October 2022 and January 2023. The court sentenced him to an eight-year prison term for these convictions.

¶3 Gottorff appealed his convictions and sentences to the court of appeals.¹ See Appellant’s Notice of Appeal, *People v. Gottorff*, No. 23CA1857 (Colo. App. Oct. 30, 2023). While his appeal was pending, Gottorff filed numerous postconviction motions with the sentencing court, seeking to have his convictions and sentences vacated and to be released from custody. In these motions, Gottorff alleged that his trial, conviction, and confinement violated various criminal statutes and were barred by collateral estoppel, *see* § 18-1-302(1)(b), C.R.S. (2025), and by double jeopardy, *see* § 18-1-301(1)(a), C.R.S. (2025). He also alleged that the sentencing court improperly admitted certain CRE 404(b) evidence. The court denied these motions as they arose, concluding that they either (1) were improper because Gottorff was then represented by counsel and therefore couldn’t file pro se motions, (2) failed to state claims upon which relief could be granted, or (3) raised issues related to those raised in his pending appeal.

¶4 Gottorff then filed a civil action, case number 24CV9, in Chaffee County District Court (the “habeas court”) against Jason Lengerich (who was the Warden of the Buena Vista Correctional Facility at the time) and Moses Stancil (who is the

¹ As of the date of this opinion, the court of appeals case is still pending, awaiting final briefing.

Executive Director of CDOC), alleging illegal confinement and seeking relief under a writ of habeas corpus. *See* § 13-45-101, C.R.S. (2025). He again asserted that his prosecution in case number 22CR8 was barred by collateral estoppel and double jeopardy, based on his acquittal in case number 22CR4, and he repeated arguments related to the sentencing court’s admission of improper CRE 404(b) evidence. Gottorff also requested that he be allowed to file without paying the filing fees required by section 13-17.5-103, C.R.S. (2025).

¶5 The habeas court found that Gottorff’s petition relied “on identical factual and legal grounds” as his postconviction motions, including his motion to set aside judgment, which the sentencing court had previously denied. *Gottorff v. Exec. Dir. of Colo. Dep’t of Corr. & Warden of Buena Vista Corr. Facility*, No. 24CV9, at 2 (Dist. Ct., Chaffee Cnty., Oct. 21, 2024) (unpublished order) (“2024 habeas order”). The habeas court also noted that Gottorff’s petition sought relief on grounds that were available in his pending appeal and therefore better suited for resolution by the court of appeals. *Id.* at 3. Accordingly, the habeas court denied the petition because it was successive, groundless, and failed to state a claim upon which relief could be granted. *Id.* at 2–3.

¶6 The habeas court also concluded that Gottorff wasn’t eligible for a waiver of the filing fee and ordered him to pay \$235 within twenty-eight days of the order. *Id.* at 3. The court further ordered that if Gottorff failed to pay the fee within that

time, it should be collected in monthly installments from his inmate account as provided by section 13-17.5-103(2)(b). 2024 habeas order, at 3. Gottorff then appealed this order directly to us in case number 24SA315. *See* § 13-4-102(1)(e), C.R.S. (2025) (excluding writs of habeas corpus from the court of appeals' jurisdiction).

¶7 While awaiting our decision, Gottorff filed a second petition for a writ of habeas corpus, case number 25CV7, raising the same collateral estoppel, double jeopardy, and CRE 404(b) grounds set forth in his first habeas petition.² He also challenged the first habeas court's order regarding filing fees. The second habeas court denied the petition, for the same reasons the first habeas court denied Gottorff's first petition, and ordered him to pay the \$235 filing fee within twenty-eight days or be subject to garnishment, as before, per section 13-17.5-103(2)(b). *Gottorff v. Exec. Dir. of Colo. Dep't of Corr. & Warden of Buena Vista Corr. Facility*, No. 25CV7, at 2-4 (Dist. Ct., Chaffee Cnty., Aug. 8, 2025) (unpublished order). Gottorff appealed directly to us for review of this order in case number 25SA256.

² The defendants in this second habeas petition are Bryan Coleman, who replaced Lengerich as Warden of the Buena Vista Correctional Facility, and Stancil.

II. Analysis

¶8 Because the issues raised in both habeas petitions are the same, and because our resolution of the filing fee issue will apply equally to both orders, we discuss the two habeas courts' orders together.

A. Denial of Habeas Petitions

¶9 By constitution and statute, all those imprisoned for criminal matters in Colorado may “apply to the . . . district courts for a writ of habeas corpus.” § 13-45-101(1); accord Colo. Const. art. II, § 21; see also *Jones v. Williams*, 2019 CO 61, ¶ 9, 443 P.3d 56, 59. “A habeas corpus proceeding is a civil action, the essential purpose of which is to determine whether a person is unlawfully detained.” *Duran v. Price*, 868 P.2d 375, 377 (Colo. 1994). Such relief should be granted only “when no other form of relief is available.” *Id.* Accordingly, there are limits on such petitions. And “[w]e have repeatedly declared that the writ of habeas corpus may not be used as a substitute for an appeal and that a hearing on a writ of habeas corpus may not be used as a basis for reviewing issues resolved by another court.” *Ryan v. Cronin*, 553 P.2d 754, 755 (Colo. 1976).

¶10 Here, as the habeas courts explained, Gottorff's petitions raised arguments that prior courts have already reviewed and ruled on or that are more appropriately resolved in his pending direct appeal. Therefore, we affirm the habeas courts' denials of Gottorff's petitions for habeas relief.

B. Filing Fees

¶11 The habeas courts determined that Gottorff wasn't eligible for waivers of the filing fees based on their findings that his petitions were groundless. We conclude, and defendants concede, that this was error.

¶12 Section 13-17.5-103(1) provides that a court should deny an inmate's motion "to proceed in any civil action without prepayment of fees . . . if the action on its face is frivolous, groundless, or malicious, or fails to state a claim upon which relief may be granted." As the term is used in article 17.5, a "'civil action' does not include . . . an action for habeas corpus." § 13-17.5-102(1), C.R.S. (2025).

¶13 Therefore, Gottorff's habeas actions weren't subject to section 13-17.5-103's limitations, and the habeas courts erred by ordering him to pay those fees. *See* § 13-17.5-103(3) ("In no event shall an inmate be prohibited from filing a civil action . . . because the inmate has no assets and no means by which to pay [the fees]."). We thus vacate the fee-payment related portions of the habeas courts' orders.

III. Conclusion

¶14 We affirm in part and vacate in part the habeas courts' orders.