

ORIGINAL

FILED

07/27/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 21-0267

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 21-0267

FILED

JUL 27 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

JUSTIN CHARLES HERNANDEZ,

Petitioner and Appellant,

v.

ORDER

STATE OF MONTANA,

Respondent and Appellee.

This Court reviews briefs to ensure compliance with Rules 11 and 12 of the Montana Rules of Appellate Procedure. After reviewing the Appellant's opening brief filed on July 26, 2021, this Court has determined that the brief does not comply with the Rules and must be resubmitted.

M. R. App. P. 10(4) requires a certificate of service in the form of a statement of the date and manner of service and of the names and addresses of the persons served. M. R. App. P. 13 (2) states that a brief will not be accepted for filing "unless it is accompanied by a certificate of service as required by rule 10." The Appellant's opening brief does not contain a certificate of service.

M. R. App. P. 11(6)(b) requires the cover page of a brief to contain the title of this Court; the cause number in this Court; the title of the case from the tribunal in which the case originated or from which an appeal is taken, adding the designations of the parties set forth in M. R. App. P. 2, and the name, the venue of the tribunal, and the judge in which the case originated or from which an appeal is taken; the names, mailing addresses, telephone, fax numbers, and email addresses of respective counsel for the parties, identifying the party counsel represents and that same information if the party is proceeding without counsel; and the title of the document being filed.

M. R. App. P. 12(1) requires the opening brief of an appellant to contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited; a

statement of the issues presented for review; a statement of the case briefly indicating the nature of the case and its procedural disposition in the court below; a statement of the facts relevant to the issues presented for review, with references to the pages or the parts of the record at which material facts appear; a statement of the standard of review as to each issue raised, together with a citation of authority; a summary of the argument containing a succinct, clear, and accurate statement of the arguments made in the body of the brief; an argument containing the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and pages of the record relied on; a short conclusion stating the precise relief sought; and an appendix that includes the relevant judgment, order(s), findings of fact, conclusions of law, jury instruction(s), ruling(s), or decision(s) from which the appeal is taken together with any written memorandum or rationale of the court, and those pages of the transcript containing any oral ruling in support. The Appellant's opening brief does not meet the requirements of Rule 12.

Therefore,

IT IS ORDERED that the signed original and nine copies of the referenced brief be returned for revisions necessary to comply with the specified Rules;

IT IS FURTHER ORDERED that a signed original and nine copies of the revised brief ordered herein be filed within thirty (30) days of the date of this Order with the Clerk of this Court and that one copy of the revised brief be served on each counsel of record;

IT IS FURTHER ORDERED that the postage costs for returning the referenced copies of Appellant's brief will be billed to Appellant by the Clerk of this Court and shall be due and payable upon receipt;

IT IS FURTHER ORDERED that the Clerk of Court is directed to provide Appellant with a copy of the *Civil Handbook* for litigants proceeding before this Court without an attorney; and

IT IS FURTHER ORDERED that the times for any subsequent briefing contained in M. R. App. P. 13 shall run from the date of filing of the revised brief.

The Clerk of this Court is directed to mail a true copy of this Order to Appellant,

to mail a true copy of this Order to counsel for the State, and to provide a copy of the *Civil Handbook* to Appellant.

DATED this 27th day of July, 2021.

For the Court,

By 

Justice