

ORIGINAL

FILED

10/29/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 21-0229

IN THE SUPREME COURT IN THE STATE OF MONTANA

Case No. DA 21-0229

FILED

OCT 29 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Peter C. Grigg
Appellant

VS

APPELLANT'S BRIEF

Beaverhead EMS
Appellee

On Appeal from the Montana Fifth Judicial District Court,
County of Beaverhead
Cause No. DV-21-14372
Honorable Jennifer Lint Presiding

Appearances:

Peter C. Grigg
3055 Hwy 2 W
Kalispell, MT 59901
406-253-5381
peteg4674@hotmail.com
Pro Se

Jill Gannon-Nagle
Law Office of Jill Gannon-Nagle
PO Box 283
Dillon, MT 59725
406-683-9250
jill@jgnlawoffice.com
Attorney for Beaverhead EMS

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	2
STATEMENT OF ISSUES.....	3
STATEMENT OF FACTS.....	3
ARGUMENT.....	4
CERTIFICATE OF COMPLIANCE	9
CERTIFICATE OF SERVICE	10

TABLE OF AUTHORITIES

Montana Code Annotated 25-20-VI Rule 38 (2) (d).....	4
Montana Code Annotated 25-20-III Rule 16 (1) (2).....	5
Montana Constitutional Rights.....	5
US Constitutional Rights.....	5

STATEMENT OF THE ISSUES

Judge Lint should **NOT HAVE DISMISSED** this case for Summary of Judgment for Motion to Dismiss. Legal Counsel had asked for a Change of Venue which Mr. Grigg noted it was well taken. Judge Lint should **NOT** have dismissed under 12(6)(b) Failure to State a Claim, Beaverhead EMS and their legal counsel Jill Gannon Nagle for the Motion to Dismiss until April 14, 2021 and case dismissed on April 15, 2021. This did not allow Mr. Grigg the chance for a response to the Motion.

STATEMENT OF FACTS

Mr. Grigg started work on January 1, 2021 as a Paramedic and Manager of Beaverhead EMS which the Board had approved a contract. Mr. Grigg worked for Beaverhead EMS for approximately 20 days before he was terminated. Mr. Grigg filed a complaint in the Eleventh District Court in Flathead County with Judge Eddy presiding, for unlawful dismissal due to retaliation, threats and harassment at Beaverhead EMS. Mr. Grigg did file his pleadings in a timely fashion, with the Complaint well accepted (and answered by Beaverhead EMS); it has become apparent that Beaverhead neglected to forward the Notice to Disclosure, dated March 26, 2021 and received March 29, 2021, to Ravalli County.

The Motion to Change Venue was well taken by the Plaintiff and that Judge Eddy should have judged on the dismissal prior to the Change of Venue, not Judge Lint.

ARGUMENT

FLATHEAD COUNTY ROA LISTING

8th March 2021: Legal counsel for Beaverhead EMS files a Motion to Change venue, Affidavit in support of Motion, Brief in support of Motion, Motion to dismiss for Failure to state a claim and Brief of support of Motion. Also a Demand for Jury trial was submitted-all filed 3/16/2021 see Flathead ROA listing 5.00-9.00. May the Appeal court note that the only judgement was for Change of Venue (not objected to by the Appellant) and that the jury trial was never judged, or even dismissed by the Appellant, per ***MCA 25-20-VI Rule 38 (2)(d) Waiver; Withdrawal. A party waives a jury trial unless its demand is properly served and filed. A proper demand may be withdrawn only if the parties consent.***

17th March 2021: Scheduling conference and remote appearance set.

29th March 2021: Initial disclosures and exhibits filed by Mr Grigg.

31st March 2021: Motion for summary ruling, change of venue and brief in support (not objected to by Mr Grigg)

1st April 2021: Order, change of venue, granted.

9th April 2021: Transfer receipt.

BEAVERHEAD COUNTY ROA LISTING.

9th April 2021: Case transfer notice.

14th April 2021: Order calling in Judge Lint.

15th April 2021: Motion for Summary ruling on Defendants 12(b)(6)

4th May 2021: Case dismissed.

As you can see there was a failure to hold jurisdiction by Beaverhead county, and that all Motions presented in Flathead county had not been adjudged. Prior to Transfer the Initial disclosures and exhibits had not been answered by Beaverhead EMS, and were not addressed by either Beaverhead county or Judge Lint. The defendant 12(b)(6) should not have been judged, or even considered by Judge Lint, as it was filed in another jurisdiction; however in the meantime Initial disclosure and exhibits had been submitted to Beaverhead EMS, copied to Flathead county court (transferred) and Beaverhead county court.

There is also the grave Violation of Mr Griggs Constitutional Rights and Failure to hold jurisdiction; following e-mail communication with the Beaverhead court clerk Mr Grigg was informed "we will not be responding to any more emails from you." This was to clarify the scheduling order, in the new venue under a new judge, to which Beaverhead court stated "I have not received an order setting scheduling conference from Judge Lint yet, once we do and it is filed it will be emailed to you." Scheduling order was never received, or even set, but judgement to dismiss was; contrary to *MCA 25-20-III Rule 16 (1) Scheduling Order. Upon request by a party, except in categories of actions exempted by district court rule, the judge must issue a scheduling order after consulting with the parties' attorneys and any unrepresented parties at a scheduling conference or by telephone, mail, or other means.*

(2) Time to Issue. The judge must issue the scheduling order as soon as practicable, but in any event within 90 days of a request by a party.

Furthermore Initial disclosures were never answered by Beaverhead EMS, even though it was still under jurisdiction of Flathead county.

When Mr. Grigg placed his Motion for unlawful termination of employment, Beaverhead EMS replied and asked for a Motion to Change Venue. This was granted and the case was sent to Beaverhead County for jurisdiction, where Judge Luke Berger recused himself and transferred it to Ravalli County. The Beaverhead County Legal representative filed for a dismissal and a jury trial. Flathead County Judge Eddy didn't hold jurisdiction for this matter and couldn't order a judgement. Mr. Griggs due process in the Judicial System failed and an unfair judgement was passed. It is unknown if Beaverhead Clerk of Court understands that Judicial Jurisdiction is held in her county and a case number signed by her and that all Motions and Documentation information is passed to Ravalli County.

Mr. Grigg contacted the Clerk of Court, Cheryl Pierce, for Beaverhead County Court asking for a scheduling order; Ms Pierce stated she had no case involving Mr. Grigg against Beaverhead EMS and quite clearly stated that the Court would no longer accept his emails concerning the matter. Therefore, Mr.

Griggs Constitutional Rights for a fair and speedy trial were denied, along with his freedom of speech.

The Clerk of Court did not hold jurisdiction and claimed there was no case pending in Beaverhead County nor that there was ever, then refused to communicate with the plaintiff, Mr Grigg; failure to hold jurisdiction.

This matter started in the Eleventh Judicial District Court in Flathead County by Mr. Grigg.

Judge Jennifer Lint should not have dismissed this case due to Failure to Claim. Mr. Grigg plainly requested four years of wages and whatever the court deemed necessary for his mental anguish and financial stress that the court deemed fair and just. This was listed in his Affidavit.

Mr. Grigg was not allowed due process, since filing the case in Flathead County held no jurisdiction and the case was sent to Beaverhead County. Flathead County Judge Amy Eddy had no jurisdiction over this matter and in due process couldn't judge on the dismissal or jury trial.

The defendants Motion for a Jury trial was therefore never judged, yet never rescinded by Mr Grigg, (Rule 38)

Mr. Grigg was not allowed due process of the court system that he is entitled to as a Permanent Resident in the State of Montana.

Once the case had been Motioned for Change of Venue, Beaverhead County was granted jurisdiction however, Ravalli County Judge Lint would be the presiding judge after judge Luke Berger recused himself.

When Mr. Grigg enquired about his Motions and a scheduling order, he was greeted with that Beaverhead County did not have the case and that Clerk of Court Cheryl Pierce refused to answer anymore emails from Mr. Grigg.

Beaverhead failed to hold jurisdiction in this matter and allowed the case to be judged without Mr. Griggs filings of Motions. It is unclear if Clerk of Court Cheryl Pierce has a clear understanding of how Holding Jurisdiction works and that she is liable for the Motions to be transferred to Judge Lint. These Motions would include-Motion for Jury Trial and Motion to Dismiss, yet these were never judged; the Motion for Change of Venue was upheld.

CERTIFICATE OF COMPLIANCE

I hereby attest that the proceeding document is pursuant to rule 11(4) and that the documents line spacing is proportionally spaced; the text is double spaced; and the calculated word count is 1509.



Peter Grigg, Plaintiff.

CERTIFICATE OF SERVICE

I certify that I filed this

☐ Petition☐ Motion☒ Other APPELLANTS BRIEF.*[Name of document]*

with the Clerk of the Montana Supreme Court and that I have mailed or hand delivered a copy to each attorney of record and any other party not represented by counsel as follows:

JILL GANNON - NAGLE.*[Name of opposing counsel]*PO BOX 283.DILLON MT 59725*[Address]*Counsel for BEAVERHEAD EMS*[Other party representing himself or herself]**[Address]*DATED this 27th day of OCTOBER, 2021.*[Signature]*PETER GRIGG.*[Print name]*