

FILED

09/16/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 22-0259

Charles Coker
PO Box 476
Townsend, Montana 59644
Petitioner and Appellee
charlescoker@protonmail.com

FILED

SEP 16 2022

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE SUPREME COURT OF THE STATE OF MONTANA
NO. DA 22-0259

CHARLES PATRICK COKER,
Petitioner and Appellee,

v.

MOTION TO VACATE

EMILY JOY COKER,
Respondent and Appellant.

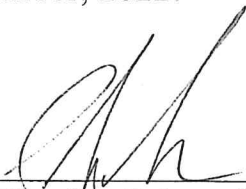
COMES NOW, Petitioner and Appellee Charles Patrick Coker and respectfully requests that this Court vacate the ORDER issued September 14, 2022, granting Respondent and Appellant Emilie Joy Coker's Motion for Extension of Time submitted on September 12, 2022.

Appellee filed an Objection to Appellant's motion on September 15, 2022. See Exhibit A, incorporated by reference as if fully set forth herein. Appellee has been informed that this Court has held Appellee's objection because the extension already was granted. In accordance with Rule 16 of the *Montana Rules of Appellate Procedure*, Appellee is permitted 11 days to file a response in objection

to any motion, unless the Court directs otherwise. Appellee filed his objection just three days after Appellant's Motion was filed.

For the foregoing reasons Appellee respectfully requests that this Court vacate the Order and consider Appellee's Objection to Motion for Extension of Time. In the alternative, as Appellant already has been granted one 30 day extension by this Court at its own discretion, Appellee respectfully requests that this Court vacate its previous order granting a 60 day extension and issue a new order that limits any extension to 30 days, as provided in Rule 26(1) of the *Montana Rules of Appellate Procedure*.

Respectfully submitted this 16th day of September, 2022.



Charles Coker, Appellee *Pro Se*

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of September 2022, I personally delivered a true and correct copy of the foregoing MOTION TO VACATE upon:

Emilie J. Coker
206 A S Loop 336W, NO. 129
Conroe, TX 77304
ec8404@gmail.com

by email and regular mail, postage prepaid.



Charles Coker, Appellee *Pro Se*

EXHIBIT A

Charles Coker
PO Box 476
Townsend, Montana 59644
Petitioner and Appellee
charlescoker@protonmail.com

IN THE SUPREME COURT OF THE STATE OF MONTANA
NO. DA 22-0259

CHARLES PATRICK COKER,
Petitioner and Appellee,

v.

OBJECTION TO MOTION
FOR EXTENSION OF TIME

EMILY JOY COKER,
Respondent and Appellant.

COMES NOW, Petitioner and Appellee Charles Patrick Coker and objects to Respondent and Appellant Emilie Joy Coker's Motion for Extension of Time filed September 12, 2022. Appellee respectfully requests that this Court deny Appellant's motion for the following reasons.

The record in this case was filed for purposes of appeal on July 15, 2022; therefore Appellant already has been provided 60 days to prepare and file Appellant's opening brief. Because this is an appeal of a proceeding regarding a parenting plan, there is "a presumption against granting motions for extension of time to file briefs." Rule 26(2) M.R.App.Pro. Appellant has failed to make the

EXHIBIT A

required showing that Appellant has exercised diligence and has substantial need for this extension. *Id.*

In addition, Appellant's motion fails to comply with the requirements of Rule 16 and Rule 26 of the *Montana Rules of Appellate Procedure*. Appellant has not contacted Appellee concerning her motion to obtain his position. *See* Rule 26(1), M.R.App.Pro., and Rule 16, M.R.App.Pro. Appellant failed to state that the opening brief originally was due on August 15, 2022, and that deadline already was extended once to September 19, 2022. *See* Rule 26(2), M.R.App.Pro. Appellant also failed to include in her motion an affidavit that included all of the requirements listed in *Montana Rules of Appellate Procedure*, Rule 26(2).

For the foregoing reasons Appellee respectfully requests that this Court deny Appellant's Motion for Extension of Time.

Respectfully submitted this 15th day of September, 2022.


Charles Coker, Appellee *Pro Se*

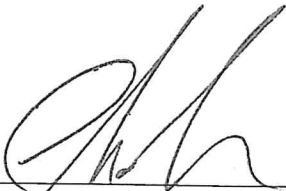
EXHIBIT A

CERTIFICATE OF SERVICE

I do hereby certify that on the 15th day of September 2022, I personally delivered a true and correct copy of the foregoing OBJECTION TO MOTION FOR EXTENSION OF TIME upon:

Emilie J. Coker
206 A S Loop 336W, NO. 129
Conroe, TX 77304
ec8404@gmail.com

by email and regular mail, postage prepaid.



Charles Coker, Appellee *Pro Se*