

ORIGINAL

FILED

01/03/2023

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 22-0584

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 22-0584

FILED

JAN 03 2023

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN RE THE MARRIAGE OF:

LORI DELOIS GUENTHNER,

Petitioner and Appellee,

and

NEAL WAYNE GUENTHNER,

Respondent and Appellant.

ORDER

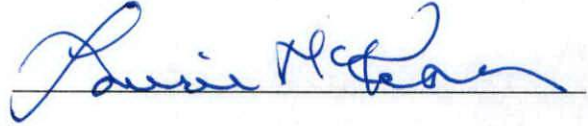
Through counsel, Lori Delois Guenther (Lori) moves this Court for dismissal of this appeal because self-represented Appellant Neal Wayne Guenther (Neal) did not file a timely brief, pursuant to M. R. App. P. 13. Neal responds in opposition, stating that he mailed the briefs on Saturday, December 3, 2022, and that he paid extra for delivery of the briefs for Monday, December 5. He adds that he learned weather delayed the delivery.

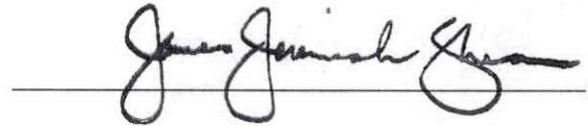
We observe that the Yellowstone County District Court electronically transmitted the record on October 12, 2022, and that this Court received a final transcript on October 28, 2022, as part of the record. Neal's opening brief was then due thirty days later, or on November 29, 2022. Neal filed his opening brief on December 8, 2022. Even though Neal's opening brief was nine days late and Lori objects, the opening brief was submitted and filed with this Court. Dismissing this appeal would be an inappropriate sanction. Therefore,

IT IS ORDERED that Lori's Motion to Dismiss Appeal is DENIED. The Response and Reply Briefs from the parties should be filed in accordance with the requirements and timelines provided in the Montana Rules of Appellate Procedure, specifically M. R. App. P. 12 and 13, as well as any motion for extension of time to file such brief. See M. R. App. P. 26.

The Clerk of the Supreme Court is directed to provide a copy of this Order to counsel of record and to Neal Wayne Guenther personally.

DATED this 1st day of January, 2023.









Justices