



ORIGINAL

FILED

06/25/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 24-0376

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 24-0376

NICHOLAS LANE JONES,

Petitioner,

v.

MONTANA THIRTEENTH JUDICIAL
DISTRICT COURT, YELLOWSTONE
COUNTY, THE HONORABLE
MARY KNISELY, Presiding,

Respondent.

ORDER

FILED

JUN 25 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Nicholas Lane Jones has filed a Petition for Writ of Supervisory Control, pursuant to M. R. App. P. 14(3)(a), over the Thirteenth Judicial District Court, Yellowstone County, and the Honorable Mary Jane Knisely. Jones contends that Judge Knisely is operating under a mistake of law. Jones contends that after reviewing the statutes for postconviction relief, “[t]here are no provisions requiring the issuance of a Summons, nor would there be a response until so ordered in accordance with §46-21-201, MCA.” Jones states that he needs an Order from this Court, directing the District Court to proceed on his pending petition for postconviction relief.

As a threshold matter, Jones’s Petition does not comply with the Montana Rules of Appellate Procedure. Jones did not serve a copy of this Petition on the District Court Judge, pursuant to M. R. App. P. 14(6). Jones served the Attorney General only.

Jones provides copies of the first two pages of a petition for postconviction relief and a December 18, 2023 Order Suspending Cause, issued in the District Court. The District Court placed his civil case for the postconviction petition on suspended status because of lack of service to counsel. The court stated that Jones filed his Complaint on May 3, 2023, and that “no proof of service or responsive pleading has been filed within 90 days of Summons[.]”

Section 46-21-201(1)(c), MCA, provides that “[t]o the extent that they are applicable and are not inconsistent with this chapter, the rules of procedure governing civil proceedings apply to the proceeding” on a petition for postconviction relief. The Montana Rules of Civil Procedure, specifically M. R. Civ. P. 4(b)(2) concerning jurisdiction and 4(c) for summons, apply to a proceeding for postconviction relief. This statute directs Jones to serve a copy of his Petition upon the County Attorney.

We have secured a copy of the District Court’s register of actions and it appears Jones may have since remedied the lack of service. On May 2, 2024, Jones filed a Proof of Service in this matter in the District Court.

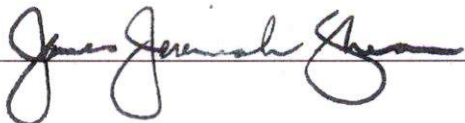
Supervisory control may be appropriate on a case-by-case basis. “This extraordinary remedy can be invoked when the case involves purely legal questions and urgent or emergency factors make the normal appeal process inadequate.” *State v. Spady*, 2015 MT 218, ¶ 11, 380 Mont. 179, 354 P.3d 590 (citing M. R. App. P. 14(3); *Redding v. McCarter*, 2012 MT 144, ¶ 17, 365 Mont. 316, 281 P.3d 189).


Supervisory control is not appropriate here. Jones has not demonstrated that the District Court is proceeding under a mistake of law, causing a gross injustice nor are there urgent and emergency factors along with a purely legal question. Jones has the remedy of appeal after the District Court issues a decision on his pending Complaint. Therefore,

IT IS ORDERED that Jones’s Petition for Writ of Supervisory Control is DENIED and DISMISSED.

The Clerk is directed to provide a copy of this Order to: the Honorable Mary Jane Knisely, District Court Judge; Terry Halpin, Clerk of District Court, under Cause No. DV-23-486; counsel of record; and Nicholas Lane Jones personally.

DATED this 25th day of June, 2024.





Dick M. Sackman

Peter Folmer
