



ORIGINAL

FILED

08/20/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 22-0665

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 22-0665

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ORDER

SCOTT ALAN LEHRKAMP,

Defendant and Appellant.

FILED

AUG 20 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Appellant Scott Alan Lehrkamp moves to strike from the State's Response Brief, filed August 1, 2024, an affidavit from a Deputy Clerk of the First Judicial District Court and a statement in the State's brief that references the information contained in the affidavit. Lehrkamp asserts that the information within the affidavit—a sampling of the number of felony filings in Lewis and Clark County from the years 1988 through 2022—was not presented to the District Court or considered by it in ruling on Lehrkamp's motion to dismiss for lack of a speedy trial. The State does not disagree but submits the information in support of its argument to this Court to reconsider the 200-day threshold for triggering a speedy trial analysis. The State argues that the statistical information simply "fleshes out the prosecutor's argument and the judge's findings of fact, which were already included in the record[,]” concerning delays caused by the court's overcrowded docket.

Rule 8(1) of the Montana Rules of Appellate Procedure provides in relevant part that "the original papers and exhibits filed in the district court, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the district court shall constitute the record on appeal in all cases." This Court is well aware of the increase in district court criminal cases over the years. More to the point, however, the Court will review the District Court's speedy trial analysis, including its consideration of the crowded docket, based on the record the parties presented to the trial court.

IT IS THEREFORE ORDERED that Lehrkamp's motion to strike is GRANTED. The Affidavit of Lisa Ann Kallio is STRICKEN from the record on appeal.

IT IS FURTHER ORDERED that the State shall have ten days from the date of this Order to electronically file a revised Appellee's Brief removing all reference to the affidavit and the information it contains. No other revisions shall be made. Counsel for the State shall submit the requisite paper copies of the revised brief to the Clerk of Court and shall serve copies of the revised brief on all counsel of record.

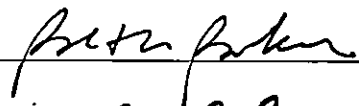
As provided in this Court's August 6, 2024 Order, Appellant's Reply Brief shall be filed on or before September 16, 2024.


The Clerk is directed to notify all counsel of record of the entry of this Order.

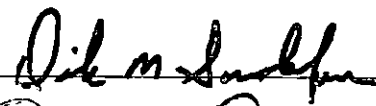
DATED this 20th day of August, 2024.

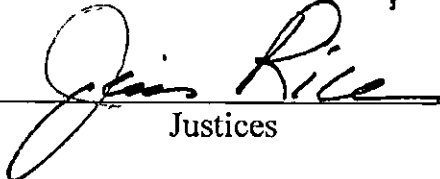


Chief Justice









Justices