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FILED

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Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

FEB 07 2025

Case Number: DA 24-0480

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana**Case No. DA 24-0480 Petition for Rehearing/Not New evidence**

Mon, Feb 3, 2025 at 3:33 PM

**Broken Man Sixty** <brokenmansixty@gmail.com>

To: ozylak475@gmail.com

25-21-20. Petitions for rehearing 1) criteria for petitions for rehearing. (i) that it overlooked some fact material to the decision. Montana annotated 25-21-14.

Under jurisdiction the supreme Court is empowered by article VII sections 1 and 2 of The Constitution they hearing determines such original remedies. Regarding: (b) "constitutional issues of statewide importance are involved" (a) "where and when filed a petition may be made to the supreme Court" "at any time the petitioner may petition" a ruling and "all supporting documents shall be filed with the clerk of supreme Court" (i) "the facts which makes it appropriate that the supreme Court accept jurisdiction. (ii) the particular legal questions anticipated or expected to be raised in the proceeding. (iii) summary fashion the arguments and authorities for accepting jurisdiction and pertaining to the merits and the particular questions and issues anticipated or expected to be raised. To the extent they exist without repetition of title of court and cause a copy of each judgment order notice pleading document proceeding or Court minute referred to in the petition for which is necessary to make out a prima facie case or to substantiate the petition or conclusion of legal effect."

This evidence submitted by Lake is not new evidence to this case. However it can be perceived as new evidence as it is applied in a different manner for which it does apply and is allowed by law defined in Montana law. In conjunction with rule 15 to "the facts relevant to the question showing fully the nature of the controversy out of which the question arose."

As Lake previously stated this evidence was presented and docketed in the district court further stating that Lake has appealed his other three cases with similar evidence.

Montana code annotated 26-10-102. Rule number 102 "these rules shall be construed to secure fairness in administration elimination of unjustifiable expense and delay and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined."

Montana code annotated 26-10-401. Definition of relevant evidence rule 401: "relevant evidence means evidence having a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Relevant evidence may include evidence bearing upon the credibility of a witness or hearsay declarant."

Rule 402 "all relevant evidence is admissible except as otherwise provided by Constitution statute these rules or other rules applicable in the courts of this state. Evidence which is not relevant is not admissible."

As for Attorney Sharps legal argument rule number 404 paragraph c "character in issue evidence of a person's character or trait of character is admissible in cases in which character or trait of character of a person is an essential element of a charge claim or defense." Lakes character is not what is up for appeal in this case nor is such evidence of the character relevant. Rule 407 "evidence of subsequent measures is not admissible to prove negligence culpable conduct."

26 - 1 - 101(2) "evidence is the means of ascertaining in a judicial proceedings the truth respecting a question of fact." (4) "proof is the establishment of a fact by evidence."

**STATEMENT OF FACT:**

The department explains that the documents Lake submitted on appeal we're not part of the district Court's judicial review. The department also points out that the notice of issues and exhibits to the reply brief concern unrelated civil court cases and alleged facts that are not at issue in this appeal. This statement is not true on September 24th 2024 Lake submitted this case which explains all the related civil issues of this attorney Sharp illustrates the judicial review process of an unemployment determination by the board the reviewing Court must limit its review of the board's findings to a considerable of which they are supported by substantial evidence and the same applies to this court. Rule one the court does not consider issues that were not raised before the board. The issues or the facts mind you we're not facts raised before the board because for one the issues Lake raised before the board was substantial evidence (document 235 and 240) supporting that Lake had already established he had been determined eligible and also allowed to backdate prior to any appeals to the District Court.

Attorney Sharp adds that "the court does not consider issues that were not raised before the Board" Wheelsmith fabrication Inc. 11-13. The supreme Court reviews unresolved issues and errors as the result of the District court rulings

**CONCLUSION:**

Rule 26(c) "opportunity to be heard." 26-1-201 "questions of law all questions of law including admissibility is decided by the court." 26-1-203 "judge effect and value of evidence except when the evidence is declared conclusive the court is the judge."

Rule 15 (2) "move at any time to amend the pleadings to conform the evidence to raise the unpleaded issue."

Rule 8(e) "pleadings must be construed to do justice."

This is not an appeal of a petition for judicial review in regards to the board's decision disqualifying Lake for

unemployment insurance benefits. These petitions and appeals for which I have properly filed under the requirements of Rule 27 M.R. Civ. P.5.1. 39-51-706 "integrity issues within the department" and violations of 39-51-701 "the unemployment integrity Act, and also Article II "elements" or "evidence of issues" or "misconduct."Article II section 18 "the state is subject to suit they shall have no immunity for injury to a person."UNDER RULE 52B TO AMEND THE FINDINGS OR FOR ADDITIONAL FINDINGS FOR RELIEF" RULE 60 "UNDER FROM JUDGMENT OR ORDER"(C) "SECURE THE OPPOSING PARTIES RIGHTS"

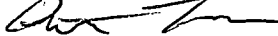
49-3-209 unlawful discriminating practice for a state or local government agency to discriminate an individual because the individual has filed the complaint. (2) May not use undue influence.

M.R. App. 8(1) this is not new evidence outside the record, but is substantial evidence that supports constitutional issues and is essential to the case and by excluding causes substantial injustice.

I respectfully request under rule 26c, Rule 61 and also Rule 62 that this court overturn the order of the department's motion to strike, allowing the petitioner due process with equal protection of the laws for a fair review of claims and evidence brought forth in pursuant for a fair review.

Dated this 3rd day of February, 2025.

Austin Lake



CERTIFICATE OF SERVICE AND VERIFICATION THAT THIS PETITION IS  
TYPEWRITTEN AND DOES NOT EXCEED 2500 WORDS IN COMPLIANCE WITH  
SECTION 3 OF THIS RULE.

I, Austin Lake, hereby certify that I have served true and accurate copies of the foregoing  
“Petition for Re-hearing” to the following:

Aleea Sharp Agency Counsel

P.O. Box 1728

Helena, MT. 59624-1728

Dated this 3<sup>rd</sup> day of Feb. 2025

A handwritten signature in black ink, appearing to read 'Austin Lake', written in a cursive style.

Austin Lake