

**FILED**

02/21/2025

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 25-0156

**IN THE SUPREME COURT OF THE STATE OF MONTANA**

Case No. DA25-0156

Matthew J. Brooks,  
Petitioner (Appellant),  
and.

TWENTIETH JUDICIAL DISTRICT COURT, SANDERS COUNTY,  
MONTANA, HONORABLE MOLLY OWEN, PRESIDING JUDGE,

Respondent (Appellee)

**FILED**

FEB 21 2025

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

**NOTICE OF APPEAL**

On Appeal from the Twentieth Judicial District Court

Cause No. DR – 22-40

Hon. Molly Owen, Presiding Judge

Matthew J. Brooks

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Plains, MT 59859

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**PRO SE**

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## NOTICE IS HEREBY GIVEN

I, Matthew J. Brooks (hereinafter “appellant”), appearing pro, hereby notifies the clerk of the Montana Supreme Court of my immediate intent to appeal the District Court *Order* denying the appellant’s *Motion for a Revised Stipulated Parenting Plan and Emergency Relief* filed on **January 21, 2025**, by the Honorable Molly Owen of the 20th Judicial District Court, Sanders County, Montana, in the above-captioned matter.

### 1. NOTICE OF APPEAL

- a. Pursuant to Montana Rule of Appellate Procedure (M. R. App. P.) 4(1)(a), the appellant notifies this Court of his immediate intention to appeal to the Montana Supreme Court the District Court *Order Motion for a Revised Stipulated Parenting Plan and Emergency Relief*, entered on **February 12, 2025**.

### 2. GROUNDS FOR APPEAL

- a. **Failure to Justify Decision Under Best Interest Standard** -- The District Court failed to provide any justification or findings based on Montana's statutory framework for determining the best interest of the child, particularly under Mont. Code Ann. § 40-4-212. The statute outlines the criteria such as:

- i. § 40-4-212(1)(a) (*physical, psychological, and emotional needs of the child*), § 40-4-212(1)(b) (*child's need for stability and continuity of care*), and § 40-4-212(1)(d) (*interaction and*

*interrelationship of the child with parents and others*), which were not adequately considered in the court's decision.

- b. **Lack of Procedural Fairness and Transparency** -- The district court's ruling lacks detailed findings of fact and conclusions of law as required by Mont. R. Civ. P. 52(a) for motions affecting fundamental rights. This oversight undermines the procedural fairness essential in family law proceedings where child custody is at stake.
- c. **Misapplication of Change in Circumstances** -- The district court's assertion that the appellant did not demonstrate a change in circumstances under Mont. Code Ann. § 40-4-219 is flawed. The appellant provided substantial evidence of rehabilitation, including sobriety and therapy, which should be recognized as a significant change under *In re Marriage of Malmquist*, 2003 MT 91, 315 Mont. 222, 69 P.3d 495, where the court acknowledged that significant parental improvement can constitute a change in circumstances.
- d. **Denial of Equal Protection Under the Law** -- The treatment of the appellant, particularly in light of the court's acceptance of the Jessica Brooks' past without similar scrutiny, raises concerns under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution and Article II, Section 4 of the Montana Constitution. The lack of equitable

application of scrutiny to both parties' histories suggests bias, as seen in *Palmore v. Sidoti*, 466 U.S. 429 (1984), where the U.S. Supreme Court emphasized that custody decisions should not be based on discriminatory standards.

e. **Impact on Child Development and Parental Rights** -- The ongoing restriction of Mr. Brooks' parenting time, without clear evidence linking his past behavior directly to the children's safety, contradicts research on child development which stresses the importance of both parents' involvement (see Warshak, R.A. (2014). Social Science and Parenting Plans for Young Children: A Consensus Report. *Psychology, Public Policy, and Law*, 20(1), 46-67). This denial of time with his children is detrimental to their emotional and psychological development, impeding Mr. Brooks' constitutional rights as a parent.

f. **Judicial Discretion Abused or Misused** -- The district court appears to defer entirely to the opposing counsel's position without independent analysis, potentially indicating an abuse of discretion as outlined in *In re Marriage of Hedges*, 2002 MT 126, 310 Mont. 152, 49 P.3d 160, where Montana Supreme Court stressed that judicial discretion must be exercised with reason.

**3. RELIEF SOUGHT:**

The Appellant will respectfully request this Honorable Court to do the following:

- a. Reverse the District Court's order denying the motion for a revised parenting plan.
- b. Remand the case for reconsideration with explicit findings on how the current order serves the children's best interests under Mont. Code Ann. § 40-4-212.
- c. Grant any further relief the Court deems just and proper.

**DATED 18th day of February 2025**

Respectfully submitted,

Matthew J. Brooks

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**PRO SE**

DATED: 2-18-2017

SIGNED: \_\_\_\_\_



Appellant



### **CERTIFICATE OF COMPLIANCE**

Pursuant to Mont. R. App. P. 12, and in compliance with Mont. R. App. P. 14(9)(b), I, Matt J. Brooks, hereby certify that Notice of Appeal has been prepared using a proportionally spaced, 14-point Times New Roman and is double-spaced, except for headings, footnotes, and quoted and indented material. The document's margins are at least one inch on all sides. Moreover, this document contains 649 words, exclusive of the certificate of compliance, table of contents, table of authorities, exhibit index, and any addendum containing statutes, rules, regulations, etc., as calculated by the word-processing system used to prepare this document.

DATED: 2-18-2025

SIGNED: 

Appellant

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>th</sup> day of February 2025, a true and correct copy of the foregoing document was served by mail to the following attorneys at the address listed below:

Emily A. Lucas

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**Jessica Brooks' Attorneys**

DATED: 2-18-2025

SIGNED: \_\_\_\_\_

  
Appellant

## **CERTIFICATE OF SERVICE**

I, Mathew J. Brooks, hereby certify that I have served true and accurate copies  
electron of foregoing Notice of intent to appeal to the following on 2-18-2025:

20<sup>th</sup> Judicial District Court (Respondent)

DATED: 2-18-2025

SIGNED:

  
Appellant