

IN THE SUPREME COURT OF THE STATE OF MONTANA

Cause No. OP 25-

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Z.M.L.,

Petitioner,

v.

YOUTH COURT OF THE MONTANA FOURTH JUDICIAL DISTRICT  
COURT, MISSOULA COUNTY, THE HONORABLE JOHN W.  
LARSON PRESIDING,

Respondent.

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**PETITION FOR WRIT OF SUPERVISORY CONTROL AND  
REQUEST FOR IMMEDIATE STAY**

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APPEARANCES:

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JOHN W. LARSON  
District Court Judge  
200 West Broadway  
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RESPONDENT

ATTORNEY FOR PETITIONER

## **INTRODUCTION**

The petition arises from a matter currently pending in the Youth Court of the Fourth Judicial District, Missoula County: *In re Z.M.L.*, DJ-32-2024-91-DY. Z.M.L. petitions this Court to issue a writ of supervisory control directing the Honorable John W. Larson to reverse the youth court's consent decree and to grant the State and Z.M.L.'s stipulation and joint motion to dismiss the State's formal delinquency petition.

Z.M.L. also makes two subsidiary, procedural requests while this petition is pending. First, Z.M.L. requests an immediate stay of the lower court orders and proceedings. *See* Mont. R. App. P. 14(7)(c) (authorizing this Court to grant such a stay). Second, Z.M.L. requests leave to file, once it becomes available, the transcript from the youth court's February 28, 2025 hearing (the transcript has been ordered but it was not produced in time for this petition's filing).

## **FACTUAL AND PROCEDURAL BACKGROUND**

In September 2024, Z.M.L. allegedly committed acts that might, if committed by an adult, constitute several misdemeanors. (Consent Adjustment without Petition (attached, Ex. A); Motion and Affidavit for

Leave to File Petition (attached, Ex. B); Petition (attached, Ex. C).)

That same month, youth probation and Z.M.L. signed a consent adjustment agreement. (Ex. A.) The agreement specified that if Z.M.L. withdrew from or violated the agreement, the State could file a formal delinquency petition. (Ex. A.)

A communication breakdown occurred between Z.M.L.'s youth probation officer and Z.M.L.'s mother. (1/30/25 Tr. at 5 (attached, Ex. E).) In response, the State filed a formal petition charging Z.M.L. as a delinquent youth in November 2024. (Exs. B, C.) The State's petition referenced misdemeanor criminal statutes, and none of the State's allegations referenced drug use. (Exs. B, C.)

At hearings on January 23 and 30, 2025, Z.M.L. moved to dismiss the State's petition without prejudice, and the State did not oppose the motion. (1/23/25 Tr. at 3–4 (attached, Ex. D); Ex. E at 4.) But the court refused to dismiss, explaining, "The prosecutor doesn't get to make decisions, other than filing and dismissing with prejudice." (Ex. E at 3–4.) The court ordered that Z.M.L. perform a drug test and overruled Z.M.L.'s objection that the order was not authorized under Mont. Code

Ann. § 41-5-1503(4)<sup>1</sup> since there was no indication Z.M.L. has ever used any illegal substance. (Ex. E at 11–12.)

On February 18, the State and Z.M.L. filed a stipulation and joint motion to dismiss. (Joint Stipulation and Motion to Dismiss (attached, Ex. F).) In the filing, the parties explained that “the circumstances which led to the filing of a formal petition have been abated and continuing under a formal petition is no longer necessary.” (Ex. F at 3.) The stipulation and motion explained that “the Youth has no intention of admitting guilt or otherwise making a valid admission in this case, and the State has no intention of proceeding to a contested trial.” (Ex. F at 3.) The stipulation and motion responded to a notion espoused by the youth court in other proceedings that the court could not dismiss a case after the filing of a formal petition. (See Ex. F at 1–3.) The parties’ joint stipulation and motion identified (1) specific dismissal authority within the Montana Youth Court Act, (2) caselaw recognizing that authority, (3) corresponding civil and criminal authority, and

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<sup>1</sup> “In a proceeding alleging a youth to be a delinquent youth, *upon a finding of an offense related to use of alcohol or illegal drugs*, the court may order the youth to undergo urinalysis . . . .” Section 41-5-1503(4) (emphasis supplied).

(4) precedent in comparable matters where this Court held courts erred in denying unopposed motions to dismiss. (Ex. F at 1–3.) The parties’ stipulation and motion did not suggest Z.M.L. would be subject to informal probation upon the formal petition’s dismissal. (*See* Ex. F.)

At a status hearing on February 24, the court directed Z.M.L.’s counsel to have Z.M.L. sign a release so the court could obtain Z.M.L.’s school records. (2/24/25 Minute Entry (attached, Ex. G).) The court did not rule on the pending stipulation and motion to dismiss. (*See* Ex. G.)

At a status hearing on February 27, the State confirmed that the pending stipulation and motion to dismiss contemplated dismissal without prejudice. (2/27/25 Tr. at 8 (attached, Ex. H).) The court asserted, “[T]he practice in Youth Court is not to provide for such a motion when a petition is formally filed.” (Ex. H at 8.) Thereupon, the court cited the consent decree statute, Mont. Code. Ann. § 41-5-1501, and entered “a stay sua sponte.” (Ex. H at 8.) The court explained, “The Court has entered a sua sponte stay order pursuant to 41-5-1501 that requires continued supervision by Youth Court under the terms” of the consent adjustment agreement from September 2024, plus that Z.M.L. “be screened for treatment court” and that school and treatment

records be released to the court. (Ex. H at 9–10.) Z.M.L. objected both to the order regarding releasing Z.M.L.’s private records and to the treatment court screening order, especially considering Z.M.L.’s previously ordered urinalysis test showed she was negative for any substances. (Ex. H at 12–13.)

At a status hearing on February 28, Z.M.L. objected to the court continuing the proceedings and to the court’s “stay” order from the previous day. (2/28/25 Minute Entry<sup>2</sup> (attached, Ex. I).) The court set another status hearing for March 14, 2025. (Ex. I.)

On March 4, the court issued a written order “suspending the proceedings.” (Order Suspending Proceedings Pursuant to Mont. Code Ann. § 41-5-1501(1)(a) and Order to be Screened for Youth Treatment Court (attached, Ex. J).) The order conditioned the suspension on Z.M.L.’s compliance with the old September 2024 consent adjustment’s terms and on additional terms specified by the court. (Ex. J).) The court again relied on § 41-5-1501(1)(a) as authority for its order. (Ex. J.) The order’s terms included requirements that Z.M.L. “[p]articipate

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<sup>2</sup> As mentioned, a transcript from this hearing has been ordered but was not yet available at the time of the filing of this petition. Z.M.L. therefore requests leave to file the transcript once it is prepared.

in regular school attendance,” “[e]nroll and participate in the Youth Crisis Diversion Project,” and “be screened for Youth Treatment Court.” (Ex. J.) The order also required that Z.M.L.’s medical records from April to September 2024 and Z.M.L.’s mental health evaluation be delivered to the court and the youth treatment court coordinator. (Ex. J.)

This petition follows.

### **SUMMARY OF THE ARGUMENT**

The lower court has overstepped its authority, aggrandized its power, and caused a gross injustice.

The law provides that, just as a civil complaint or a criminal charging document may be dismissed, so too may a formal youth court delinquency petition be dismissed. When considering a motion to dismiss filed by a case’s plaintiff, the driving consideration is whether the action’s respondent will be prejudiced by the case’s dismissal. When the case’s respondent joins a motion to dismiss, there is no basis to infer prejudice, and it becomes largely incumbent on the court to dismiss.

After the parties filed their stipulation and joint motion to dismiss in this case, the lower court had no sound basis to refuse to dismiss.

The court's assertion that its practice is not to grant motions to dismiss in youth cases does not establish that practice as lawful in any case, much less this case, where the parties filed a joint motion to dismiss, explained the motion, and indicated their intents not to admit or prove the allegations at the center of the case. The lower court had no authority to respond to the motion to dismiss by ordering a consent decree with terms restricting Z.M.L.'s liberty and invading her privacy. A consent decree requires consultation with probation, consent of the parties, and an admission by the youth. None of those occurred here. The lower court is committing clear mistakes of law that are resulting in gross injustice. This Court should issue a writ of supervisory control and order the lower court to dismiss this case in accordance with the law and the wishes of the case's litigants.

## **ARGUMENT**

### **I. Supervisory control is necessary.**

This Court supervises Montana's other courts. Mont. Const. art. VII, § 2(2). This Court may issue a writ of supervisory control "when urgency or emergency factors exist making the normal appeal process inadequate, when the case involves purely legal questions," and when



the case either involves “[c]onstitutional issues of state-wide importance” or the lower “court is proceeding under a mistake of law and is causing a gross injustice.” Mont. R. App. P. 14(3)(a)-(b). “Judicial economy and inevitable procedural entanglements are appropriate reasons to exercise supervisory control where a mistake of law will affect virtually all aspects of the case . . . .” *Redding v. Mont. First Judicial Dist. Court*, 2012 MT 144A, ¶ 18, 365 Mont. 316, 281 P.3d 189. In *Covington v. Mont. Eighth Jud. Dist. Ct.*, OP 23-0460, 2023 Mont. LEXIS 919, at \*6–7 (Sep. 20, 2023), the Court exercised supervisory control to remedy the lower court’s “err[or] in denying the State’s motion to dismiss [a] revocation petition” when that error was delaying justice.

Supervisory control is appropriate in this case for several reasons. First, the lower court’s effective denial of the stipulation and motion to dismiss has delayed the case’s end in contravention of judicial and government efficiency and Montana law. Second, the lower court has exploited the delay by imposing unlawful orders restricting Z.M.L.’s liberty and invading Z.M.L.’s privacy. Third, direct appeal would not offer a timely remedy to Z.M.L. for the court’s unlawful orders. The

lower court's orders and continuation of the case require Z.M.L.'s immediate and continuing compliance, and it is not clear that the lower court's purported consent decree represents a final judgment appealable on direct appeal because the order merely suspends the proceedings and does not end them. *See* Mont. R. App. P. 4(a) (defining a final judgment as one that "conclusively determines the rights of the parties and settles all claims in controversy"). Fourth, this case presents an issue of statewide importance because the same judge presides over other youth cases where similar issues have and will continue to arise (Ex. E at 7), just as they may arise in other youth courts. Finally, the lower court's encroachment on the executive's authority to choose to end its case implicates the separation of powers. *See State ex rel. Fletcher v. Dist. Ct.*, 260 Mont. 410, 418, 859 P.2d 992, 997 (1993) ("*Fletcher*"). This case meets the criteria for supervisory control.

**II. The lower court is proceeding under a mistake of law and causing gross injustice by refusing to dismiss and imposing an unlawful consent decree.**

The Montana Youth Court Act regulates youth delinquency actions and proceedings in Montana. *See* Mont. Code Ann. Title 45, Ch. 5. The Act specifically authorizes dismissal of a formal delinquency

petition “on the motion or petition of any interested party at any time.” Mont. Code Ann. § 41-5-205(1). This dismissal authority is statutorily separate from the authority to enter a consent decree and suspend a formal petition under § 41-5-1501. Accordingly, “the procedural options” following the filing of a formal delinquency petition include “subsequent dismissal of the petition,” separate from other options like entry of a consent decree or formal adjudication. *In re D.A.T.*, 2022 MT 174, ¶ 19, 410 Mont. 1, 517 P.3d 157.

Although this Court has not previously addressed the specifics of the standard for dismissal under § 41-5-205(1), that does not mean there is no standard or that a youth court considering dismissal has carte blanche.

Formal delinquency petition proceedings are a species of “civil proceeding[s].” *In re D.A.T.*, ¶ 11. The Montana Rules of Civil Procedure generally govern civil proceedings. Mont. R. Civ. P. 1. The Montana Rules of Civil Procedure provide for as-of-right dismissal of a case upon “stipulation of dismissal signed by all parties” and, additionally, discretionary dismissal on the “the plaintiff’s request.” Mont. R. Civ. P. 41(1)(A)(ii), (a)(2). As this Court has explained, a court

has limited discretion not to dismiss despite the plaintiff's request; "the general rule is that dismissal should be allowed unless the defendant will suffer some plain legal prejudice." *Petriz v. Albertsons, Inc.*, 187 Mont. 102, 107, 608 P.2d 1089, 1092 (1980).

Additionally, adult criminal law authorizes a case's dismissal if it is "in the furtherance of justice" and—when the case involves felony—upon "good cause." Mont. Code Ann. § 46-13-401(1). As in a civil action, in a criminal action, a court has limited discretion not to dismiss upon a motion filed by the case's plaintiff (*i.e.*, the State); a court may not "deny a motion to dismiss filed by the prosecutor when that motion meets the good cause and furtherance of justice elements." *Fletcher*, 260 Mont. at 418, 859 P.2d at 997. That's because the decision to continue a prosecution is a matter delegated to the executive branch unless the prosecution is otherwise barred. *Fletcher*, 260 Mont. at 417–18, 859 P.2d at 996–97. When the executive is "acting lawfully and within [that] constitutional and statutory authority, the district court may not interfere . . . without violating the separation of powers embodied in Article III, Section 1 of the Constitution of the State of Montana." *Fletcher*, 260 Mont. at 418, 859 P.2d at 997.

Also relevant, this Court has twice exercised supervisory control and reversed lower court denials of joint party motions to dismiss revocation petitions. *See Covington*, at \*6–7; *Elendil v. Mont. Eighth Judicial Dist. Ct.*, OP 23-0322, 2023 Mont. LEXIS 698, at \*9 (July 6, 2023). In both cases, this Court reasoned that where the State had admitted it would not prove the merits of the charging documents’ allegations, the lower court’s refusal to dismiss only delayed and subverted the cause of justice. *Covington*, at \*6–7; *Elendil*, at \*9.

The Montana Youth Court Act is intended “to provide judicial procedures in which the parties are ensured a fair, accurate hearing and recognition and enforcement of their constitutional and statutory rights.” Mont. Code Ann. § 41-5-102(4). Unless specifically precluded, juveniles have the same fundamental rights as adults. Mont. Const. art. II, § 15. When the Montana Youth Court Act contemplates something but does not delineate a clear standard for it, the Court must “fill in the gap left by the legislature in an equitable fashion that most nearly effectuates the intent of the legislature.” *In re T.M.R.*, 2006 MT 246, ¶ 18, 334 Mont. 64, 144 P.3d 809 (internal quotation marks and citation omitted). Where several provisions of law might apply in a

particular situation—such as, here, with dismissal authority under both § 41-5-205(1) and Rule 41 applying—this Court seeks to harmonize the applicable provisions. *State v. Brendal*, 2009 MT 236, ¶ 18, 351 Mont. 395, 213 P.3d 448; *accord* Mont. Code Ann. § 1-2-101.

Under the same interests identified in civil actions generally as well as under criminal and revocation law, the lower court is proceeding under a mistake of law by refusing to dismiss. A stipulation signed by the parties is sufficient to dismiss an action under Rule 41(1)(A)(ii) because a court’s driving consideration regarding dismissal is to ensure dismissal does not prejudice the defendant, *see Petritz*, 187 Mont. at 107, 608 P.2d at 1092. That a defendant stipulates for dismissal ensures a lack of prejudice. Here, the parties stipulated and jointly moved for dismissal. With Z.M.L. joining the motion, there is no basis to conclude dismissal would prejudice her. And with dismissal not causing Z.M.L. “some plain legal prejudice,” *Petritz*, 187 Mont. at 107, 608 P.2d at 1092, the lower court’s refusal to dismiss is a legal error under § 41-5-205(1) and Rule 41.

The interests of justice also support dismissal. The parties explained to the lower court that the circumstances have changed such

that a formal petition is no longer necessary. (Ex. F at 3.) Additionally, as in *Covington* and *Elendil*, the State has, in this case, admitted it does not intend to prove the allegations set forth in its charging document. (Ex. F at 3.) The lower court’s effective denial of the motion to dismiss in these circumstances only delays justice and unnecessarily wastes judicial and government resources. *See Covington*, at \*6–7; *Elendil*, at \*9. The court’s refusal to dismiss also raises separation of powers concerns as the lower court has effectively taken over a prosecution that the executive branch does not support. *Fletcher*, 260 Mont. at 418, 859 P.2d at 997.

Despite the law requiring dismissal, the lower court entered an order that would permit it to continue presiding over this case. Citing the consent decree statute as authority, the court ordered the case “suspended” under specific terms requiring ongoing compliance and monitoring by the court. (Ex. J.) Section 41-5-1501(1)(a), however, states that a consent decree requires that its terms and conditions are “negotiated with probation services and agreed to be all necessary parties.” And § 41-5-1501(2) commands that consent decree “may not be used by the court unless the youth admits guilt for a charge of an

offense set forth in the petition and accepts responsibility for the youth's actions." Section 41-5-1501(1)(a), (2); *accord In re C.L.*, 2021 MT 294, ¶ 18, 406 Mont. 258, 98 P.3d 758. Here, the terms of the lower court's decree were not negotiated with probation services, they were not consented to by the parties, and Z.M.L. has not admitted guilt to any formal charge—to the contrary, Z.M.L. has told the court she has no intention of making any such admission. (Ex. G at 3.) The court's decree is plainly illegal.

Illegal though they are, the lower court's actions are significantly affecting Z.M.L.'s young life, requiring her participation in a crisis program and in treatment court (despite no indication she uses substances); requiring that she have her private medical records reviewed by the lower court and others; and requiring that she keep on dealing with a case that all of the parties agree should be over. This is a gross injustice.

### **CONCLUSION**

It is necessary and appropriate for this Court to exercise supervisory control. Z.M.L. petitions this Court to enter a writ of supervisory control reversing the lower court's suspension of the



proceedings and ordering the lower court to dismiss the State's formal delinquency petition.

Respectfully submitted this, the 12th day of March, 2025.

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By: /s/ Alexander H. Pyle  
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## **CERTIFICATE OF COMPLIANCE**

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal petition is printed with a proportionately spaced Century Schoolbook text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 3,083, excluding Certificate of Service, Certificate of Compliance, and Exhibits.

/s/ Alexander H. Pyle  
ALEXANDER H. PYLE  
Assistant Public Defender

## **EXHIBITS**

Consent Adjustment without Petition.....	Ex. A
Motion and Affidavit for Leave to File Petition .....	Ex. B
Petition.....	Ex. C
Transcript of Jan. 23, 2025 hearing .....	Ex. D
Transcript of Jan. 29, 2025 hearing .....	Ex. E
Joint Stipulation and Motion to Dismiss.....	Ex. F
Minutes of Feb. 24, 2025 hearing .....	Ex. G
Transcript of Feb. 27, 2025 hearing .....	Ex. H
Minutes of Feb. 28, 2025 hearing .....	Ex. I
Order Suspending Proceedings Pursuant to Mont. Code Ann. § 41-5-1501(1)(a) and Order to be Screened for Youth Treatment Court .....	Ex. J

## **CERTIFICATE OF SERVICE**

I, Alexander H. Pyle, hereby certify that I have served true and accurate copies of the foregoing Petition - Writ to the following on 03-13-2025:

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Dated: 03-13-2025