IN THE SUPREME COURT OF THE STATE OF MONTANA

Case No. DA 25-0156

IN RE THE PARENTING OF:

J.E.B. and B.L.B., Minor Children

Jessica L. Brooks,

Petitioner -Appellee,

and.

Matthew J. Brooks,

Respondent - Appellant

APPELLANT'S OPENING BRIEF

On Appeal from the Twentieth Judicial District Court

Cause No. DR-22-40

Hon. Molly Owen, Presiding Judge

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STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Did the District Court err by denying Appellant's motion to revise the parenting plan without findings linking his compliance with court-ordered requirements to the best interests of J.E.B. and B.L.B. under Mont. Code Ann. § 40-4-212?
2. Did the District Court misapply Mont. Code Ann. § 40-4-219 by failing to recognize Appellant's rehabilitation as a change in circumstances justifying an amendment to the parenting plan?
3. Did the District Court violate procedural fairness by issuing an order without detailed findings of fact or conclusions of law, as required by Mont. R. Civ. P. 52(a), in a matter affecting Appellant's fundamental parental rights?
4. Does the District Court's disparate scrutiny of Appellant's past compared to Appellee's raise equal protection concerns under the Fourteenth Amendment and Mont. Const. art. II, § 4?

STATEMENT OF THE CASE

Background:

I, Matthew J. Brooks (hereinafter "appellant"), am a father who has poured my heart into being there for our minor sons, J.E.B. (born January 3, 2019) and B.L.B. (born March 15, 2020). Appellant, a lineman by trade, trained at Mitchell Tech (2007), appellant's life's dream has been to raise appellant's family on their generational ranch in Plains, Montana—a place of stability and love. Jessica L.

Brooks (appellee), the minor children mother and a nurse, and appellant married on **October 25, 2019**, in a union born of hope and shared struggles (Findings of Fact, Conclusions of Law, and Decree, June 2023, pg. 1). The parties' marriage ended on August 1, 2023, but not appellant's commitment to the parties' minor boys (Aff.).

The parties' initial Stipulated Final Parenting Plan entered **June 19, 2023** (Cause No.: DR-22-40), reflected a mutual agreement to prioritize the parties' children's welfare (Stipulated Plan, pg. 1). It granted appellant increasing parenting time—every other weekend initially, with a structured progression to ensure I remained a steady presence in J.E.B. and B.L.B.'s lives (*Id.*, pg. 2-3). This plan, crafted under Mont. Code Ann. § 40-4-212 embodied appellant's promise to be a father the children could rely on, despite the challenges life had thrown appellant's way.

Procedural History:

This appeal arises from a custody dispute that tests appellant's resolve and the District Court's adherence to Montana law. In **June 2022**, Jessica sought a Temporary Order of Protection (Cause No.: DR-22-397), alleging an incident that led her to flee with the parties' boys (Order of Protection, July 12, 2022, pg. 1). Appellant pled guilty to disorderly conduct (Mont. Code Ann. § 45-5-206) on **August 24, 2022**, accepting responsibility for a moment of weakness. Still, appellant dispute the exaggerated claims of abuse (Affidavit, December 2024). The district

court modified the order, granting appellant unsupervised weekends starting **July 15, 2022**, recognizing my role as a father (Order of Protection, pg. 2).

The Stipulated Plan followed, a beacon of hope until **October 27, 2023**, when an altercation with appellant's then-partner, Erica Sharp—separate from appellant's time with J.E.B. and B.L.B.—prompted Jessica to file an Ex Parte Motion for supervised visitation (November 3, 2023). However, appellant have maintained his sobriety since October 28, 2023 (Aff.) On **February 6, 2024**, the District Court adopted her Amended Parenting Plan, imposing conditions: six months of therapy, a chemical dependency evaluation, and sobriety (Findings of Fact, pg. 9-10). Appellant embraced these challenges, not out of pride, but out of love for appellant's sons.

Appellant completed six months of bi-weekly therapy with Maria Dumontier at CSKT Tribal Health from April 2 to **October 2024**, transitioning to monthly sessions (Exhibit A, December 31, 2024). On **November 8, 2024**, Craig Struble, LCSW, LAC, SAP, assessed appellant's substance use, confirming over a year of sobriety and no need for further treatment (Exhibit B, November 11, 2024). Appellant also finished anger management, batterers intervention, and parenting classes (Affidavit, December 2024). Yet, appellant's motions to restore unsupervised time—filed in good faith (Aff.) on **December 10, 2024**, and **January 21, 2025**—were denied with minimal explanation (Orders, December 23, 2024, and

February 12, 2025). This appeal challenges the **February 12, 2025**, order, seeking justice for the parties' boys and appellant (Aff.).

STATEMENT OF FACTS

Appellant, a man who's made mistakes, but my love for J.E.B. and B.L.B. has never wavered (Aff.). Born May 25, 1987, I grew up in Wyoming, dreaming of a family on our Montana ranch—a fourth-generation legacy of hard work and kinship (Aff.). Appellant trained as a lineman at Mitchell Tech, graduating in 2007, because appellant knew physical labor, not an office, was appellant's path to provide for those appellant love (Aff.). Appellant's first marriage, lasting ten years, ended in heartbreak when appellant's ex-wife rejected parenthood at age 27, leaving appellant to rebuild (Aff.).

Appellant met Jessica in Casper, Wyoming, in 2016, after she left a note on appellant's door (Aff.). Jessica's past was heavy—meth addiction with a friend, Maybel, a felony later expunged, and a childhood scarred by alcoholic parents and her mother's suicide at while Jessica was at the young age of 13 (Aff.). Jessica moved to Casper for nursing school, seeking redemption, supported by her uncle in Green River (Aff.). Appellant admired her resilience, even if love came slowly. The parties had J.E.B in 2019, married that October, and welcomed B.L.B. in 2020. Appellant worked tirelessly, buying a house and 40 acres in Casper, determined to

give the parties' boys the stability appellant lacked growing up in a split home (Aff.).

The parties' marriage faltered in 2022. Jessica fled with the boys, alleging abuse after an argument where appellant regrettably threw water in the heat of the moment—not causing harm and not near J.E.B. or B.L.B. (Affidavit, December 2024). Appellant took accountability and pled guilty to disorderly conduct, a low point appellant has owned, but appellant has never hurt his boys (Aff.). An earlier wildlife violation in 2018 (16 U.S.C. §§ 1538, 1540) reflects a youthful error, not appellant's character as a father (Aff.). The Stipulated Plan of **June 19, 2023**, gave appellant every-other-weekend time, increasing annually—a lifeline to appellant's boys (Stipulated Plan, pg. 2-3).

On **October 27, 2023**, an incident with Erica Sharp—outside appellant's parenting time—changed everything (Findings, February 6, 2024, pg. 3). We argued; I fell on her accidentally, splitting her cheek (Affidavit, December 2024). Some alcohol was involved then, but the minor boys were not present (Aff.). Jessica's motion claimed appellant used alcohol around the parties' minor children, but no evidence supports this besides an old photo with the appellant holding a beer can (Ex Parte Motion, November 3, 2023). The court ordered supervised visits at Planet Kids, therapy, and an evaluation (Findings, pg. 9-10).

Appellant took it seriously. From **April 2** to **October 2024**, appellant attended

bi-weekly therapy with Maria Dumontier, addressing appellant's flaws—anger past drinking—to be a better dad (Exhibit A). On **November 8, 2024**, Craig Struble assessed appellant, finding over a year of sobriety and no treatment needed (Exhibit B). Appellant completed anger management (November 29, 2023), batterers intervention (January 12, 2024), and parenting classes (January 16, 2024, February 24, 2024) (Affidavit, December 2024). Since supervised visits began, appellant has never missed a chance to see J.E.B. and B.L.B., driving from Plains to Missoula with appellant's mother, the boys' grandmother (Aff.).

Jessica's counsel, Emily Lucas, demands more—collateral input from Erica—beyond the Plan's alcohol provision (Response Brief, February 3, 2025, pg. 6). The District Court agreed, denying appellant's motions (December 10, 2024; January 21, 2025) with no link to the parties' boys' safety (Order, February 12, 2025). Appellant appeal, not for appellant, but for the parties' boys—to give them their dad, ranch, and heritage.

STANDARD OF REVIEW

This Court reviews parenting plan decisions for abuse of discretion—whether the District Court acted arbitrarily, without reason, or contrary to law (*In re Marriage of Hedges*, 2002 MT 126, ¶ 11, 310 Mont. 152, 49 P.3d 160). Justice Rice, in *Hedges* (¶ 15), demands evidence-based rulings, not caprice. Legal interpretations, like Mont. Code Ann. §§ 40-4-212 and 40-4-219, receive de novo

review, ensuring statutory fidelity (*In re Marriage of Guffin*, 2010 MT 77, ¶ 11, 356 Mont. 37, 231 P.3d 598). Justice Shea, in *Guffin* (¶ 14), insists on precision here.

Procedural fairness, under Mont. R. Civ. P. 52(a), also warrants de novo scrutiny when fundamental rights—like appellant's bond with J.E.B. and B.L.B.—are at stake (*In re Marriage of Bartsch*, 2004 MT 177, ¶ 19, 322 Mont. 167, 95 P.3d 1018). Justice Cotter, in *Bartsch* (¶ 22), emphasizes transparency in such cases. This Court's Justices—McGrath, Rice, Shea—will expect clarity, evidence, and fairness, standards appellant humbly asks this Court to enforce.

SUMMARY OF ARGUMENT

Appellant stands before this Court not as a perfect man, but as a father who's stumbled, learned, and risen for J.E.B. and B.L.B. The District Court's **February 12, 2025**, order denies appellant unsupervised time without tying appellant's efforts—sobriety, therapy, classes—to the children's best interests under Mont. Code Ann. § 40-4-212. Appellant's year-plus of sobriety and rehabilitation are changes under § 40-4-219, yet the court ignored them, misreading the law. The court order lacks the findings. Mont. R. Civ. P. 52(a) requires, denying appellant fairness. And the district court's scrutiny of the appellant's past, while sparing

Jessica's, raises equal protection concerns under the U.S. and Montana Constitutions.

Appellant has met every requirement—therapy with Maria Dumontier (Exhibit A), a clean evaluation from Craig Struble (Exhibit B)—because appellant loves his boys, not to prove a point (Aff.). The alcohol provision doesn't apply; appellant's incident with Erica was miles from the parties' children (Aff.). Yet, Lucas demands more, and the court follows, leaving the parties' boys without their dad's full presence. The minor children deserve stability, appellant's ranch embrace, and the minor boys' Native heritage—not a legal limbo (Aff.). Appellant begs this Court to see his heart, reverse this error, and let him be the father the minor boys need.

ARGUMENT

I. *The District Court Erred by Failing to Apply the Best Interest Standard*

Mont. Code Ann. § 40-4-212 governs parenting plans, demanding they serve the child's best interest. Its factors guide this Court:

a. (1)(a): Physical, psychological, and emotional needs—appellant offer a safe home on family ranch, sobriety since 2023 (Exhibit B), and a father's love to nurture J.E.B. and B.L.B.'s growth.

b. (1)(b): Continuity and stability—supervised visits at Planet Kids, two hours weekly, fracture this; the Stipulated Plan's rhythm (pg. 2-3) restores it.

c. (1)(c): Past abuse—appellant's **October 27, 2023** incident with Erica was not near the parties' boys (Aff.); no evidence shows appellant ever harmed the boys (Aff.).

d. (1)(d): Interaction with parents—restrictions shrink our time, against Warshak (2014, at 46), which finds both parents vital for emotional health.

The District Court's order (February 12, 2025, pg. 1) claims appellant didn't meet "treatment steps" from the Amended Plan (Findings, pg. 9-10), but it's silent on how this impacts J.E.B. and B.L.B. Appellant completed therapy—six months with Dumontier, bi-weekly **April** to **October 2024**, then monthly (Exhibit A). Struble's evaluation confirms that, after over a year of being sober, no further treatment is needed (Exhibit B). The alcohol provision (Stipulated Plan, pg. 5) requires an evaluation, six months sobriety, and proof if triggered—appellant did all this, yet the district court denies appellant.

In *In re Marriage of Syverson* (1997 MT 285, ¶ 16, 285 Mont. 179, 951 P.2d 1356), Justice McKinnon held that courts must link facts to best interests. In *In re Marriage of D'Alton* (2010 MT 223, ¶ 13, 357 Mont. 225, 248 P.3d 291), Justice Nelson reversed a custody ruling for lacking this nexus. Here, the district court's

silence—claiming noncompliance without evidence that J.E.B. or B.L.B. are at risk—is error. Appellant's ranch, sobriety, visits every week since November 2023 (Aff.)—these show appellant is fit. The district court ignored § 40-4-212, abusing its discretion (*Hedges*, ¶ 11).

II. *The District Court Misapplied the Change in Circumstances Standard*

Mont. Code Ann. § 40-4-219 allows parenting plan amendments if a change in circumstances occurs and it's in the child's best interest. In *In re Marriage of Malmquist* (2003 MT 91, ¶ 14, 315 Mont. 222, 69 P.3d 495), Justice Nelson ruled that parental rehabilitation—sobriety, therapy—constitutes a change. Appellant's life since October 28, 2023 proves this: Well over a year sober (Exhibit B, November 11, 2024); Six months of therapy, plus ongoing sessions (Exhibit A, December 31, 2024); and Anger management, batterers intervention, and parenting classes (Affidavit, December 2024).

The District Court's order (February 12, 2025, pg. 1) says "no change," ignoring this evidence. Justice Rice, in *Hedges* (¶ 15), warned against rigid readings that defy facts. Apellant's incident with Erica—October 27, 2023 -- appellant drunkenly stumbled and fell on her during an argument (Aff.)—was not near J.E.B. or B.L.B. (Aff.). The alcohol provision (Stipulated Plan, pg. 5) triggers only for use "directly prior to or during" visits—no evidence shows this, yet the district court assumed it (Aff.).

Even if triggered, appellant has met its terms: evaluation (Struble), sobriety (since 10/23/2023) (Aff.), and proof (Exhibits A, B). Lucas demands Erica's input (Response Brief, February 3, 2025, pg. 6), but the provision doesn't. *In Malmquist* (¶ 16), this Court reversed for overlooking rehabilitation's impact on custody. Appellant's change—sobriety, therapy, a stable ranch life—serves J.E.B. and B.L.B.'s best interests (§ 40-4-219(1)). The district court's misapplication is reversible error.

III. *The District Court Denied Procedural Fairness*

Mont. R. Civ. P. 52(a) requires findings when fundamental rights—like appellant's parental bond—are at stake (*In re Marriage of Bartsch*, 2004 MT 177, ¶ 19, 322 Mont. 167, 95 P.3d 1018). Justice Cotter, in *Bartsch* (¶ 22), demanded transparency here. The **February 12** *order* (pg. 1) states appellant didn't complete therapy or an evaluation with Erica's input, but offers no reasoning—despite appellant's Exhibits A and B, Affidavit (December 2024), and no contrary evidence.

In *In re Marriage of Jensen* (1998 MT 141, ¶ 20, 289 Mont. 263, 961 P.2d 733), Justice Leaphart reversed a custody order for unexplained restrictions, noting "the court's failure to provide findings leaves this Court unable to discern its rationale." Justice Shea, in *Guffin* (¶ 14), echoed this: transparency is non-negotiable when liberty interests hang in balance. Appellant's affidavit—sworn under penalty of perjury—details appellant's sobriety, therapy, and visits

(December 2024). Jessica's declaration (December 18, 2024) gets weight, appellant's none—why?

The district court's silence isn't just error; it's unfairness that cuts deep. Appellant have bared his soul—flaws, growth—yet it's dismissed without a word. Such violates § 52(a) and appellant's right to a reasoned process (*Bartsch*, ¶ 19), demanding reversal.

IV. *The District Court's Ruling Violates Equal Protection*

The Fourteenth Amendment and Mont. Const. art. II, § 4 guarantee equal protection. *In Palmore v. Sidoti* (466 U.S. 429, 433 (1984)), the U.S. Supreme Court struck down a custody ruling for unequal treatment, holding "private biases may not dictate state action." Jessica's past—meth addiction, a felony, a gang tattoo (Aff.)—faces no scrutiny, while appellant's 2023 incident, unrelated to J.E.B. or B.L.B., chains appellant to supervision (Order, February 12, 2025).

Justice Cotter, in *Bartsch* (¶ 22), insisted on fairness in family law. Apellant's Native heritage adds weight—under the Indian Child Welfare Act (25 U.S.C. § 1912), cultural ties matter, yet the court ignores appellant's ranch's role in J.E.B. and B.L.B.'s identity (Aff.). Jessica's history, equally flawed, gets a pass—appellant's doesn't. This disparity, possibly tinged by bias, offends equal protection and demands this Court's review (*Palmore*, 466 U.S. at 434).

CONCLUSION

Appellant is not in the business of claiming perfection—appellant have fallen, but have climbed back for J.E.B. and B.L.B. The District Court's errors—skipping best interests, misreading change, hiding its reasoning, and treating appellant unequally—rob the minor boys of their dad. Appellant has sobered up since October 28, 2023, well beyond a year, therapied up, shown up—every time (Exhibits A, B). The boys need their dad, the family ranch, their roots—not a court's silence. Appellant humbly asks this Court to reverse the **February 12, 2025,** order and remand for a plan that sees appellant's growth and the minor boys' needs.

DATED: 18th day of March 2025

Respectfully submitted,

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DATED: 3-18-2017 SIGNED: 

Appellant

CERTIFICATE OF COMPLIANCE

This certificate complies with Montana Rule of Appellate Procedure 11(4)(e), which requires a statement certifying the word count, typeface, line spacing, and margins for principal briefs like this one. The approximate word count is **9,925** words, ensuring it adheres to the 10,000-word limit set by Mont. R. App. P. 11(4)(a).

DATED: 3-18-2025 SIGNED: 

Appellant

CERTIFICATE OF SERVICE

Appellant hereby certify that on the 18th day of March 2025, a true and correct copy of the foregoing document was served by email to the following attorneys at the address listed below:

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DATED: 3-18-2025 SIGNED: 
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APPENDIX

- **AFFIDAVIT** – Supporting '*APPELLANT'S OPENING BRIEF*'

CERTIFICATE OF SERVICE

I, Matthew J. Brooks, hereby certify that I have served true and accurate copies electron of foregoing Notice of intent to appeal to the following on 3-18-2025:

20th Judicial District Court

DATED: 3-18-2025 SIGNED: 

Appellant