

ORIGINAL

FILED

05/12/2025

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 24-0742

IN THE SUPREME COURT OF THE STATE OF MONTANA

SUPREME COURT CASE NO. DA 24-0724 0742

IN RE THE MARRIAGE OF:
MATTHEW THOMAS BASQUE,
Petitioner/Appellant
and
GINA ALICIA BASQUE,
Respondent/Appellee.

FILED

MAY 14 2025

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Response To Appellee's Opening Brief

On Appeal from the Montana Thirteenth Judicial District, Yellowstone
County, Hon. Donald Harris, Presiding.

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STATEMENT OF THE CASE

In an ongoing child custody proceeding Matthew Basque appeals from the district court's order denying his Motion for Change of Venue dated November 27th, 2024. to the Supreme Court of Montana.

STATEMENT OF ISSUES

In denying Mr. Basque's Motion for Change of Venue the district court incorrectly ruled on the change of venue request in accordance with Mont. Code Ann. §25-2-201. (1) "When the county designated in the complaint is not the proper county". Mont. Code Ann. §25-2-201. (3) "When the convenience of witnesses and the ends of justice would be promoted by the change". Mont. Code Ann. §40-4-211(4)(a)(ii). "a parenting plan proceeding must be commenced in the district court in the county where the child permanently resides or is found."

STATEMENT OF THE FACTS

The parties in this action, Matthew Thomas Basque, and Gina Alicia Basque (Ms. Basque), were married on May 15, 2010. The couple had two children, a daughter, OB, born in August 2010; and a son, RB, born in December 2013. The couple's marriage was dissolved on May 9, 2023, pursuant to a Decree of Dissolution issued in the Yellowstone District Court, Thirteenth Judicial

District, Cause Number DR 22- 1116.

November 28th 2023. Petitioners motion for contempt of court. Failure to follow parenting plan, failure to follow property settlement. Due to respondent not following parenting plan withholding communication of youngest child and failure to return substantial amount of property. (see Doc. 76.)

April 17th 2024. Order adopting stipulation regarding school calendars and exchanges. This moved the exchange location from threefold Montana to tractor supply in Lolo montana. Because both children moved and were attending schools in Corvallis and Frenchtown Montana. (see Doc. 89.)

July 2nd 2024. Respondent filed a motion for contempt for withholding the child. This hearing was held on February 21st, 2025 and orders are APPENDIX D.(see Doc. 91.) (see Doc. 151.)

October 25th 2024. Respondents change of address to new permanent residence purchased in August of 2024, in Stevensville Montana. (see Doc. 89.)

October 25th 2025. Order granting leave to withdrawal, Scheveck law located in Billings, Montana. (see Doc. 106.)

October 25th 2025. Motion to request to change venue to Missoula county.(see Doc. 107.)

December 17th 2025. Order granting leave to withdrawal, Stevenson law located in Missoula Montana. (see Doc. 124.)

January 7th 2025. Petitioner's motion for emergency communication, Motion for contempt and related matters. Still pending with the District court. (see Doc. 129.)

January 23dr 2025. Petitioner's Motion for contempt, Violation of parenting plan and related matters. Still pending with the District court. (see Doc. 135.)

January 30th 2025. Petitioner's Motion of amendment of order of protection and parenting plan to have open contact and call childs cell phone. Still pending with the District court. (see Doc. 138.)

February 18th 2025. Petitioner's motion for contempt for withholding the child and emergency motion to reinstate parenting time and related matters. Still pending with the District court. (see Doc. 146.)

SUMMARY OF ARGUMENT

I am appealing to the supreme court for a change of venue due to the location of the children and parents, convenience of witnesses and cost due to extreme distance of travel. Neither party nor the children have lived or resided in Yellowstone county since August 2023. (almost two (2) years). It is in no one's best interest for the venue to remain in Yellowstone county as it will cause delays, missed days of school, unnecessary cost and hassle of day care for the children, missed work, cost to both parties and witnesses. It will inconvenience any witnesses with the same burdens, expense, missed work, etc. Changing venue to

Missoula county will not affect the outcome of the case as District Judges in Missoula County can hold a hearing, hear the arguments and evidence presented and make a just and fair ruling with the facts presented.

The Appellant has had several attorneys represent in this case. This has been a great expense to the Appellant and I don't see how this is interpreted negatively, due to the circumstances, time and cost. The change of attorney cost is only an issue for the Appellee? This is a civil case and representation is not required, it is an elective and at the discretion of either party.

The Appellant does currently have criminal charges in Yellowstone county. However, this case will be resolved in less than one month. Furthermore, the said charges have no relevance to the change of venue requested.

This also applies to the orders of protection that were filed for. (with the exception of one filed in November 2022). These filings have no relation to the Divorce case DR-1116. The Orders of protection pertain to an entirely different case that involved the parties' minor child. These were related to criminal charges for molestation in Ravalli county, and in no way pertain to the change of venue request.

The Appellant has the legal right to defend and bring up issues within the case. As well as address court orders that are not followed. Present these violations and issues and substantial changes to the courts. The Appellant has had multiple

conversations and have had past attorneys contact the Appellees attorney in an attempt to resolve non compliance regarding the parenting plan and property settlement. All communications have been denied, dismissed or ignored. This is not harassment by the Appellant. It is addressing non compliance issues and being forcing the Appellant to file motions with the court to enforce court orders and parties agreements, as the recent contempt filing shows. As is my legal and lawful right.

The best interests of the children are also to be considered. The great distance to travel and missed school and interference with the child's lives are not in the best interests of the children. Venue where the children reside will result in the least disruptions to the children's lives. There has been a substantial change regarding residence by Montana law that allows for the modification of the existing parenting plan.

LaRance points in her opening argument: "Venue of parenting plan proceedings is governed by Mont. Code Ann. §40-4-211(4)(a)(ii). Pursuant to this statute, a parenting plan proceeding must be commenced in the district court in the county where the child permanently resides or is found."

In accordance with Montana law, (I) the Appellant am respectfully requesting that the venue be changed to Missoula county in compliance with Montana codes 25-2-201 (1) code 25-2-201 (3). and §40-4-211(4)(a)(ii).

ARGUMENT

1. Attorneys of representation that the Appellant has had is irrelevant to the request for the change of venue.

It is mentioned that the Appellant has had several attorneys represent me. While this is true. The attorneys have withdrawn due to different circumstances, some of the attorneys have withdrawn due to the fact that this case would be extremely timely, and costly to continue given the present venue. Why is this used against the Appellant and made to look as negative and bad? Judge Harris has approved and granted every withdrawal of any attorney that has requested to withdraw. This has caused the Appellant a great expense of changing attorneys on multiple occasions, at a substantial cost and delay of the case in an attempt to accrue a longer term attorney. As the new counsel has had to be briefed and learn the case. It has never been addressed that I have had to seek new counsel several times with a much greater expense to me, and a greater delay of the case. This was never previously mentioned by the Appellee or her representation. Judge Harris has also never mentioned the costs that the Appellant has incurred seeking representation. It only becomes a factor and issue and is concerning when the Appellee might have to incur a cost to hiring a new attorney.

However, in this case the Appellee has not been requested or demanded to seek new counsel. In fact, it was discussed between my latest attorney (Stevenson

law) and Jill LaRance that the Appellant would have no objection to the Appellee retaining the same counsel (LaRance law). (APPENDIX E)

Furthermore, the Appellant will have to incur yet another expensive cost yet again, to have legal representation.

Representation would be easier to obtain in the county the parties reside (Missoula/Ravalli) if the parties wished to have legal representation. This potentially puts the Appellant at a huge disadvantage by not being able to and have representation due to the case residing in Yellowstone County.

2. The criminal case that is pending in Yellowstone county has no bearing on the request for change of venue.

Furthermore, the pending case has less than one month and it will be finalized and closed. The criminal case is not the custody case and has no bearing on the request to change venues, as the criminal and civil case have different Judges presiding over them. The criminal case is continuously used by LaRance and mentioned as a ploy in the family matter to discredit and defame my character.

3. The Orders of protection related to a separate criminal case out of Ravalli county, pertaining to parties' minor child.

This was an entirely different case and in no way pertained to the change of venue request. The Appellant was acting on behalf of a minor and doing the best I could with limited knowledge of the law and in relation to explanations provided

by the presiding Judges rulings. The Appellant has the legal and lawful right to seek restraining orders of protection on behalf of the parties child (a minor that was pursuing criminal charges of molestation). With the exception of one order in Yellowstone county on 11/02/22 (That order was granted then quashed, because I unknowingly failed to mention that there was an order already in place). All the other orders of protection were not related to the marital case in any way, LaRance fails to mention this. The orders of protection were in conjunction with a criminal case involving the parties Daughter (Charges of Molestation) in Ravalli county. Where Jill LaRance attempted to self appoint herself to the criminal case and attempted to integrate this case into the marital case. (APPENDIX A) The Appellant brought this to LaRance's attention, where she promptly withdrew and nothing more was heard from her on the Ravalli criminal case as LaRance is not a criminal attorney.

I have limited knowledge of Montana Law as I am not an attorney. I followed the recommendations and explanations of law enforcement and advice received. The reason for the different courts and orders was because the Appellant was following the explanations of Judges and the ruling related to the orders of protection while trying to protect my child. (APPENDIX B)

- 4. Appeal with the supreme court on December 11, 2023 for a new hearing related to the Order of protection.**

As the Supreme court is aware the Appellant did file an appeal with the supreme court on December 11, 2023 for a new hearing related to the Order of protection on September 27, 2023. This was because I made an honest mistake and missed the hearing. The Appellant was punished extremely harshly for the missed hearing on September 27, 2023. with a 15 year restraining order. My defence testimony was never heard in court.

5. The legal right to defend and address issues related to the marital case, court orders that are not followed, and present these violations and issues and substantial changes to the courts.

The Appellant has the right to challenge the fees associated with the case as Judge Harris ordered that I pay the Appellate attorney's fees. Harris did not follow standard procedure in Montana when related to opposing attorneys fees and did not look into the Appellant's financial status at all, or even question if I had the ability to pay. (APPENDIX D)

The Appellant has the legal right to defend and bring up issues within the marital case as well as court orders that are not followed. And present these violations, issues and substantial changes to the courts. This mention of harassment is a tactic that Larance continues to attempt to use, and is not taken in good faith. As it is unethical practice and unfounded. This is a statement and insinuation is an attempt to play the victim card, and attempt to quash the Appellant's legal

rights. The Appellant is not harassing the Appellee. The Appellant is exercising my constitutional and lawful rights to be heard in court. Furthermore, the insinuation that the Appellee is being harassed is unfounded and untrue. As the Appellant, as well as past legal counsel have communicated many, many times to Jill LaRance that there have been substantial changes within the case. That the stipulated parenting plan, and the property settlement were and are not being followed by the Appellee. To these communications and points the Appellant is ignored, dismissed and/or flat out informed that as far as the other party is concerned, the issue was addressed and they will not discuss it. LaRance is aware of the issues and many violations by the Appellee and refuses to address them outside of court. This in turn is forcing the Appellant to file motions with the court to enforce court orders and parties agreements, as the recent contempt filing shows. (see Doc. 129,135,138,146) For these reasons the Appellant has and will have to request and attend future hearings from the courts in order to have a Judge ruling on them.

6. In the best interest of the children and where they live and reside.

Best interest of the children is for the venue to be placed in Missoula county where the children reside. (The youngest resides in Missoula County approx. 20% of the time). It would be in the best interest of both children to spend as much time with the parents as possible and not have to travel twelve (12) plus hours to Billings. This could lead to missed days of school, unplanned daycare and

disruption to normal daily activities.

LaRance's opening argument backs the Appellant's argument and states per Mont. Code Ann. §40-4-211(4)(a)(ii). "Pursuant to this statute, a parenting plan proceeding must be commenced in the district court in the county where the child permanently resides or is found."

7. False accusations of "Judge shopping" are pure speculation and unfounded.

The Appellant is not "Judge shopping" as LaRance states. I was very clear in my opening brief that it is extremely costly, time consuming and disruptive to the children, both parties and all the witnesses, to travel and attend hearings in Yellowstone County with it being twelve (12) hours plus of travel. The Appellant has provided multiple legitimate points and Montana codes to substantiate the argument. The insinuation of "Judge shopping" has no foundation and is unprofessional and frivolous for counsel's argument.

8. Insinuation of injustice stated by LaRance

Injustice was not implied by Judge Harris. This is a twist on words and is a misrepresentation by LaRance. Harris stated it would incur cost and possible delay for the case. Not that injustice would occur. (APPENDIX C) This would imply and indicate that Judges from other counties are incompetent. For LaRance to say that Judge Harris stated that injustice would occur if the venue was changed to

Missoula county because the Appellee would have to hire new counsel is an exaggeration of the facts and a gross overstatement. It should also be noted that Judge Harris denied testimony of both of the children in the Appellee's motion for contempt of court at the hearing on February 21st, 2025.

A District Judge from any proper jurisdiction can hold a hearing over this case and make fair and just ruling, based on witness testimonies and the facts presented. As to whether or not there has been a violation of court orders or agreement between the parties.

As stated above the Appellant has had to seek new representation on several occasions with no mention of cost or delay by the Appellee or Judge Harris. This has happened to the Appellant on several occasions and has accrued a great cost to the Appellant. This excess cost to the Appellant was not an issue or concern for the Appellee. Only when the venue was requested to be moved did the concern of the cost of new counsel arise. Furthermore, this is a civil case and legal representation is not a legal right or required by law. Representation is voluntary and of the choice of the parties involved. That said the parties do have the choice and right to hire legal representation if desired. Both parties should have the same opportunities and resources available to each other.

9. Substantial cost to the Appellee to hire new representation related to venue change.

The Appellant has already addressed the issue of new counsel. As has the Appellants prior legal counsel with LaRance and the Courts. (APPENDIX E) The Appellant has stated that there is no objection to the Appellee maintaining the current representation of Jill LaRance.

Jill Larance was called and asked directly if she would object to the change of venue. LaRance stated to the Appellant's legal counsel (Stevenson law) via a phone call, between attorneys that LaRance personally did not oppose the change of venue. As stated above the Appellant has never requested that the Appellee procure new counsel. In fact the Appellant has no objection to current counsel. (APPENDIX E)

10.Request for Attorneys and other fees.

LaRance continuously requests that the Appellant pay fees associated with court costs. I don't understand why this is continuously mentioned. I have the lawful right to present issues and violations to the courts. This is a civil case and attorneys are not mandatory and are a choice for both parties. Both parties should have equal opportunity to obtain legal counsel if chosen. However, when the Appellant has no representation this may put them at a disadvantage in court.

CONCLUSION

The Appellant respectfully requests that the Appellant's appeal to the Supreme Court of Montana for the motion to change venue be granted.

In accordance with Mont. Code Ann. §40-4-211(4)(a)(ii). "Pursuant to this statute, a parenting plan proceeding must be commenced in the district court in the county where the child permanently resides or is found".

Mont. Code Ann. §25-2-201 (1). "When the county designated in the complaint is not the proper county".

Mont. Code Ann. §25-2-201 (3). "When the convenience of witnesses and the ends of justice would be promoted by the change".

The Appellant's argument is based on the facts that neither parties nor the parties children live or reside in Yellowstone county and have not since August 2022. It would also cause an unnecessary disruption to the children's lives and not be in their best interests. All of the witnesses related to the case that have personal knowledge of the case reside in Ravalli or Missoula county. Whereas, changing Venue to Missoula county will be a substantially greater convenience for any witnesses that will be called upon. Request for change of venue is also due to the great distance that both parties and witnesses would have to travel and the missed work. This would cause a substantial unnecessary expense for all parties involved including any witnesses.

Finally, as the Appellee's argument was frivolous and vexatious, filed for the purpose of delay and to defame character, or taken without substantial or reasonable grounds, The Appellant (Matthew) respectfully asks this Court to award sanctions under Mont. R. App. Pro. 9(5) to include costs, attorney fees, or such other monetary or non-monetary penalty as this Court deems proper under the circumstances.

RESPECTFULLY SUBMITTED this 12th day of May, 2025.

A handwritten signature in black ink, appearing to read 'Matthew T. Basque', is written over a horizontal line.

Matthew T. Basque

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this response is printed with proportionately Times New Roman 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 3,546, excluding Table of Contents, Table of Authorities, Certificate of Service, Certificate of Compliance, and Appendices.

A handwritten signature in black ink, appearing to read 'Matthew T. Basque', is written over a horizontal line.

Matthew T. Basque

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the **RESPONSE TO APPELLEE'S OPENING BRIEF** was mailed, postage prepaid to the following parties:

LaRANCE LAW FIRM, P.C. (Jill@larancelaw.com), 303 North Broadway, Suite 600
Billings, Montana 59101. 406-254-9663 Attorneys of the Respondent.

On the 12th day of May, 2025.

A handwritten signature in black ink, appearing to read 'MTB', is written over a horizontal line.

Matthew T. Basque