

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

**Supreme Court Cause No. DA 25-175**

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**LEE A. BARTEL,**

**Appellant,**

**v.**

**JERAMIE PAUL MIDDLESTEAD,  
JEANNE TORSKE,  
GEORGE REAL BIRD, III,  
LAWRENCE PETE BIG HAIR,  
LARRY VANDERSLOOT, et al.**

**Appellees.**

**APPELLEES' ANSWER BRIEF**

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Appeal From Montana Twenty-Second Judicial District Court  
Big Horn County – Cause No. DV-2-2024-0029  
The Honorable Olivia Rieger

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## **STATEMENT OF THE ISSUE**

1. Did the District Court err in concluding that appellant Lee A. Bartel (“Bartel”) failed to establish the four requirements for a preliminary injunction as set forth in §27-19-201, MCA, thus resulting in the District Court’s Order On Injunction denying Bartel’s motion for a preliminary injunction seeking to bar Jeremy Middlestead from being confirmed and sworn in as the Big Horn County Sheriff?

## **STATEMENT OF THE CASE**

Bartel initiated this action by way of the filing of his Complaint on June 11, 2024. In summary, Bartel alleged that appellee Jeremy Paul Middlestead (“Middlestead”) had been “illegally appointed” as the Interim Sheriff of Big Horn County following the tragic and unexpected death of Big Horn County Sheriff Darrell King. (See Complaint; ¶ 3; Doc. 1.00)

On July 11, 2024, appellees filed their Answer denying the allegations found in Bartel’s Complaint. (See Answer; Doc. 14.00)

On November 21, 2024, Bartel filed a document entitled “Motion and Brief for Preliminary Injunction Barring Defendant Jeremy Middlestead From Being Confirmed and Sworn in as Big Horn County Sheriff” (hereinafter referred to as “Motion for Preliminary Injunction”) (Doc. 31.00). In his Motion for Preliminary Injunction, Bartel asked that the District Court “. . . issue an Injunction Barring

Defendant Jeremy Middlestead From Being Confirmed and Sworn In As Big Horn County Sheriff until such time as Defendant Middlestead proves convincingly that he is a resident of Big Horn County in compliance with the Montana Code Annotated 7-4-2201(3); 1-1-215; and, 13-1-111 through 13-1-113 which governed the residency requirements for the eligibility for Big Horn County Office.”

The Honorable Matthew J. Wald, the District Court Judge assigned to this matter, issued his Order Calling In Judge on November 15, 2024 (Doc. 33.00) stating that Bartel had listed District Court Judge Wald as a “material witness in this matter” and although the District Court was not convinced that he was a material witness, Judge Wald deemed it more appropriate to avoid the appearance of impropriety and to allow another District Court Judge to make that determination and assume jurisdiction of the case. As a consequence, District Court Judge Wald recused himself and in his place, the Honorable Olivia Rieger, District Court Judge for the Seventh Judicial District for the State of Montana, assumed jurisdiction on November 20, 2024. (Doc. 34.00)

District Court Judge Rieger set a hearing on Bartel’s Motion for January 2, 2025.

Prior to the hearing, on December 30, 2024, Middlestead filed a Response to Plaintiff’s Motion for Preliminary Injunction contending that Bartel could not meet the requirements for a preliminary injunction found at §27-19-201, MCA and

furthermore, the relief requested, prohibiting Middlestead who had been duly elected as the Big Horn County Sheriff from being sworn in as the Big Horn County Sheriff was moot as Middlestead had been already sworn in as the Big Horn County Sheriff, consistent with Montana law, on December 16, 2024.

### **STATEMENT OF FACTS**

Bartel, by way of his Motion for Preliminary Injunction, requested that the District Court enter a preliminary injunction pursuant to §27-19-201, MCA prohibiting Middlestead who had been duly elected as the Big Horn County Sheriff in the November 2024 election from being sworn in as the Big Horn County Sheriff. However, by the date of the Hearing held in regard to Bartel's Motion for Preliminary Injunction on January 2, 2025, Middlestead consistent with §7-4-2205, MCA, had taken the oath of office of the Big Horn County Sheriff on December 16, 2024. Pursuant to §7-4-2205, MCA, Middlestead was required to take the oath of office on or before the last business day of December of 2024. Therefore, at the time of the January 2, 2025 hearing in which Bartel was asking that the District Court prohibit Middlestead from being sworn in and take the oath of office of Big Horn County Sheriff, those events had already occurred. The issues raised by Bartel by way of his Motion for Preliminary Injunction were moot and secondly, the District Court analyzed the requirements of §27-19-201, MCA, as to when a preliminary

injunction may be granted and concluded, as a matter of law and fact, that Bartel had failed to establish any of the requirements of the statute.

### **STANDARD OF REVIEW**

The Court will review a district court's grant or denial of a preliminary injunction for a manifest abuse of discretion. *Driscoll v. Stapleton*, 2020 MT 247, ¶ 12, 401 Mont 405, 473 P.3d 386 (citing *Davis v. Westphal*, 2017 MT 276, ¶ 10, 389 Mont. 251, 405 P.3d 73). If the district court's decision was based on legal conclusions, however, we review those conclusions de novo to determine if the district court correctly interpreted the law in ruling on the injunction. *Driscoll*, ¶ 12 (citing *City of Whitefish v. Bd. Of Cty. Comm'rs of Flathead Cty.*, 2008 MT 436, ¶ 7, 347 Mont. 490, 199 P.3d 201).

### **SUMMARY OF THE ARGUMENT**

Bartel filed his Motion for preliminary injunction on November 21, 2024. The sole issue raised by Bartel was whether or not a preliminary injunction, pursuant to §27-19-201, MCA should be granted prohibiting Middlestead who had been recently elected by the citizens of Big Horn County as their Sheriff should be barred and prohibited from being confirmed and sworn in as the Big Horn County Sheriff. Bartel's motion was properly denied for several reasons. First of all, it is undisputed that pursuant to §7-4-2205, MCA, Middlestead, as well as all other elected Big Horn County officers, must take the oath of office on or before the last

business day of December following the 2024 election. Middlestead, consistent with the requirements of §7-4-2205, MCA, was administered the Oath of Office on December 16, 2024. Therefore, at the time of the hearing held in regard to Bartel's Motion for Preliminary Injunction, the relief that he requested could not be granted. Specifically, Bartel's Motion for Preliminary Injunction requested that the Court prohibit Middlestead from taking the Oath of Office something which he had already been done. Also, the District Court analyzed the four factors to be considered when granting or denying a preliminary injunction pursuant to §27-19-201, MCA and found by way of the Court's Order On Injunction that Bartel had failed both factually and as a matter of law to establish any one of the four factors.

### **ARGUMENT**

Bartel's Complaint filed in this matter, prior to the November 2024 election, alleged in summary that the appointment of Middlestead as the "Interim Sheriff" for Big Horn County following the death of Sheriff Darrell King was improper. Bartel contends that Middlestead was not qualified to serve as the Interim Sheriff for Big Horn County.

Following the filing of Bartel's Complaint, Middlestead was duly elected by the citizens of Big Horn County in November of 2024 as their Sheriff. In an attempt to prevent Middlestead from assuming the elected position of Big Horn County Sheriff, Bartel then filed his Motion for Preliminary Injunction asking that the

District Court prohibit Middlestead from taking the Oath of Office of Big Horn County Sheriff. It is undisputed that the Oath of Office was administered to Middlestead on December 16, 2024 consistent with Montana law. Despite these undisputed facts, Bartel has appealed to this Court the District Court's Order On Injunction filed on February 7, 2025, denying Bartel's Motion for Preliminary Injunction.

Pursuant to §27-19-201, MCA, a preliminary injunction may be granted when the applicant establishes four separate factors. This statute was revised by the Montana Legislature in 2023. The four factors include the following:

1. The applicant is likely to succeed on the merits;
2. The applicant is likely to suffer irreparable harm in the absence of preliminary relief;
3. The balance of equities tips in the applicant's favor; and
4. The order is in the public interest.

*(Protect the Clearwater v. Montana Department of Environmental Quality, 224 MT 181, 417 Mont. 527, 545 P.3d 197).*

The District Court considered all four factors in its Order On Injunction. In doing so, the District Court made the following conclusions:

1. Serious questions remained to be litigated as to whether or not Middlestead had met the statutory requirements for holding the office of Big Horn County Sheriff thus further investigation is needed, all of which would be evidence

produced at the time of the trial on the merits of the Bartel's Complaint thus Bartel had not established that he was likely to succeed on the merits which Middlestead was contesting.

2. Bartel did not establish that he would suffer irreparable harm in the absence of preliminary relief since his argument was that there was a possibility of irreparable harm. The limited function of a preliminary injunction is to preserve the status quo and to minimize the harm to all parties pending full trial and the undisputed facts of this case established there was no status quo to maintain by prohibiting Middlestead from by confirmed and sworn into the office of Big Horn County Sheriff because Middlestead had already been confirmed and sworn into office.

3. In weighing the potential harm or benefit to all parties to this action, the District Court found that the balance of equities did not tip in Bartel's favor. Since Middlestead had been sworn in as the Big Horn County Sheriff, Bartel had failed to establish any harm to be experienced by the citizens of Big Horn County.

4. The District Court concluded that the Relief requested by Bartel was not in the public interest of Big Horn County, home to more than 12,000 residents. The possibility of harm did not overcome the advantages and benefits to the Big Horn County citizens in having the duly elected Sheriff maintain that office until the merits of the case could be determined.

In addition to the conclusions reached that Bartel had failed to meet the four factors to establish the granting of a preliminary injunction pursuant to §27-19-201, MCA, as a practical matter, Bartel's requested relief of preventing Middlestead from taking the oath of office of the Big Horn County Sheriff was a moot issue. Middlestead had already been elected to the office and had taken the Oath of Office on December 16, 2024 as required by Montana law before the District Court conducted the hearing of January 2, 2025 in respect to Bartel's Motion for Preliminary Injunction. The issue raised by Bartel was moot due to the events of December 16, 2024. The District Court could not grant the relief requested by Bartel. (*Grabow v. Montana High School Association*, 2000 MT 159, 300 Mont. 227, P.3d 650).

Bartel has consistently misunderstood the purposes of a preliminary injunction in that a preliminary injunction does not determine the merits of a case but instead prevents further injury or irreparable harm by preserving the *status quo* of the subject in controversy pending an adjudication on the merits (*Yockey v. Kearns Properties, LLC*, 2005 MT 27, 326 Mont. 28, 106 P.3d 1185, 1189). Bartel's contrary position is fairly clear as evidenced by his comments at the time of the January 2, 2025 hearing. On numerous occasions the District Court would advise Bartel that the purpose of the hearing was to determine whether or not the District Court should issue a preliminary injunction prohibiting Middlestead's swearing in

as the Big Horn County Sheriff, an event that had already happened. The District Court noted that the purpose of the hearing was “only whether or not that preliminary injunction should be granted”, not to address the merits of the case. (Transcript; p. 9). Despite that clear directive, Bartel refused to accept that the hearing was limited in scope and was not a hearing to adjudicate the merits of his claims. The Court was very clear with Bartel as to the scope of the hearing which did not include adjudication of the merits of the case.

My question - - you’ve alleged that Mr. Middlestead has been adjudicated to have violated the Title 13 laws. But you must agree that he has not, because just bringing a claim against him doesn’t mean that he’s been adjudicated by - - we have not had a factual hearing on the issue, only your allegations.

So, tell me how you believe that he’s been adjudicated to have violated the laws.

(Transcript; p. 16).

Bartel, in responding to the District Court’s inquiry argued that he has “evidence” to support his allegations. (Transcript; p. 16-17). However, the “evidence” is in dispute in this case and could not be resolved by the District Court at the time of Bartel’s Motion for Preliminary Injunction but would need to be presented to the trier of fact for determination at a later date. Bartel incorrectly believes otherwise and essentially was requesting that the District Court determine the merits of the case based upon his “evidence.” He continues to do so by way of this Appeal. (Transcript; p. 27-28).

## CONCLUSION

Bartel's Motion for Preliminary Injunction was property denied by the District Court for numerous reasons. First of all, the relief sought by Bartel prohibiting the oath of office being administered to Middlestead had already taken place thus the relief requested by Bartel could not be granted. The issue which he had raised was moot. However, the District Court considered all of the four factors that must be established by Bartel in seeking a preliminary injunction or temporary restraining order found at §27-19-201, MCA and properly concluded that Bartel had failed to establish any one of the four factors. Therefore, the District Court properly denied Bartel's Motion for Preliminary Injunction. The District Court acted properly and did not manifestly abuse its discretion but correctly interpreted the law in denying Bartel's Motion for Preliminary Injunction.

**DATED** this 16<sup>th</sup> day of May, 2025.

STACEY & FUNYAK

By: /s/Calvin J. Stacey  
Calvin J. Stacey  
Attorneys for Appellees

**CERTIFICATE OF COMPLIANCE**

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I hereby certify that this *Appellees' Answer Brief* is printed with a proportionately spaced Times New Roman text typeface of 14 point; is double-spaced and has a word count as determined by Microsoft Word of 2,291 which is less than the maximum 10,000 word limit.

By: /s/Calvin J. Stacey  
Calvin J. Stacey  
Attorneys for Appellees

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of May, 2025, a copy of the foregoing *Appellees' Answer Brief* was served upon the following via U.S. Mail and CM/ECF:

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By: /s/Calvin J. Stacey

## **CERTIFICATE OF SERVICE**

I, Calvin J. Stacey, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 05-16-2025:

Lee A. Bartel (Appellant)  
HC 36  
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Service Method: Conventional

Electronically Signed By: Calvin J. Stacey  
Dated: 05-16-2025