

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 25-0261

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MATTHEW WEBER,  
APPELLANT,

v.

SKYE ANGEL ANNE HENNON,,  
APPEALEE.

---

On Appeal from the District Court of the  
Tenth Judicial District of the State of Montana,  
Judith Basin County, Judge Heather Perry Presiding

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**OPENING BRIEF OF THE APPELLANT**

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APPEARANCES:

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ATTORNEY FOR THE APPELLANT

Skye Angel Anne Hennon  
1 18 1<sup>st</sup> Avenue North  
Stanford, Mt 59479

PRO SE

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## **ISSUES PRESENTED**

- I. DID THE DISTRICT COURT VIOLATE WEBER'S DUE PROCESS RIGHT FOR FAILING TO PROVIDE AN OPPORTUNITY TO BE HEARD?**
- II. DID THE JUSTICE COURT FAIL TO GIVE WEBER A MEANINGFUL OPPORTUNITY TO CROSS EXAMINE THE PETITIONER?**

### **STATEMENT OF THE CASE**

A petition requesting an order of protection was filed on February 24, 2025 (Exhibit A) alleging Matt Weber was engaged in harassment, sending threatening emails, text messages, images and showing up at her home. A temporary order of protection was granted and a hearing was held on March 19, 2025 in Justice Court.

The justice court proceeded to grant the order of protection (Transcript Page 15, lines 21-23). Weber filed a notice of appeal into district court on March 20, 2025. (Exhibit B). The district court, without allowing the respondent to file a brief or appear before the court, issue an order generally affirming the justice court (Exhibit C) and a remitter was issued on March 25, 2025. (Exhibit D). An order modifying the protection order was issued by the justice court on March 27, 2025 (Exhibit E). Weber appealed to the Supreme Court.

### **STATEMENT OF THE FACTS**

A petition requesting an order of protection was filed on February 24, 2025 (Exhibit A) alleging Matt Weber was engaged in harassment, sending threatening emails, text messages, images and showing up at her home. A temporary order of protection was granted and a hearing was held on March 19, 2025 in Justice Court.

The petitioner testified “Mr. Weber has sent multiple e-mails and text messages, not just to me, but to the owner of the house that we live in, as well as to my mother, statements about nudity photographs of myself, multiple other things that also do not involve the people that he is reaching out to. He's reached out to my mother threatening her about her housing, as well as reaching out about Mr. Gonzales' mother and her well care, which does not involve him. Also, quite a few e-mails with photos in them. Not very well respected e-mails that were in the previous case in Gem County that also he was supposed to not be in contact with us due to that being ongoing.”

(Transcript page 4-5, lines 12-1). The last day of contact was the day before the petition was filed (Transcript page 5, lines 16-18). Weber had been in Stanford once that she knew of (Transcript page 5, lines 20-25) but had heard he had been there another time.

Weber asked the petitioner, “Have I ever hurt you or harmed you or threatened you before?” (Transcript page 6, lines 7-9).

The petitioner said she would “rather not” answer the question. (Transcript page 7, lines 10-14). At which point the court told her she could step down without allowing the respondent to ask any further questions. (Transcript page 7, lines 13-14).



Weber testified all his emails were an attempt to get a ring back from the petitioner. (Transcript page 8, lines 19-20). At the court's inquiry, Weber stated he had no intention of further contact with the respondent. (Transcript page 9, lines 2-6).

The court proceeded to grant the order of protection (Transcript Page 15, lines 21-23). Weber filed a notice of appeal into district court on March 20, 2025. (Exhibit B). The district court, without allowing the respondent to file a brief or appear before the court, issue an order generally affirming the justice court (Exhibit C) and a remitter was issued on March 25, 2025. (Exhibit D). An order modifying the protection order was issued by the justice court on March 27, 2025 (Exhibit E). Weber appeals to the Supreme Court.

### **SUMMARY OF THE ARGUMENT**

The District Court violated the Weber's right to be heard when it ruled on his appeal without first affording him the opportunity to brief the appeal, or provide any argument regarding the appeal from the Justice Court. The Justice Court violated Weber's right to cross examine at the hearing on the original petition.

## STANDARD OF REVIEW

A district court's evidentiary decisions are reviewed for abuse of discretion. *State v. Mizenko*, 2006 MT 11, ¶ 8, 330 Mont. 299, 127 P.3d 458. A district court's conclusions of law and interpretations of the Constitution or the rules of evidence are reviewed de novo. *Mizenko*, ¶ 8.

## ARGUMENT

### **I. THE DISTRICT COURT VIOLATED WEBER'S DUE PROCESS RIGHTS BY FAILING TO PROVIDE AN OPPORTUNITY TO BE HEARD**

The United States and Montana Constitutions ensure that “[n]o person shall be deprived of life, liberty, or property without due process of law.” Mont. Const. art. II, § 17; U.S. Const. amend. V. A natural parent's right to the care and custody of his or her child is a “fundamental liberty interest” that must be protected by “fundamentally fair procedures.” *In re A.S.A.*, 258 Mont. 194, 197, 852 P.2d 127, 129 (1993) (citing *Santosky v. Kramer*, 455 U.S. 745, 753–54, 102 S.Ct. 1388, 1394–95, 71 L.Ed.2d 599 (1982)); *In re J.N.*, 1999 MT 64, ¶ 12, 293 Mont. 524, 977 P.2d 317. Due process requires notice and the opportunity to be heard “at a meaningful time and in a meaningful manner.” *Mont. Power Co. v. Public Serv. Commn.*, 206 Mont. 359, 368, 671 P.2d 604, 609 (1983) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S.Ct. 893, 902, 47 L.Ed.2d 18 (1976) and *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S.Ct. 1187, 1190, 14 L.Ed.2d 62 (1965)); *In re Marriage of Fishbaugh*, 2002 MT 175, ¶ 15, 310 Mont. 519, 52 P.3d 395.

“An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”

*Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314

(1950). *See also Richards v. Jefferson County*, 517 U.S. 793 (1996). In this matter, almost immediately after Weber filed a notice of appeal, the district court generally affirmed the decision of the lower court without giving Weber an opportunity to be heard of why he believed the decision was improper. He had neither an opportunity to file a brief or appear in court to voice his objections.

“[S]ome form of hearing is required before an individual is finally deprived of a property [or liberty] interest.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). “Parties whose rights are to be affected are entitled to be heard.” *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863). An opportunity to be heard in some manner “must be granted at a meaningful time and in a meaningful manner.” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). Here, neither has occurred. He has not been given a meaningful time to state why the justice court’s decision was improper.

The opportunity to be heard preserves the appearance and reality of

fairness by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him. *Marshall v. Jerrico*, 446 U.S. 238, 242 (1980); *Schweiker v. McClure*, 456 U.S. 188, 195 (1982).

## **II. THE JUSTICE COURT FAILED TO GIVE WEBER A MEANINGFUL OPPORTUNITY TO CROSS EXAMINE THE PETITIONER**

Cross-examination is essential to the adversary system. *State v. Mizenko*, 2006 MT 11, at ¶ 13. Respondents have a right to cross-examine at protection order hearings. *State v. Pingree*, 2015 MT 187, ¶ 16.

At the Justice Court level, Weber was not afforded an opportunity to cross-examine the petitioner:

THE COURT: Okay. You may step down. Or do you have any, Mr. Weber, do you have any questions of Ms. Hennon?

MR. WEBER: Have I ever hurt you or harmed or threatened you before? And if so, how (indiscernible).

THE COURT: Yeah, no, that's probably -- you can answer that, I guess, if you want.

MS. HENNON: I'd rather not.

THE COURT: You'd rather not, okay. All right. Mr. Weber -- you can step down.

MS. HENNON: Thank you, Your Honor.

This court has held that a Respondent has held that an order of protection being granted without the respondent being present and without

taking evidence was an abuse of discretion. *Keller v. Trull*, 337 Mont. 188 (2007)

“In the case before us, the District Court knowingly conducted the December 6 proceeding without Trull's presence or representation. Moreover, the court made the TOP permanent during that proceeding without taking or reviewing any evidence, and based on nothing more than the statements presented by the Petitioners in their Petition. We conclude that the proceeding on December 6 did not satisfy the requirements of a mandatory hearing under § 40–15–202(1), MCA, and the District Court's action in making the TOP permanent constituted an abuse of discretion.” *Keller* at ¶12.

While Weber was present at the hearing, he was not afforded a reasonable opportunity to be heard or cross examine the petitioner. Weber asked one question, the justice court afforded the petitioner to decline to answer the question, which she did, and then allowed the petitioner to step down from testifying without giving Weber the ability to ask any other questions. This is a clear violation of his right to cross examination.

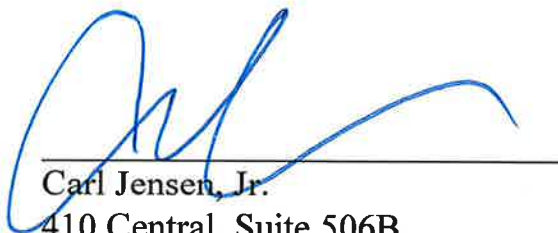


### CONCLUSION

The district court failed to give the Respondent an opportunity to be heard. The Justice Court failed to give the Respondent an opportunity to cross-examine the petitioner. For both these reasons the decision of the district court and the Justice Court should be reversed.

DATED this 23 day of May, 2025.

RESPECTFULLY SUBMITTED

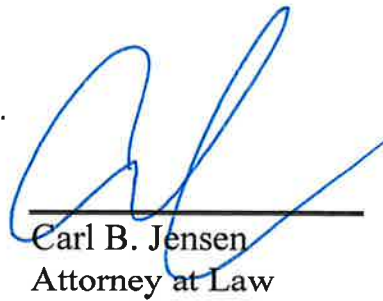


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**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and correct copy of the foregoing  
Brief of Appellant to be mailed to Skye Angel Anne Hennon 1 18 1<sup>st</sup> Avenue  
north, Stanford, MT 59479, the Tenth Judicial District Court's office as well as  
by electronic filing

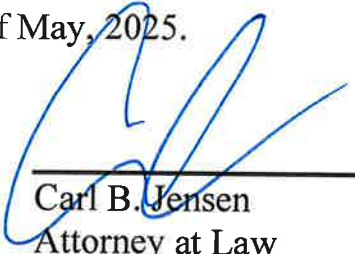
On this 23 day of May, 2025.

  
\_\_\_\_\_  
Carl B. Jensen  
Attorney at Law

### CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal brief is printed with a typeface having no more than ten characters per inch; is double spaced; pages are 8.5 x 11 inches with margins of no less than 1" from the top, bottom and right side and 1.5" from the left margin the type face is Times New Roman, Point 14. The brief does not exceed twenty-one pages, excluding the table of contents, table of authorities, certificate of service and addendum and the word count is 1791 words.

DATED this 13 day of May, 2025.

  
\_\_\_\_\_  
Carl B. Jensen  
Attorney at Law