

IN THE SUPREME COURT OF THE STATE OF MONTANA
CAUSE NO. DA-25-0301

IN RE THE MARRIAGE OF:

JUSTINE A. WATKINS,

Petitioner and Appellee,

and

SETH MICHAEL WATKINS,

Respondent and Appellant.

**MOTION TO DISMISS APPEAL OR VACATE BRIEFING SCHEDULE
PENDING COMPLIANCE WITH THE RULES OF APPELLATE
PROCEDURE**

On appeal from the Montana Twenty-First Judicial District Court, Ravalli County
Cause No. DR-41-2024-0000098, the Honorable
Howard F. Recht Then-Presiding, the Honorable Molly Owen Currently-Presiding.

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Appellant, *pro se*

For Appellee

COMES NOW, Appellee (“Justine”), by and through her counsel of record, and by this motion, requests:

- I. Seth’s Appeal be dismissed;
- II. The briefing schedule be vacated pending preparation of relevant transcripts and Appellant’s compliance with the rules of appellate procedure

An attempt to contact Appellant to determine his position regarding this motion was unsuccessful.

I. Noncompliance With Rules Warrants Dismissal

Seth’s brief deviates significantly from the requirements of Rule 12, M.R.App.P., however, this motion addresses only those violations that impair Justine’s ability to file an Answer Brief.¹

Seth’s opening appellate brief makes clear he is dissatisfied with the decisions of the district court. This is consistent with the record and his numerous attempts to evade enforcement of the district court’s orders. However, Seth wholly fails to provide a copy of the orders he seeks to appeal from pursuant to Rule 12(1)(i).

Seth identifies two orders on appeal, but he asks the Court to vacate the contempt order and to reverse the order denying Seth’s *Motion to Vacate* the contempt order, but neither is among the orders listed in his “Section II. Orders

¹ Seth’s noncompliance with applicable rules is not limited to rule violations discussed herein.

Being Appealed.” He also refers to the Court appointing a Guardian ad Litem in his case – something which, this Court will note, he verbally agreed to through counsel during the parties’ settlement conference (ROA 42) – but he does not include that order in either “Section II. Orders Being Appealed” or any procedurally appropriate appendix.

Seth’s “Statement of Case” is similarly procedurally deficient. He fails to comply with Rule 12(c), because he does not clearly state the “nature of the case and its procedural disposition”. He claims judicial bias and “denial of pro se access to fair procedure,” but he does not identify how the trial court has been biased or what procedure he was entitled to but has been denied.

Seth’s “Issues for Review” has also not complied with Rule 12(b). He essentially requests the Supreme Court to rehear the entire divorce proceeding, to redetermine the district court’s findings of fact, and issue rulings in his favor. He cites six issues for review, rather than the recommended four. Most of Seth’s highlighted issues are not reflected in the orders he has listed in his “Orders Being Appealed” section.

Seth’s “Statement of the Case” attempts to combine the Statement of Facts (Rule 12 (d)), the Standard of Review (Rule 12(e)), and the Summary of Argument (Rule 12 (f)) into one omnibus section. While latitude is generally given to pro se litigants, his combined section does not comply with any of the three subsections

of Rule 12. He does not set forth the facts surrounding the ruling. While he makes claims of bias, he establishes no facts that would prove or even suggest the same. He does not set forth a standard of review justifying the overrule of the District Court. Furthermore, he presents neither authority nor caselaw as to why he is entitled to a different ruling than the one he received.

Seth's requests also lie outside of the standard of review the Supreme Court applies in appellate cases. The Supreme Court's cases generally fall into two categories, (1) a de novo standard of review of the district court's decision as a matter of law, and (2) an abuse of discretion standard of review as an evidentiary issue. *Johnson v. Costco Wholesale*, 2007 MT 43, ¶ 15, 336 Mont. 105, 152 P.3d 727. Here, Seth is unable to articulate any allegation that the district court has issued an order that fails as a matter of law, or that the district court has abused its discretion. Thus Seth is unable to articulate that his requests are the kind of requests properly before this Court.

Finally, Seth's attempt to comply with Rule 12(g) is deficient in that it contains a claim for relief that cannot be granted. The "evidentiary hearings" he requests are not required by statute nor the M.R.Civ.P. or U.C.D.R. He wishes to have a special procedure set forth by this Court just for him, which is not within this Court's power to grant. Seth's failure to comply with the rules, as evidenced by this Court's previous orders and herein, warrants dismissal with prejudice.

Notwithstanding, Seth's brief provides no basis for his appeal and is in violation of Rule 6(5)(f). Each and every request that Seth makes of this Court, refers to an interlocutory order. Interlocutory judgments are not appealable. A Final Hearing has not yet been held in this matter, nor has a Final Decree been issued. See *Johnson v. Booth*, 2008 MT 155, ¶ 30, 343 Mont. 268, ¶ 30, 184 P.3d 289, ¶ 3 (A "final judgment is one which 'conclusively determines the rights of the parties and settles all claims in controversy in an action or proceeding, including any necessary determination of the amount of costs and attorney fees awarded or sanction imposed.'"") Any perceived prejudice, overpayment of obligations, etc. may be resolved in the final parenting plan and final distribution of the marital estate. On numerous bases, Seth's appeal is premature.

The Court's order naming Seth a vexatious litigant is also an interlocutory judgment. Any perceived prejudice may be addressed at final hearing. However, Justine would like this Court to note that her *Combined Responses and Objections to Respondent's Eleven Assorted Filings (Doc. 52-55, 59-64) and Request That Respondent be Named a Vexatious Litigant* was filed after Seth filed **eleven pleadings in eleven days** using ChatGPT. One of the pleadings, a letter to the Court, was not permitted under Rule 2 U.C.D.R. The vexatious litigant order from which Seth appeals, requires nothing more of Seth than that he comply with Rule 2 in his pleadings, and provides a mechanism for the Court to ensure that Justine is

not overly burdened by attorneys' fees in responding to his frivolous, auto-generated, and duplicative motions.

While Seth does not include the contempt order in his "Orders Being Appealed," his brief implies that he seeks relief from that order. Appealing that order is also in violation of M.R.App.P. 6(3)(j). The contempt order placed Seth in jail for twenty-four (24) hours for his contemptuous behavior towards the district court and did not include any ancillary order affecting the substantial rights of the parties involved.

Lastly, Seth's appeal ignores that, as a domestic relations matter, this proceeding would be subject to Rule 7. The parties have not participated in Mandatory Appellate Alternative Dispute Resolution. Given Seth's objection to payment to Justine or the appointed Guardian Ad Litem, Justine believes that Seth would likely refuse to participate in appellate mediation. Nonetheless, Seth's opening brief is premature until the Rule 7 directive has been addressed.

II. IF SETH'S APPEAL IS ALLOWED TO PROCEED, THE BRIEFING SCHEDULE SHOULD BE VACATED PENDING SETH'S COMPLIANCE WITH THE RULES.

If her motion to dismiss is denied, Justine requests that the briefing schedule be vacated pending submission of an opening brief that complies with Rule 12, M.R.App.P. As a practical matter it is impossible to prepare and file an Answer Brief unless Seth submits a brief in compliance with the rules.

DATED this 30th day of June, 2025.

CHOUINARD & WINDERL P.C
Attorneys for Petitioner/Appellant

By: /s/ Megan S. Winderl
Megan S. Winderl

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of June, 2025, I did serve a true and correct copy of the instant filing by first class mail and email addressed to:

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By: s/ Megan S. Winderl
Megan S. Winderl