

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

No. DA 25-0371

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IN THE MATTER OF THE GUARDIANSHIP OF A. D.

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**MOTION TO DISMISS APPEAL**

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*On Appeal from the Montana Fourth Judicial District Court, Missoula County, DG-32-2025-00026-GC, the Honorable Tara Elliott, Presiding.*

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APPEARANCES:

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Appellee, the Montana Department of Public Health and Human Services, moves the Court to dismiss without prejudice this appeal. A. D., the respondent in the underlying district court matter, does not object to this motion. K. D., the appellant, objects to this motion.

To properly appeal from a civil matter over which a district court had original jurisdiction, the Montana Rules of Appellate Procedure require that the individual seeking the appeal be a party. M. R. App. P. 6(1) (“A *party* may appeal...”) (emphasis added). In guardianship matters, a “party” is “the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.” Mont. Code Ann. § 72-5-602(7). The “respondent” is “an adult for whom a protective order or the appointment of a guardian is sought.” Mont. Code Ann. § 72-5-602(13).

Rule 6(1) complements the constitutional principle of standing, which is a threshold jurisdictional requirement. *Sagorin v. Sunrise Heating & Cooling, LLC*, 2022 MT 58, ¶ 8, 408 Mont. 119, 123, 506 P.3d 1028, 1031. Generally, only a party has standing to appeal an adverse judgment in case. *Serrania v. LPH, Inc.*, 2015 MT 113, ¶ 17, 379 Mont. 17, 20, 347 P.3d 1237, 1240 (citing *Marino v. Ortiz*, 484 U.S. 301, 304,

108 S. Ct. 586, 588 (1988) (encouraging the use of intervention over allowing a nonparty to appeal)). There are limited exceptions which allow a nonparty to appeal when the nonparty is subject to an order by the district court that directly affects the nonparty's interests. *See, e.g., Serrania*, ¶ 17, 379 Mont. at 20, 347 P.3d at 1240; *see also Mont. Power Co. v. Mont. Dep't of Pub. Serv. Regulation*, 218 Mont. 471, 480, 709 P.2d 995, 1001 (1985).

Here, K. D. is precluded from filing this appeal by both Rule 6(1) of the Montana Rules of Appellate Procedure and the principle of standing. K. D. is not a party to the underlying district court matter as she is neither a respondent, petitioner, guardian, nor conservator. R. at 1 (naming the Petitioner as Montana Department of Public Health and Human Services and Respondent as A. D.); R. at 3 (ordering 406 Financial LLC as temporary Conservator); R. at 4 (ordering Adult Protective Services for the State of Montana as temporary Guardian). Nor was K. D. allowed by the district court to participate in the guardianship proceeding because she did not submit a proper request to participate through the filing of a motion to intervene pursuant to Rule 24 of the Montana Rules of Civil Procedure. R. at 47.

In its order striking K. D.'s filing from the district court record, the court stated:

As this Court verbally informed [K. D.] during the hearing on May 2, 2025, if she wishes to file pleadings in this matter, she must first file a proper motion asking to intervene pursuant to Rule 24 of the Montana Rules of Civil Procedure, which may or may not be granted by this Court. [K. D.] has failed to do so.

At this time, the Court provides notice to [K. D.] that until she files a proper motion to intervene pursuant to Rule 24 of the M.R.C.P., and until that motion to intervene is granted by this Court, this Court will not consider any pleadings filed by [K. D.] (nor will the Court consider the pleadings she has improperly filed prior to the date of this Order).

*Id.* K. D. did not subsequently file a motion to intervene in the district court under Rule 24 of the Montana Rules of Civil Procedure, nor has she filed a motion for leave to intervene directly in this court under Rule 2(1)(f) of the Montana Rules of Appellate Procedure.

Further, K. D. appeals from the Order for Appointment of Temporary Conservator (R. at 3) and the Order for Appointment of Temporary Guardianship (R. at 4). *See, generally*, Appellant's Opening Brief, *In Re the Matter of the Guardianship and Conservatorship of A.D.*, DA 25-0371 (August 4, 2025). Neither of the orders from which K. D. appeals has directly affected K. D.'s interests. The orders were issued to

establish the temporary guardianship and conservatorship of A. D., not K. D.

For these reasons, Appellee, the Montana Department of Public Health and Human Services moves the court to dismiss without prejudice this appeal.

/s/ Chanan Brown

Chanan Brown

Attorney for Appellee

**CERTIFICATE OF COMPLIANCE**

Pursuant to Rules 11(4)(e) and 16(3) of the Montana Rules of Appellate Procedure, I certify that this motion is printed with a proportionately-spaced Century Schoolbook 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 Microsoft 365 MSO (Version 2506 Build 16.0.18925.20216) 64-bit is 848 words, excluding the certificate of service and certificate of compliance.

/s/ Chanan Brown

Chanan Brown  
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## CERTIFICATE OF SERVICE

I, Chanan Brown, hereby certify that I have served true and accurate copies of the foregoing Motion - Dismiss to the following on 10-28-2025:

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