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ARGUMENT

1. Under Evolving Montana Law, Guardianship Must be Considered by the District Court in Determining Whether Termination of Parental Rights is in the Child's Best Interests.

Mother asserts that evolving Montana statutory law and this Court's precedent require a district court to give express consideration of guardianship as a permanency option when the Department requests termination of parental rights in the context of determining the best interests of the child and properly weighing the constitutional rights of both parents and children to reunification.

The Department handwaves this argument away, relying blindly on this Court's longstanding but now outdated precedent that "no limitation requires the district court to consider other options prior to terminating parental rights", *quoting In re T.S.*, 2013 MT 274, 372 Mont. 79, 310 P.3d 538, *as cited in In re. A.B.*, 2020 MT 64, 399 Mont. 219, 460 P.3d 405. The Department makes no effort to refute either the legal or the factual arguments Mother has made in support of her position that the District Court erred in not finding that guardianship was the preferred permanency option.

a. This Court's recent cases reflect a more considered jurisprudence on the district court's consideration of guardianship in termination proceedings.

This Court's decision in *A.B.* did not rely on a blanket district court right to ignore guardianship in the context of determining a child's best interests in a

proceeding for termination of parental rights. Rather, this Court approved of the District Court's thoughtful consideration of guardianship and termination in determining the child's best interests. *In re. A.B.*, 2020 MT 64, 399 Mont. 219, 231-232, 460 P.3d 405, 413-414. In *A.B.*, some parties asserted that guardianship was in the child's best interests while others asserted that adoption was in the child's best interests, citing factors such as a safe and stable family placement, existence of a parent-child bond, consistent visits, ongoing chemical dependency use, the child's need for financial support, the parent's level of engagement, and the effect of the rebuttable statutory presumption in 41-3-604(1), M.C.A. that termination is in the child's best interests. *Id.*

In her dissent, Justice Gustafson skewered longstanding Department tropes that guardianships cannot be subsidized in Montana, that guardianship is only for older children, that guardianships are impermanent and easily undone, and that guardianships result in worse outcomes for children. *In re. A.B.*, 2020 MT 64, 399 Mont. 219, 232-240, 460 P.3d 405, 414-419. A district court's reliance on these arguments is not supported by current law or modern scholarship. *Id.*

More recently, in *In re D.L.L.*, 2025 MT 98, 421 Mont. 522, 568 P.3d 552, there were again conflicting positions on whether guardianship or termination was in the children's best interests, though the Mother in that case was unengaged with the Department and providers, had not had visitation with the children for many

months, had continued to abuse drugs and alcohol, and was homeless; there was no family placement; the parents had documented instances of hostility against the placement; and the case had been open for thirty-four months. Considering these circumstances, the district court determined that termination and adoption was in the children's best interests. This Court held that the District Court did not abuse its discretion in weighing these factors and determining that guardianship was not in the children's best interests.

These two recent cases demonstrate an analytical change from *T.S.* and its progeny. Under these newer cases, analysis of the foundational finding of the "best interest of the child" in termination proceedings where a parent has not completed their treatment plan requires a comparative analysis between the alternative permanencies of guardianship and adoption. As shown below, this is consistent with the relevant statutes and with recent Montana legislative policy direction changes in child abuse and neglect cases.

b. Montana's permanency statutes require balanced and equal consideration of guardianship and termination in determining whether termination is in a child's best interests.

District courts and the department have prioritized termination as a permanency path due, in part, to the statutory presumption language of 41-3-604(1), M.C.A., which states:

- (1) If a child has been in foster care under the physical custody of the

state for 15 months of the most recent 22 months, the best interests of the child must be presumed to be served by termination of parental rights. . . . [A] petition to terminate parental rights must be filed unless:

- (a) the child is being cared for by a relative;
- (b) the department has not provided the services considered necessary for the safe return of the child to the child's home;
- (c) the department has documented a compelling reason, available for court review, for determining that filing a petition to terminate parental right would not be in the best interests of the child.

(2) Compelling reasons for not filing a petition to terminate parental rights include but are not limited to the following:

- (a) There are insufficient grounds for filing a petition;
- (b) There is adequate documentation that termination of parental rights is not the appropriate plan and is not in the best interests of the child.

Montana has long adopted the presumption that the best interests of the child are served in the custody of the natural parents. *In re J.H.*, 2016 MT 35, 382 Mont. 214, 367 P.3d 339. Section 41-3-604, M.C.A., was enacted to provide a countervailing presumption within the context of a child abuse and neglect case defining when the child's interests in permanency generally outweigh the parent's right to further time for treatment plan completion. Its provisions require the department to act or document its lack of action when the foster care duration condition is met. This statute is a legislative override of the department's prosecutorial discretion, subject to several enumerated and

unenumerated case-specific exceptions.

When 41-3-604, M.C.A., was adopted in 1999, the Montana Legislature also enacted 41-3-444, M.C.A., providing guardianship as an alternative permanency option in lieu of termination of parental rights and adoption. Section 41-3-444 (2)(d)-(g), M.C.A., provides:

(2) The court may appoint a guardian for a child . . . if the following facts are found by the court:

...

(d) . . . reunification of the parent and child would be contrary to the best interests of the child;

(e) the child has lived with the potential guardian in a family setting and the potential guardian is committed to providing a long-term relationship with the child;

(f) it is in the best interests of the child to remain or be placed with the potential guardian;

(g) . . . termination of parental rights to the child is not in the child's best interests; . . .

The plain language of neither statute favors termination over guardianship. Rather, under subsection (2)(b) of 41-3-604, M.C.A., when guardianship is in the best interests of the child, that is a compelling reason not to file a petition for termination and, by logical extension, a compelling reason not to grant termination. Similarly, under subsections 2(f) and (2)(g) of 41-3-444(2), M.C.A. guardianship is the appropriate permanency when staying with the proposed guardian is in the child's best interest and

termination of parental rights is not in the child's best interest. Regardless of the specific petition before it, the district court is specifically required to evaluate whether termination of parental rights or guardianship is in the best interests of the child.

The Legislature's clear intent is that both permanency options must be considered in determining the best interest of the child. And neither option is given precedence, since the 41-3-604(1), M.C.A. statutory presumption does not apply where guardianship is more in the child's best interests than termination and adoption.

c. Recent Legislative Enactments and Amendments to Montana's Child Abuse and Neglect statutes reflect a legislative policy to more vigorously protect the rights of parents and children to reunification and due process.

The 2023 Montana Legislative session featured several prominent child welfare reform bills, including:

1. HB 37, which originated after over a year of study in the bipartisan Children, Families, Health and Human Services Interim Committee, motivated by a policy directive of the Committee to further protect the constitutional rights of parents and children to limit unnecessary removals, more vigorously promote reunification, and guarantee children and parents due process of law;

2. SB 317, creating MICWA, the Montana Indian Child Welfare Act

and amending the reasonable efforts requirement under Montana law to match the comprehensive ICWA definition of active efforts;

3. HB 16, implementing an Emergency Protective Services hearing for parents to contest removal within five days;

4. SB 115, redefining psychological abuse more narrowly and requiring assessment by a licensed psychologist;

5. SB 149, implementing penalties for false and malicious reports of child abuse and neglect; and

6. SB 150, limiting drug testing in parental treatment plans.

Many of the provisions in these reform bills passed. Taken together, these reforms wrought a significant change in the handling of these cases.

These changes undisputably represent an overriding legislative policy directive to more completely protect parents and children from separation and prevent unnecessary removals and terminations. The weight now to be given to guardianship as a permanency path for children must be increased substantially considering these policy directives. This requires a reexamination of district court practice and Montana Supreme Court precedent relating to guardianship, focused on compliance with these new policies and goals.

d. The Requirement that a Guardianship Petition be Brought by the Department or Guardian ad Litem does not Prevent the District Court from Denying Termination of Parental Rights.

The department asserts that the District Court does not have the authority to order the department or GAL to file a Petition for Guardianship.

The department's position is partially correct. Section 41-3-444(1), M.C.A., authorizes the district court to appoint a guardian in the abuse and neglect case upon the petition of the Guardian ad Litem or the department.

However, as noted above, the district court is specifically authorized to determine whether guardianship or termination of parental rights is in the child's best interests. 41-3-444(2)(f), -(g) and 41-3-604(1)(c) and (2)(b), M.C.A.

If the district court denies a petition for termination and finds that guardianship is in the child's best interests, then the department has may respect the district court's determination that guardianship is the approved permanency plan and file a petition for guardianship; request alteration of the permanency plan to continue reunification efforts to try to bring the family back together; or work toward another permanency option except termination identified in 41-3-445(8), M.C.A. in good faith. The Department has an obligation to make reasonable efforts to effectuate and finalize the permanency plan for the individual child. 41-3-445(6)(c), M.C.A. These

efforts must be intensive and ongoing. 41-3-445(10), M.C.A.

Section 41-3-444(2)(a), M.C.A., provides that the Department must consent to a guardianship before the Court can approve it. This provision does not give the department an absolute veto power over guardianship petitions. Rather, the decision to deny consent is an agency decision reviewable by the district court to determine whether the denial of permission is arbitrary or capricious. *Cf.* 2-4-315, -704, M.C.A.; *Winchell v. Mont. DNRC*, 1999 MT 11, 293 Mont. 89, 972 P.2d 1132 (standard of review of agency decision is whether the decision was based on an erroneous application or conclusion of law exceeding the agency's statutory bounds, wholly unsupported by the pertinent evidence, or clearly arbitrary or capricious).

Finally, Montana's child abuse and neglect statutes do not preclude potential guardians in such cases from bringing a separate, general civil action for guardianship under 72-5-210, et seq., M.C.A. Such petitions are sometimes filed with department approval, but do not require it.

The Department initially agreed to a subsidized guardianship in open court, the District Court spoke favorably of the option, and there was an existing guardianship in place for the Child's brother at the family placement. The Mother's rights should not be terminated when everyone agreed that guardianship was in the Child's best interests, simply because:

- a. department personnel turnover resulted in department institutional amnesia;
- b. Mother's replacement counsel lacked knowledge of previous proceedings; and
- c. the guardianship agreement was only referenced in the transcript for the hearing, was not included in the clerk's minute entry, and no order on the hearing was issued by the judge.

These events were a tragedy of errors resulting in a denial of due process and justice to Mother.

It is harmful to the child and the parent to terminate a parent's rights when such does not increase the overall safety or stability of the child and is not in the best interest of the child's family. *In re D.L.L.*, 2025 MT 98, 421 Mont. 522, 568 P.3d 552, (Gustafson, J., concurring). There was no evidence that adoption would increase the overall safety or stability of the Child as compared to a guardianship.

2. The Department and District Court Failed to Apply Proper Legal Standards and Analysis in Determining that Mother's Condition Rendering Her Unfit Was Unlikely to Change Within a reasonable Time.

Mother asserts that the District Court misapprehended the effect of the evidence that Mother's condition was unlikely to change and that finding of fact was not supported by substantial evidence. Further, Mother asserts that

the District Court similarly erred in its foundational findings that termination was in the child's best interests and that the department complied with Montana's newly defined statutory reasonable efforts requirements.

The department's arguments in opposition fail to respond to Mother's substantive arguments, misapply the law, mischaracterize the facts, and fail to offer supporting evidentiary references.

a. The Department and the Court improperly minimized Mother's pre-termination treatment plan compliance.

Mother's treatment plan was not completed at the time of the termination hearing, though she was active, engaged, and making solid progress. The department argues, citing several Montana cases, that partial success or ongoing progress with a treatment plan is insufficient to preclude termination of parental rights. This misses the point. The fact that a parent has failed to fully complete a treatment plan is, by itself, insufficient to support the termination of parental rights; that is but one of the two necessary elements for termination under 41-3-609(1)(f), M.C.A. And this appeal undisputably involves consideration of the second element:

When a parent's treatment plan is not complete, termination of parental rights is nevertheless unwarranted where the conduct or condition of a parent is likely to change within a reasonable time. 41-3-609(i)(f)(ii), M.C.A. This factual finding requires determination of three facts:

1. Whether the conduct or condition of a parent has changed;
2. If not, when the conduct or condition is likely to change; and
3. If the likely time needed to achieve change is reasonable under the circumstances of the case.

The Department argues that the District Court did not err in determining that Mother's history is more probative of her likelihood to make enough progress within a reasonable time to overcome the condition rendering her unfit to parent than her "last-ditch, eleventh-hour" efforts.

As noted in Mother's opening brief, Mother was partially engaged with her treatment plan for ten months and was fully engaged with her treatment plan for five months before the termination hearing was held. The District Court's and the department's mischaracterization of these significant time periods of engagement as "last-ditch" or "eleventh hour" efforts is clearly erroneous and appears to come from a place of prejudice rather than studied objectivity.

When determining whether a parent will be able to care for the needs of a child within a reasonable time, the district court is required to assess the past and present conduct of the parent. *In re. A.B.*, 2020 MT 64, 399 Mont. 219, 228, 460 P.3d 405, 412. The district court is allowed to consider the parent's history and the persistence of mental health or chemical dependency

issues “to some extent”. *Id.*; 41-3-609(a), -(b), -(c), M.C.A. However, the district court must also consider evidence of rehabilitation in the record. *In re J.C.*, 2003 MT 369, 319 Mont. 112, 82 P.3d 900. In *J.C.*, the Mother had been receiving services from the Department for two years and had failed to maintain employment, secure a permanent residence, attend counseling sessions, be consistent in attending visits with her children, and remain drug free while pregnant as required by her treatment plan. Mother had obtained stable housing in the three months before the termination hearing by living at her mother’s house, and she had worked for a month during those three months. The district court remarked that Mother’s recent progress was good, albeit primarily due to parental support, but held that it insufficient to demonstrate that she would be able to parent within a reasonable time, and this Court affirmed.

The difference between the circumstances in *J.C.* and this case are striking. Rather than the three months of compliance with one treatment plan goal and one month of temporary compliance with another treatment plan goal preceding the termination hearing in *J.C.*, Mother here demonstrated five months of engagement, compliance, and improvement with every element of her treatment plan including consistent contact with her caseworker, regular meeting attendance, providing releases, obtaining an updated chemical

dependency evaluation and complying with its treatment recommendations, regular UA testing and limited alcohol relapses, completion of a parenting plan, consistent weekly visits and phone calls with her son, engagement with a new mental health provider since her previous ones had moved, obtained an appropriate home under yearly lease, was steadily employed, and had learned to prioritize her son's safety. Appellant's Opening Brief, Fact 13, p. 6-8; Fact 16, p. 9-12

This level of engagement and progress deserves more weight than the department's and District Court's dismissive disregard.

Respectfully, district courts do not need a crystal ball to evaluate when a parent will likely be ready to parent. Instead, the department and the parent and the providers should offer evidence as to when the parent is likely to complete the treatment plan and its parts. And the district court should make a finding of fact based on that case specific evidence, and studies and statistics showing treatment plan completion average and factors affecting the timeline for completion and the parent's likelihood of success.

Here, the department represented to Mother and the district court that all completable tasks of Mother's treatment plan could be completed in 4-6 months of full engagement. *See* Mother's Treatment Plan, Document 25, p. 4-7, paragraphs entitled **“Projected time necessary to complete**

tasks/objectives:”. The evidence at termination showed that Mother had completed the three four-month tasks and was on track with the rest. She was within a month of completion of her intensive outpatient chemical dependency program. By the department’s own calculations, Mother could and should have completed the treatment plan in the next month. The testimony of CPS Nicholas Petrini, Mother, Mother’s treatment providers, and Mother’s close relatives at the termination hearing all confirmed her full engagement and her substantial progress.

A risk of multiple departmental involvements is that the department and the courts create a subjective, fictionalized, demonizing shorthand version of the case history that becomes a trap that the parent cannot ever break free from. That risk was realized in this case. Both the department and the District Court created an exaggerated narrative by characterizing Mother’s “long history” as a repetitive pattern of temporary engagement and improvement followed immediately by problematic and dangerous behaviors. This inaccurate “long history” ignores Mother’s sustained periods of stability and sufficient parenting (such as from 2018 to 2022) and led the Court to minimize and mischaracterize Mother’s significant pre-termination engagement and progress.

b. The District Court erred in determining that the Department had made reasonable efforts to reunify Mother and her son.

In her opening brief, Mother asserted that the department failed to make reasonable efforts as required under the amended version of 41-3-423, M.C.A. which replaced Montana's broad and general definition of reasonable efforts with the much more specific and extensive requirements for active efforts found in the federal and state ICWA statutes, noting that there was no evidence at the termination hearing that the department complied with five of the reasonable efforts requirements.

Significantly, the department offers no response at all to Mother's argument that the department failed to undertake the specific reasonable efforts that are now statutorily required in all child abuse and neglect actions in Montana, tacitly admitting that the department did not meet its duty to make reasonable efforts to reunify Mother and Child. The reasonable efforts identified in 41-3-423(1)(b), M.C.A. are not suggestions. The statute provides that the department **shall** make reasonable efforts to reunify families separated but the state and that "reasonable efforts" means that the department **shall in good faith** undertake each of the ten specified measures.

As noted in Mother's initial brief, there was no evidence that the department complied with the reasonable efforts mandated by subsections (1)(b)(ii), -(iii), -(iv), -(v), or -(x) of 41-3-423, M.C.A. The Department's

brief provides no analysis or facts in opposition. The termination must be reversed and this matter remanded for implementation of reasonable efforts, pursuant to 41-3-423, 41-3-604(1)(b), and 41-3-609(1)(f)(ii), M.C.A.

The department asserts that the Americans with Disabilities Act was never referenced in the underlying proceeding and therefore Mother has no remedy for the department's failure to accommodate her disabilities in the formation and conduct of her treatment plan. This is not correct. Mother specifically requested accommodations on account of her mental illness and co-occurring conditions in the underlying case (Mother's Opening Brief, Fact 17, p. 12-13), during a status hearing at which her then counsel Melanie D'Isidoro was released as Mother's counsel. As a mentally ill, *pro se* litigant, her request for accommodations preserved the issue for appeal. *Cf. In re M.C.*, 2017 MT 252, 389 Mont. 78, 403 P.3d 1266 (*holding the Mother did not preserve her accommodation and ADA claims for appeal because she did not raise the issues in District Court*).

Significantly, the department fails to address Mother's point that both Montana's new reasonable efforts statute and the federal ADA impose duties of accommodation and assistance in overcoming parental barriers to successful completion of a treatment plan. Child Protection Specialists are statutorily required to understand how mental illness affects a parent's ability

to complete a treatment plan and must have the ability to identify barriers to treatment plan completion and to develop appropriate accommodations to eliminate or reduce those barriers. 41-3-423(1)(b)(ii), -(v), -(x), M.C.A.; 28 C.F.R. 35.130(b)(2024). These are now basic competencies for department social workers, and social workers who lack these competencies must confer with professionals to assess these issues and implement accommodations as part of their reasonable efforts to reunify.

In 2023, the Montana Legislature determined that the department needs to make greater efforts to reunify families, as part of its overall change in policy direction to protect parents' and children's rights in child abuse and neglect cases. It is the duty of this Court to ensure that department personnel and district courts give full effect to the amended statutes and the underlying policy behind them.

c. The District Court erred in concluding that termination of parental rights was in the Child's best interests.

In its answer brief, the Department asserts that the best interests of the child are paramount, that termination was presumed to be in the child's best interests under 41-3-604(1), M.C.A., and that a child's need for a permanent, stable, and loving home supersedes a biological parent's right to parent the child. The District Court relied upon the statutory presumption and the bond and stability of the child in his placement in finding that termination was in

the child's best interests.

The District Court erred in applying the presumption that termination was in the child's best interests set forth in 41-3-604(1), M.C.A. for two reasons. First, the child was being cared for by a family member, which rebuts the presumption. 41-3-604(1)(a), M.C.A. The child was placed with his step-grandmother, which is an extended family member. 41-3-1303(9)(b), M.C.A. Second, the department had not provided the services considered necessary for the safe return of the child to the child's home. 41-3-604(1)(b), M.C.A.

The District Court erred in failing to consider guardianship when making the best interest determination, as set forth above. 41-3-604(10)(c) and 41-3-444(2)(f), -(g), M.C.A. All of the factors cited by the District Court as supporting continued placement with the child's step-grandmother and brother apply equally to guardianship as to termination, except that the child's brother's guardianship placement militated in favor of this child also being permanently placed under a guardianship, which would place both brothers on an equal legal footing in the same household and equally preserve each child's legal ties to Mother.

Finally, the District Court erred in failing to analyze the evidence and make a specific finding as to when Mother was likely to have made enough progress to be fit to parent her child, which would have enabled the District

Court and this Court to explicitly weigh the length of any additional time against the child's specific needs.

3. The District Court Misapprehended the Effect of The Evidence in Determining that the Child Had Been Subject to Chronic, Severe Neglect.

Mother asserts that there was not clear and convincing evidence of chronic, severe neglect presented at the termination hearing necessary for termination of parental rights under 41-3-609(1)(d) and 41-3-423(2)(a), M.C.A. There was not clear and convincing evidence that the three discrete instances of department and court involvement reflected frequent recurrence of abuse over a long time or slowly progressing seriousness of abuse. Nor were they comparably as severe as the other offenses, such as rape and torture, which qualified as aggravated circumstances.

The department disagrees, asserting that the Department's three instances of involvement meet the aggravated circumstances standard because three instances is enough to constitute neglect that was frequent and long in duration and because the last two resulted in removals, demonstrating a progression of seriousness.

The department weighs the impact of these cases on the child by the length the case is open, but for a young child, the better metric is the length of removal from the parent's custody.

Here, the child was born in June, 2016. A DFS case was begun on the

grounds that Mother had tested positive for alcohol and THC during pregnancy, **but the child was not removed from the home**, and the case was eventually resolved in June, 2018. In July, 2022, the child was removed from the home for the first time and placed with his step-grandmother during a period of Temporary Investigative Authority, which lapsed without progressing to an adjudication. **One month later, the child was returned to his home with Mother.** The child was removed a second time in June, 2023, at the outset of the instant case.

Thus, to be clear, before the instant case began, the child had lived with his mother from his birth until he was six years old. During that time, **the child had been removed from his home for ONE month out of SEVENTY-TWO Months.** Virtually all the child's time being removed from his home has been in the instant case. He had been out the home for about fourteen months when the petition for termination of parental rights was filed, before the presumption of 41-3-604(1), M.C.A. could have even been triggered.

The aggravated circumstances basis for termination of parental rights contemplates acts of abuse so bad, so severe, that they override the Department's duty to pursue reunification: acts like torture, sexual abuse, aggravated assault, murder or attempted murder, and other acts which have

resulted in serious bodily injury to or death of a child. 41-4-423(2), M.C.A.

The acts which led to Department involvement in this case and the two proceeding ones don't meet that standard.

The acts giving rise to departmental involvement have not been severe. Comparatively speaking, department involvement related to alcohol and THC use during pregnancy which does not result in removal of the infant is not an aggravated circumstance nor an incident of severe neglect. Temporary department involvement under a grant of Temporary Investigative Authority which leads to the child's removal for one month and does not continue past the TIA investigatory period is not on a par with murder or sexual abuse. Similarly, the circumstances giving rise to this case, an incident of physical domestic abuse in front of the child, allowing potentially unsafe people to reside in the residence, and allowing the child to miss an excessive amount of school, while sufficient to trigger department involvement, do not rise to the level of torture or abandonment or seriously physically injuring a child.

The acts giving rise to department involvement have not been chronic. Three instances triggering department court-level involvement in ten years are not frequently recurring neglect. The instances of abuse were not of long duration, even if department involvement was occasionally extended. There was no slow progression of seriousness. The second instance was resolved in

far less time than either of the other ones, and at the time of the termination hearing, only nineteen months had passed, compared to the 24 months the first action took to resolve. Indeed, if the department had afforded Mother in this case the two years they had in 2016, she would likely have completed her treatment plan and the case been dismissed. Similarly, the six years between the first and second instances and the eleven months between the second and third instances refute the department's assertion that there was constant ongoing abuse.

It is not the role of the District Court to shoehorn every case in which there have been predecessor cases into the aggravated circumstances provision for termination of parental rights. The cases which meet that standard are the shocking, barbaric exceptions. This case is not.

CONCLUSION

For the reasons stated, Mother respectfully requests that the District Court's order of termination be reversed, and the case remanded for further proceeding including consideration of a guardianship and provision of reasonable efforts to Mother in support of reunification.

Dated this 31st day of October, 2025.

Allen P. Lanning

Allen P. Lanning
Attorney for E.A.

CERTIFICATE OF COMPLIANCE

I certify that the foregoing Brief is proportionately spaced, has a 14-point typeface, and consists of 4,979 words.

Allen P. Lanning
Allen P. Lanning

CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and correct copy of the foregoing **Appellant's Reply Brief** with the Clerk of the Montana Supreme Court and that I served true and correct copies upon each attorney of record and unrepresented party by email.

Allen P. Lanning
Allen P. Lanning

CERTIFICATE OF SERVICE

I, Allen Page Lanning, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Reply to the following on 10-31-2025:

Tammy Ann Hinderman (Attorney)
Office of State Public Defender
Appellate Defender Division
P.O. Box 200147
Helena MT 59620
Representing: E. A.
Service Method: eService

Kathryn Fey Schulz (Govt Attorney)
215 North Sanders
P.O. Box 201401
Helena MT 59620-1401
Representing: State of Montana
Service Method: eService

Matthew C. Jennings (Govt Attorney)
200 W. Broadway
Missoula MT 59802
Representing: State of Montana
Service Method: eService

Austin Miles Knudsen (Govt Attorney)
215 N. Sanders
Helena MT 59620
Representing: State of Montana
Service Method: eService

Electronically Signed By: Allen Page Lanning
Dated: 10-31-2025