

ORIGINAL

FILED

01/06/2026

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 25-0756

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 25-0756

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Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

IN THE MATTER OF THE GUARDIANSHIP  
AND CONSERVATORSHIP OF:

J.F.R.,

ORDER

A Protected Person

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Lawrence E. Henke filed a notice of appeal on October 29, 2025, from the Third Judicial District Court's October 20, 2025 order holding him in contempt of court. Through counsel of record, Petitioner Jana Cooke moves to dismiss the appeal on the ground that it is taken from a non-appealable order. Henke, counsel in the underlying matter for protected person J.F.R., opposes the motion.

The Court is familiar with the underlying action. In *In re Guardianship & Conservatorship of J.F.R.*, 2024 MT 223, 418 Mont. 185, 557 P.3d 45, we upheld the District Court's November 20, 2023 order appointing Western Montana Chapter for Prevention of Elder Abuse (Western Montana Chapter) as J.F.R.'s temporary full conservator and Western Montana Chapter, Stephanie Ross, and Jana Cooke as temporary full co-guardians. The same day, we denied a petition for writ of supervisory control seeking to have the Court vacate orders entered by the District Court in the same case that extended the temporary co-guardianship and conservatorship appointments. *In re Guardianship & Conservatorship of J.F.R.*, No OP 24-0519, 420 Mont. 394, 561 P.3d 574 (Oct. 8, 2024). We concluded that supervisory control was unnecessary, "[g]iven the resolution of the appeal and return of the matter to the District Court, which can now undertake coordination of the temporary and permanent appointments[.]"

On October 14, 2024, Henke met with Stephanie, J.F.R., and Creative Planning and entered an engagement agreement granting Creative Planning the ability to manage certain accounts of J.F.R.'s revocable living trust. The District Court held in its October 20 order that the engagement with Creative Planning was a violation of its order appointing Western Montana Chapter as temporary conservator. The court found that at the time of the engagement agreement, Stephanie and Henke "were or should have been aware the Supreme Court had continued the temporary conservatorship six days before their meeting with Creative Planning." The court also found likely improper transfers of funds to both Stephanie and Henke without notice to Western Montana Chapter as J.F.R.'s conservator. It held both Henke and Stephanie in contempt and directed each of them to submit documentation to Western Montana Chapter accounting for those funds. The court held Henke and Stephanie jointly and severally liable for paying Jana Cooke's attorney fees related to her emergency motion for contempt and precluded Henke from receiving any attorney fees on behalf of J.F.R. in defending against the contempt motion.

Pursuant to § 3-1-523(1), MCA, there is no appeal from an order of contempt, "but the action of a district court or judge can be reviewed on a writ of certiorari." Consistent with § 3-1-523(2), MCA, M. R. App. P. 6(3)(j) contains an exception that permits appeal from a contempt judgment or order in a family law proceeding "when, and only when, the judgment or order appealed from includes an ancillary order entered as a result of the contemptuous conduct which affects the substantial rights of the parties involved[.]" *See also In re Estate of Gordon*, 192 Mont. 499, 504, 628 P.2d 1117, 1119 (1981) (dismissing appeal of contempt order and holding that the appealing party instead must "file an appropriate writ of review").

Jana argues that the October 20, 2025 order is not appealable because the underlying guardianship and conservatorship action is not a "family law proceeding" within the meaning of Appellate Rule 6(3)(j) and, alternatively, because the order does not affect the substantial rights of the parties. Henke does not substantively engage with those arguments except to say that the appeal "may be subject to § 3-1-523(2), MCA, because the order does

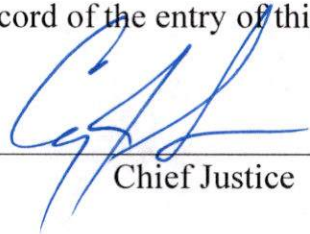
affect Stephanie Ross,” a member of J.F.R.’s family. Henke continues that if direct appeal is inappropriate, the Court should treat the matter as a petition for writ of review under M. R. App. P. 14(2) or for writ of supervisory control under M. R. App. P. 14(3). He argues that the District Court is proceeding under several mistakes of law and is causing a gross injustice.


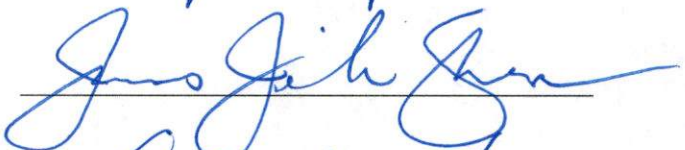

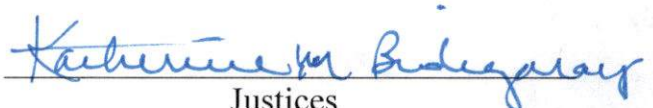
The only notice of appeal was that submitted by Henke, as “counsel for [J.F.R.]” Stephanie has not appealed. The Court agrees with Jana that Henke may not appeal the October 20, 2025 order. Henke’s response to Jana’s motion to dismiss addresses primarily the merits of the contempt order, which neither Jana nor the District Court has had an opportunity to address. A petition for writ of review must be “commenced and conducted in the manner prescribed by the applicable sections of the Montana Code Annotated[.]” M. R. App. P. 14(2). The procedure for a writ of certiorari, “denominated writ of review,” is governed by Title 27, Chapter 25, MCA. As in *In re Estate of Gordon*, we conclude that Henke must proceed in that fashion should he seek review of the contempt order.

IT IS THEREFORE ORDERED that Jana’s motion is GRANTED and the appeal is DISMISSED.

The Clerk is directed to notify all counsel of record of the entry of this Order.

Dated this 6<sup>th</sup> day of January, 2026.

  
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Chief Justice

  
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Justices