

**IN THE SUPREME COURT OF THE STATE OF MONTANA**  
**Supreme Court Cause No. DA 25-0795**

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IN RE THE MARRIAGE OF:

PRESTON BULL,

Petitioner and Appellant,

and

JACQUELINE BULL,

Respondent and Appellee.

**APPELLEE'S  
RESPONSE BRIEF**

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On Appeal from the Fourth Judicial District Court, Missoula County  
Before the Hon. Shane Vannatta,  
Cause No. DR-21-681

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**TABLE OF CONTENTS**

	<u>Page No.</u>
Table of Authorities.....	2
I. <u>Statement of the Issues</u> .....	3
II. <u>Statement of the Case</u> .....	3
III. <u>Statement of the Facts Relevant to Appeal</u> .....	4
IV. <u>Standard of Review</u> .....	10
V. <u>Summary of Argument</u> .....	11
VI. <u>Argument</u> .....	13
A. <b>THE DISTRICT COURT DID NOT ERR WHEN IT ENTERED A PROTECTIVE PARENTING PLAN PURSUANT TO MONT. CODE ANN. § 40-4-212</b> .....	13
B. <b>THE DISTRICT COURT DID NOT ERR WHEN IT ORDERED SHARED PAYMENT OF THE CHILDREN’S EXTRA-CURRICULAR EXPENSES</b> .....	24
VII. <u>Conclusion</u> .....	27
Certificate of Compliance.....	28

**TABLE OF AUTHORITIES**

<u>Cases</u>	<u>Page No.</u>
<i>In re C.J.</i> , 2016 MT 93, 383 Mont. 197, 369 P.3d 1028.....	10
<i>In re D.E.</i> , 2018 MT 196, ¶ 21, 392 Mont. 297, 423 P.3d 586 .....	11
<i>Jacobsen v. Thomas</i> , 2006 MT 212, ¶ 13, 333 Mont. 323, 142 P.3d 859 .....	10

*In re Marriage of Martinich-Buhl*,  
2002 MT 224, ¶ 14, 311 Mont. 375, 56 P.3d 317 .....10

*In re Marriage of Whyte and Couvillion*,  
2012 MT 45, 364 Mont. 219, 272 P.3d 102.....18, 19

Statutes

Mont. Code Ann. § 40-4-101 .....24

Mont. Code Ann. § 40-4-204 .....24

Mont. Code Ann. § 40-4-212 .....3, 11, 13, 14, 17, 19

Mont. Code Ann. § 40-4-219..... 19

Mont. Code Ann. § 40-4-227..... 20

Mont. Code Ann. § 40-4-234..... 13, 25, 28

Administrative Rules

ARM 37.62.123.....25

Secondary Source

APA Working Group on Evaluation of Child Custody  
in Family Proceedings, *APA Guidelines for Child  
Custody Proceedings*, pg. 5 (Feb. 2022),  
<https://www.apa.org/about/policy/child-custody-evaluations.pdf>  
(Accessed Jan. 14, 2026).....18

## I. STATEMENT OF ISSUES

The following issues (restated) are dispositive of this appeal:

1. Did the district court err when it entered a protective parenting plan pursuant to Mont. Code Ann. § 40-4-212?
2. Did the district court err when it ordered payment of the children's extra-curricular expenses?

## II. STATEMENT OF THE CASE

The Respondent and Appellee, Jacqueline Bull (“Jackie”), responds to Appellant’s Opening Brief in this appeal to the Montana Supreme Court from the Fourth Judicial District Court, Missoula County, Cause No. DR-22-40. *Notice of Appeal* was filed by Petitioner and Appellant, Preston Bull (“Preston”) on November 13, 2025 in which Preston noticed his intent to appeal “from the order entered in such action on September 23, 2025.” The district court entered its *Order Correcting Clerical Error* on September 23, 2025. Doc. 166. Based on the Appellant’s *Opening Brief* that was filed in this Court on December 15, 2025, it is presumed that Preston is appealing the Court’s *Findings of Fact, Conclusions of Law and Decree of Dissolution* entered on June 23, 2025, specifically the Court’s entry of the final parenting plan and division of children’s expenses.

### III. STATEMENT OF FACTS RELEVANT TO APPEAL

Jackie and Preston were married on January 1, 2010. Doc. 159, pg. 2, ¶ 2. They share three children, A.B., 12 years old; E.B., 9 years old; and K.B., 6 years old. *Id.* at ¶ 6. The parties separated in August 2021 following an abusive incident in which Preston grabbed Jackie and pushed her; told Jackie that ‘a bullet to the brain sounds like the answer’; cocked a firearm in the presence of Jackie and E.B. (while the other children were in the residence), telling Jackie ‘this is the end;’ stated that he was going to kill himself; and tried to take the parties’ child from Jackie, asking her, “Do you want to come with me while Daddy kills himself?” Doc. 159, pgs. 8-9, ¶ e(i); *Tr.*, pg. 320. As a result, Jackie filed a Petition for a Temporary Order of Protection against Preston on behalf of herself and the parties’ children in the Missoula County Justice Court, which was granted. Resp.’s Ex. Y. Following a hearing on the Temporary Order of Protection, the justice court entered a permanent, non-expiring Order of Protection against Preston on behalf of Jackie and the parties’ three children. *Id.* The Order of Protection remains in effect.

On October 10, 2021, Preston filed his Petition to Adopt Parenting Plan with the district court. Doc. 1. On November 5, 2021, Jackie filed her Response to Petition and Counter-Petition for Dissolution of Marriage. Doc. 7.

Throughout these proceedings, the parties’ children have been engaged with individual counselors, one of whom provided information in the form of a report and

recommendations to the court (Doc. 47) and both of whom provided testimony at various court proceedings. *Tr.*, pg. 242-287.<sup>1</sup> On June 10, 2022 the court appointed Donna Ryngala, PhD (“Ryngala”) as the parenting evaluator. Doc. 48. Ryngala completed her first parenting evaluation on July 1, 2022. Resp.’s Ex. A, part 2, pgs. 1-56; Doc. 59-60. Ryngala’s report thoroughly addresses Preston’s medical and substance use history (Doc. 60, pgs. 19-20, 49-52), his mental health (*Id.* at pgs. 21-22, 42-47, 49-52) and his propensity for future violence, which was determined by another evaluator to be of high risk. *Id.* at pgs. 43-44. The report also includes interviews with the children and assessments of the children’s relationships with the parents. *Id.* at pgs. 28-34. The parenting evaluator did not observe Preston with the children during the original parenting evaluation. *Id.*, pg. 34. The parenting evaluator met with a number of collateral contacts, including the children’s counselor who disclosed the children’s diagnosis<sup>2</sup> and the factual basis for the diagnosis. *Id.*, pgs. 35-37. The parenting evaluator made specific recommendations for parenting and

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<sup>1</sup> The transcript provided by Preston is only the transcript for the final trial in this matter. The children’s other counselor, Ashley Cheung, also provided testimony in other court proceedings of which the court took judicial notice of at the final trial.

<sup>2</sup> At the time of the original parenting evaluator, A.B. had been diagnosed with Post-Traumatic Stress Disorder. The counselor identified that A.B. “seemed to bear more of the anger in the household... that she received harsh and inappropriate punishment from Preston including taking away her special attachment toys, being isolated from the rest of the family because of her apparent problematic behavior and the ‘scariness’ of Preston’s anger.” Doc. 60, pgs. 36-37.

treatment for the family, including that: (1) Preston have weekly therapeutic supervised visitation with the children with a “trauma informed [mental health provider] in order to support and coach Preston’s reunification and development into an empathetic, supportive and attuned father;” (*Id.*, pg. 53) (2) Jackie be solely responsible for decision making regarding the children’s education, health, extracurricular activities and community involvement;” (*Id.*) (3) the children continue in individual therapy; (*Id.* at pgs. 53-54) and (4) Preston continue in therapy to address his psychological health, substance abuse and parenting so “that he be able to clearly articulate what he is working on in therapy and changes he is making (insight and behavioral change).” *Id.*

Following the 2022 parenting evaluation, Preston and the children had therapeutic supervised parenting time with Cindy Miller, PhD (“Miller”) who submitted her first report to the court on September 2, 2022. In her report, Miller noted that she reduced Preston’s parenting time to every other week due to the children’s difficulties after visits and because the parties’ oldest child had strongly requested additional time between visits. Doc. 77. She also stated that “the plan needs to be based primarily on the girls’ adjustment to the visits” and that she “strongly recommend[s] that visits at Planet Kids not be added until all three girls feel comfortable with that transition and their emotions and behavior are better

regulated after visits.” *Id.* In October 2022, the parties’ oldest child stopped attending therapeutic supervised visits with Preston.<sup>3</sup> Doc. 94. Miller also noted that:

Preston’s objective for the therapeutic visits is to get 50/50 parenting time rather than to improve his relationship with the girls, which he thinks is fine. He appeared to have increasingly viewed the therapist as an adversary which greatly diminishes the potential for significant changes in Preston’s behavior, although he recently was able to do some repair work with the therapist.

*Id.* Miller withdrew as the therapeutic supervisor in early 2023. On June 9, 2023 the court appointed a second therapeutic supervisor, Kim Brown Campbell, LCPC, ATR (“Campbell”), for Preston’s parenting time with the children. Doc. 117. Campbell submitted four different reports to the court on the progress of the therapeutic supervision. Resp’s Ex. B. In her September 26, 2023 report, Campbell noted that Preston finds individual therapy to be useless and that he had a “significant disconnect between what occurred in the past and the purpose of the therapeutic supervision with his children.” *Id.* Campbell also reported that Preston was refusing

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<sup>3</sup> Miller provided information in her report regarding the final event leading up to the parties’ oldest child no longer attending parenting time with Preston. Miller stated that: in response to the two older children telling Preston that they wanted more time before their visits with him, Preston told them that he “was paying a lot of money for this process and if the girls didn’t want to see him, we could just stop the visits.” Doc. 94. Miller reported that Preston’s “tendency toward rigid, black-and-white thinking can make it difficult for him to understand a perspective different from his own, which can make it difficult for the girls, at times, to feel that there is room in the relationship for them to have different wants, needs and opinions. Preston has difficulty seeing that his questions regarding the girls spending time with him at his house raise their anxiety. . . . Preston became dysregulated with the therapist at the end of a recent visit when the children were out of the room.” *Id.*

to work on two of the four goals identified by Campbell as being necessary for the therapeutic supervision process. *Id.* On December 1, 2023, Campbell filed a report stating: “I believe, in this case, that the children should be able to choose whether they see their father in any capacity given the nature of their past relationship and the permanent protective order that is in place.” *Id.*<sup>4</sup> On March 15, 2024, Campbell terminated services with the family as the therapeutic supervisor on the basis that Preston was unable to continue working with Campbell in a therapeutic manner. *Id.*; *Tr.*, pg. 180, lines 10-23.

Following Campbell’s withdrawal from the case, the parties again sought the services of Ryngala for an updated parenting evaluation, which was filed with the court on October 10, 2024. Doc. 124; Resp’s Ex. A. Ryngala noted that “Preston’s insight into his own behavior and emotions continues to be a challenge for him . . . [and his] ability to empathize with others is challenged and he seems unable or unwilling to sustain self awareness [sic].” Pgs. 7-8. Preston informed Ryngala that he was not going to find another family therapist to work with him and the children. *Id.* at 8. In her written evaluation, Ryngala updated information on Preston’s substance abuse and provided a summary on the status of the reunification therapy between Preston and the children. *Id.*, pgs. 9-10. Ryngala met with the children and

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<sup>4</sup> Throughout all of Campbell’s reports, it is mentioned that Preston focuses more heavily on the parties’ middle daughter. Resp.’s Ex. B. Prior to the parties separating, Preston used favoritism of this child as a dynamic of family violence.

was informed by the parties' oldest child that she did not want to do the observation with her father and was not interested in seeing him. The child also told Ryngala that when she was having time with Preston in therapeutic parenting she "quickly realized that the same pattern was occurring: [Preston] was ignoring her and focusing on E.B" and she informed Ryngala of the situation that occurred on the final therapeutic visit she attended with Preston. *Id.*, pgs. 10-12.<sup>5</sup> Ryngala recommended that: (1) supervised visits at Planet Kids be carefully introduced every other week; (2) the children be allowed to refuse visits if they choose; and (3) if Preston were to resume his therapeutic work and show progress (according to professionals), his parenting should be re-assessed but that no reassessment should occur until a significant change is indicated by the professionals. *Id.*, pg. 15.

A two-day trial was held on May 13-14, 2025. After considering the thorough record and thoughtful insight of the multitude of professionals involved with this family, the court entered a Final Parenting Plan that is in alignment with Ryngala's recommendations. Doc. 159, 134.

Following the trial, the court entered a child support order requiring Preston pay Jackie \$274 per month per child for a total of \$822 per month total. Doc. 159,

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<sup>5</sup> Ryngala identified in her 2024 parenting evaluation that during the observation of Preston with the two youngest children, Preston conversed and engaged for the "vast majority" of the time with E.B. even though K.B. was also present for the observation.

Ex. B. The court also established a medical support order for the support of the minor children, including an equal split of the children’s medical, dental, ocular and counseling expenses, as well as health insurance premiums, co-payments and deductibles. *Id.* The court also ordered that the parents were obligated to pay the children’s other expenses with Jackie being solely responsible for payment of the children’s childcare expenses and the parties equally splitting the cost of the children’s extra-curricular activity registrations and equipment. Doc. 134, pg. 7, ¶ f(iii). At trial, Jackie testified that the children were actively involved in extra-curricular activities, such as soccer, softball, track, drama, choir and swimming lessons. *Tr.*, pg. 319, lines 10-14. After hearing the testimony presented, the court granted Jackie decision-making authority for extra-curricular activities and ordered that the parties equally split the children’s extra-curricular expenses in addition to child and medical support. Doc. 134, pg. 7, ¶ f(iii).

#### IV. STANDARD OF REVIEW

District courts have broad discretion to make parenting plan determinations. *In re C.J.*, 2016 MT 93, ¶ 13, 383 Mont. 197, 369 P.3d 1028. This Court reviews a district court’s decision on a parenting plan and child support for a clear abuse of discretion. *Id.*; *Jacobsen v. Thomas*, 2006 MT 212, ¶ 13, 333 Mont. 323, 142 P.3d 859; *In re Marriage of Martinich–Buhl*, 2002 MT 224, ¶ 14, 311 Mont. 375, ¶ 14, 56 P.3d 317, ¶ 14. An abuse of discretion occurs if a court “acts arbitrarily, without

employment of conscientious judgment, or exceeds the bounds of reason resulting in substantial injustice.” *In re D.E.*, 2018 MT 196, ¶ 21, 392 Mont. 297, 423 P.3d 586.

## V. SUMMARY OF ARGUMENT

The district court acted within its discretion when it entered the Final Parenting Plan, pursuant to Montana Code Annotated § 40-4-212. In making its determination on parenting, the court took into consideration and made express findings on Preston’s mental health and his lack of therapeutic progress for the three years preceding trial despite the family’s engagement with multiple mental health providers (Doc. 159, pg. 6, ¶ d(i)), his abuse of alcohol including in the presence of the children (Doc. 159, pg. 10, ¶ f), his physical and emotional abuse of Jackie including abuse in the presence of the children (Doc. 159, pg. 8, ¶ e(i)), his physical and emotional abuse of the parties’ children (Doc. 159, pgs. 8-9, ¶ e(i)), and the children’s mental health (Doc. 159, pg. 7, ¶ d(iii)). The district court established a Final Parenting Plan that meets the children’s best interests and that balances Preston’s right to parent with the children’s right to safety. In entering the Final Parenting Plan, the court considered extensive testimony and evidence, including expert witness testimony by the parenting evaluator, two therapeutic visitation therapists, and two professionals who had provided counseling services to the

parties' three children.<sup>6</sup> Doc. 159, pg. 24, ¶ E. Every professional involved with the family testified about concerns with Preston exercising unsupervised parenting time with the children. Further, extensive testimony by professionals involved with the family was provided throughout the district court proceedings, including at trial, as well as written reports regarding the children's therapeutic needs as a result of the harm inflicted upon them by Preston and Preston's inability to complete the therapeutic work necessary for him to restore his parent-child relationship with the children. Doc. 159, pgs. 6-7, ¶ d(i); Doc. 47; Doc. 77; *Tr.*, pg. 54-64, 71-74, 180-182, 183-184, 192-194, 196-199, 254-261, 271-273, 278-283; Resp.'s Ex. A, B. The district court's Final Parenting Plan allows for Preston and the children to have supervised parenting time if the children (who have been direct and secondary victims of Preston's violence) desire to have such time with him and provides Preston with the opportunity to complete therapeutic work recommended for him in order for him to be a safe parent for the children and have expanded parenting time with them.

The district court ordered a final child support and medical support order for the support of the minor children pursuant to the Montana Child Support Guidelines.

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<sup>6</sup> Although only the parenting evaluator, one therapeutic supervisor, and the children's current counselor testified at the final two-day trial in the district court case, the other professionals had testified at prior hearings before the district court. At the final trial, the court took judicial notice of the prior testimony of all professionals involved with the family. *Tr.*, pgs. 306-307, lines 18-3.

In addition, the court entered an order for the parties to equally share the children's extra-curricular expenses in accordance with Montana Code Annotated § 40-4-234.

## VI. ARGUMENT

### **A. THE DISTRICT COURT ACTED WITHIN ITS DISCRETION AND BASED UPON THE EVIDENCE PRESENTED WHEN IT ENTERED THE FINAL PARENTING PLAN PURSUANT TO MONT. CODE ANN. § 40-4-212.**

- i. The record clearly establishes that the children experienced trauma perpetrated by their father and the court properly exercised its discretion to allow the children to decline to participate in future parenting time with him if they wish.**

The district court properly entered the *Final Parenting Plan* based upon the evidence presented. The court took into consideration a two-part parenting evaluation conducted by Dr. Donna Ryngala that spanned from 2022 to 2024 and her testimony. Resp.'s Ex. A. The court also considered and heavily relied on the reports and testimony of four other mental health professionals throughout these proceedings. All of the professionals who had been involved with the family recommended that Preston's parenting time should be restricted (Resp.'s Exs. A-B; Doc. 47; Doc. 77); that the children should be allowed agency in whether they participate in parenting time with their father based upon his infliction of physical and emotional harm on them directly and on their mother in their presence (Exs. A-B; *Tr.*, pg. 64); and that Preston had not participated in his own therapeutic process over the past four years to the point that allowed him to safely parent the children

without supervision and to repair the parent-child relationship. Doc. 159, pgs. 6-7, ¶ d(i); Doc. 47; Doc. 77; *Tr.*, pg. 54-64, 71-74, 180-182, 183-184, 192-194, 196-199, 254-261, 271-273, 278-283; Resp.'s Ex. A, B.

Montana Code Annotated § 40-4-212 requires that the district court take into specific factors when determining a parenting plan. One of the factors that the court is required to consider is the wishes of the children. Mont. Code Ann. § 40-4-212(b). In order to evaluate this factor, the district court considered the testimony of five mental health professionals who had extensively worked with the parties' children and the court also conducted an in-chambers interview with the parties' oldest child. Doc. 159, pg. 4, ¶ a(iii). It is incongruous to require the district court to consider the children's wishes when formulating a parenting plan, yet simultaneously compel the court to disregard those same wishes when the children express a desire not to engage in parenting time with an abusive parent. This inconsistency is particularly stark in cases where the children have been exposed to physical and emotional harm inflicted by one parent against the other, have themselves been subjected to physical and emotional abuse by that parent, and where mental health professionals who have worked directly with the family have recommended that the children be afforded agency in determining whether and under what circumstances parenting time with the abusive parent should occur.

In addition to the child's wishes, the court is also required to take into consideration other relevant parenting factors, including, but not limited to: the mental and physical health of all individuals; physical abuse or threat of physical abuse by one parent against the other parent or child; and chemical dependency. *Id.* The court made thorough findings as to each of these relevant factors and others. Doc. 159, pgs. 4-11. Of specific importance and relevance to the children's wishes in this case, the court found that:

- 1) “[B]ased upon his lack of therapeutic progress throughout the last almost four years, it is clear that Preston has continued and [sic] significant unaddressed mental health needs. Despite Preston’s mental health being identified as an issue by every professional involved in this case, Preston has failed to do any meaningful work to address these issues and has stopped participating in therapy. Additionally, Dr. Ryngala testified that Preston’s mental health issues are difficult to treat and unlikely to go away even with treatment . . . .” Doc. 159, pgs. 6-7, ¶ d(i).
- 2) “The two oldest children have been diagnosed with Post Traumatic Stress Disorder and the youngest has been diagnosed with Adjustment Disorder. Jackie has appropriately addressed the children’s needs by providing them access to mental health services and by following the recommendations of the therapists and professionals involved with the children.” Doc. 159, pgs. 7-8, ¶ d(iii).
- 3) “Preston was physically and emotionally abusive to Jackie (including in the presence of the children) and the parties’ children throughout the parties’ marriage. Preston would often give Jackie and the children the ‘silent treatment’ as a method of emotional abuse, slam things around the home, yell, and call Jackie and the children (particularly the parties’ oldest child) derogatory names. He would frequently punch walls and throw objects in anger. Preston has grabbed Jackie and pushed her. He has told Jackie that ‘a bullet to the brain sounds like the answer.’ Preston cocked a firearm in the presence of Jackie and one of the children (while the other

children were in the residence) to threaten her and told Jackie ‘this is the end.’ He also threatened to commit suicide during this incident.<sup>7</sup> Preston has grabbed the parties’ oldest child by her shoulders and held her against the wall with her feet dangling because he was mad at her; he has thrown cups of water in the oldest child’s face; he would force the oldest child to stand in front of a mirror when she was crying and tell her to look at herself and how ugly she was; and he removed all of the toys from the oldest child’s bedroom, saying she did not deserve them.” Doc. 159, pgs. 8-9, ¶ e(i).<sup>8</sup> See Tr., pgs. 322-327, lines 21-2.

- 4) “Preston has a history of abusing alcohol, including in the presence of the children . . . Preston was diagnosed with Alcohol Use Disorder, Moderate. Despite this diagnosis, Preston testified that he continues to drink alcohol.” Doc. 159, pg. 10, ¶ f.

The district court is statutorily mandated to take into consideration the children’s wishes when determining a final parenting plan. In this case, the court considered the children’s wishes and their future wishes in the context of the other parenting factors relevant to this family’s circumstances, specifically that the children had been exposed to and were direct victims of their father’s family violence, which was exacerbated by his mental health issues and substance abuse. The parenting evaluator specifically recommended the parenting schedule that was

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<sup>7</sup> During this incident, he stated that he was going to kill himself and had a gun in his truck. He tried to take the parties’ child from Jackie and asked her, “Do you want to come with me while Daddy kills himself?” *Tr.* pg. 320, lines 13-21.

<sup>8</sup> Jackie testified to other instances of Preston perpetrating violence on the children, including, but not limited to, Preston leaving the residence with a firearm and taking one of the children with him following an abusive altercation. When Jackie chased him and took back the child, he told Jackie, “If you ever take my child away from me, again, or embarrass me in front of the neighbors, I’ll come back for you.” *Tr.*, pg. 325, lines 1-8.

ordered by the court in the Final Parenting Plan—that Preston have supervised parenting time with the children every other week at Planet Kids to allow for the children to have time to process their emotions related to their parenting time with Preston with their individual counselor—and that the children should be allowed to refuse parenting time with Preston if they wished. Ex. A; *Tr.*, pg. 53, lines 1-25. In recommending that the children should be allowed to opt out of parenting time with Preston if they wished, the parenting evaluator specifically referenced that the parties' oldest child has insight into what harmed her in her relationship with her father, that she struggled with self-esteem issues, and that she is able to verbalize her traumatic memories related to Preston. *Tr.*, pg. 64.

In weighing the parenting factors set forth in Montana Code Annotated § 40-4-212 and considering the extensive evidence presented by the parties, witnesses and expert witnesses, the district court made the final determination that supervised parenting time with Preston is in the children's best interest and provided that the children should not be forced to attend parenting time with Preston if they did not wish. Doc. 134, pg. 3, lines 3-15. The court also ordered that Preston is required to follow all policies and procedures of Planet Kids (the supervised visitation facility tasked with supervising Preston's parenting time with the children). *Id.* at lines 16-18. One of the policies of Planet Kids is that they do not force children who are receiving services through their facility to attend parenting time with the parent

subject to supervised parenting. This policy is in line with what the district court ordered as being in the best interest of the children.

The purpose of having Preston exercise therapeutic supervision with the children, as was recommended by Ryngala in her original parenting evaluation completed in 2022, was to provide an opportunity for Preston to reunify and repair his relationship with the parties' children. To date, Preston has been unsuccessful in reunifying or repairing these relationships. Given the abuse that the children witnessed and experienced by their father (which included firearm violence), it is important for their recovery from trauma to be able to have a voice in how they experience parenting time with Preston, particularly since Preston has chosen not to participate in his own therapeutic process and refused to fully engage in the therapeutic supervised parenting process. To force the children—who have experienced trauma by their father—to have parenting time with him against their wishes would be contrary to their recovery. APA Working Group on Evaluation of Child Custody in Family Proceedings, *APA Guidelines for Child Custody Proceedings*, pg. 5 (Feb. 2022), <https://www.apa.org/about/policy/child-custody-evaluations.pdf> (Accessed Jan. 14, 2026).

In his opening brief, Preston relies on *Marriage of Whyte and Couvillion* to argue that the district court erred in issuing its Final Parenting Plan. 2012 MT 45, 364 Mont. 219, 272 P.3d 102. However, the facts of this case are easily

distinguishable from those in *Whyte and Couvillion*. First, in this case, the district court was tasked with establishing an initial parenting determination—not an amended parenting plan like in *Whyte and Couvillion*. Therefore, Montana Code Annotated § 40-4-219 (which has different requirements for consideration of a child’s wishes than Montana Code Annotated § 40-4-212) does not apply here like it applied in *Whyte and Couvillion*. Second—and most importantly—, there was no record of family violence in *Whyte and Couvillion* like there is in this case. In *Whyte and Couvillion*, the district court considered facts like the child’s age and the child’s ability to be successful in school in determining that the child’s wishes were relevant to the parenting schedule for future years. *Whyte and Couvillion*, ¶ 19. Notably, the district court in *Whyte and Couvillion* found that both parents were fit and proper. *Id.* By contrast, the court in this case entered findings based on extensive evidence of Preston’s unaddressed and ongoing mental health issues, his alcohol abuse, and the violence he perpetrated on his family—including his children—as well as the resulting mental health needs of the children.

Preston had approximately four years to work through a therapeutic supervision process with the children and two different therapeutic supervisors. The parenting evaluator and the therapeutic supervisors refused to force the children to participate in the therapeutic supervision process against their will. Resp.’s Exs. A-B, Doc. 94. The second therapeutic supervisor ultimately terminated therapeutic

supervision services as Preston told the supervisor he no longer wanted to do therapeutic supervision and because the supervisor determined he was unable to successfully complete the therapeutic supervision process due to lack of insight into his behavior and his difficulty understanding the children's perspective and accepting it. *Tr.*, pgs. 183-184, lines 1-8.

District courts are required to establish a parenting plan that is in the best interest of the children. The district court had knowledge regarding this family in 2021 and relied heavily on the mental health experts that were appointed by the court (a parenting evaluator and two therapeutic supervisors) in addition to the children's mental health counselors in meeting its statutorily mandated requirement. The court entered a parenting plan that allows for Preston to have consistent parenting time with the children in a safe setting subject to the children's desire to attend parenting time with him, while also giving Preston the ability to address his own mental health needs and gain better understanding of the children's experiences and how to repair the parent-child relationship if he chooses. In doing so, the court balanced Preston's right to parent with the children's right to safety.<sup>9</sup> The district court did not abuse its discretion in entering the final parenting plan.

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<sup>9</sup> The Montana legislature has found "that a parent's constitutionally protected interest in the parental control of a child should yield to the best interests of the child when the parent's conduct is contrary to the child-parent relationship." Mont. Code Ann. 40-4-227(2)(b). The court appropriately balanced these interests, taking into

- ii. The district court provided Preston with an avenue to obtain mental health treatment to be able to repair the parent-child relationship and to potentially increase his parenting time.**

The Final Parenting Plan provides for Preston’s parenting time to be re-assessed, “if he were to resume **his** therapeutic work (including individual therapy, parenting consultation and parent coaching) and the professionals involved with the family determine that Father has made therapeutic progress based upon their professional opinions. A re-evaluation should not occur unless the professional(s) indicate that Father has made significant change.” Doc. 134, pg. 5, ¶ c. [Emphasis added].

In his opening brief, Preston complains that the children have control over this provision if they choose not to participate in his parenting time. However, the court, by including this provision in the Final Parenting Plan, gave Preston autonomy to determine his own mental health progress. At the time of trial, and continuing for over a year prior to trial, Preston had chosen not to participate in any individual therapy, despite the therapeutic supervisor and the parenting evaluator both having recommended that he obtain those services. Resp’s Ex. A, pg. 11; Ex. B. Ultimately,

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consideration the lengthy record that was compiled over the four years this case was pending before it, and entered a Final Parenting Plan accordingly.

it was Preston's own choice to not engage in his mental health care that impacted his ability to progress in therapeutic services with the children.<sup>10</sup> Resp's Exs. A-B.

The court provided Preston with the ability to seek his own mental health services as well as parenting skills development separate from his time with the parties' children. The children are not responsible for Preston's mental health; further, the children's mental health should not have to suffer because of Preston's refusal to engage in his own therapy. It is ultimately Preston's choice whether or not to utilize the services of a mental health professional to improve his own mental health as well as to follow the tools and recommendations provided to him by mental health professionals to repair the relationship he has with the parties' children. The court did not abuse its discretion in entering a parenting plan that provides for Preston's parenting time to be re-assessed if he seeks mental health services and mental health professionals determine that he has made therapeutic progress.

**iii. There is no evidence that Jackie has done anything contrary to the children's relationship with their father.**

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<sup>10</sup> The children's counselor testified that the oldest daughter's reluctance to resume attending parenting time with Preston was in part based on the other children's reports about Preston's comments and behaviors during his parenting time with the other children. *Tr.*, pg. 282. If Preston had utilized the therapeutic services that had been recommended to him since 2022 by the court-appointed mental health professionals and had appropriately applied those skills in his parenting sessions with the two younger children, it is possible (if not likely) that the oldest child would have changed her position on attending parenting time. However, that was not the case.

Jackie has acted in the best interests of the parties' children by following the advice of the professionals involved with the family. She has ensured that the children obtained and continue to obtain the therapeutic services they need to recover from the trauma they experienced due to Preston's family violence, untreated mental health needs and substance abuse. She has also followed the court's direction and the professional's recommendations regarding Preston's parenting time with the children. Preston failed to cite to any evidence on the record that would support his position that Jackie does anything to ignore her "affirmative responsibility" to nurture the children's relationship with Preston.

In fact, the record establishes that Jackie has done what she needs to do to help the children repair their relationship with Preston. For example, the children's therapist testified that Jackie supports the oldest child's relationship with Preston and that she's followed the recommendation of the professionals in that "[s]he's really remained encouraging for the girls to go, but still not pushy if that makes sense. Not forceful." *Tr.*, pgs. 255-256, lines 18-3. The parenting evaluator also testified that she believed "Jackie was really hopeful that intervention would help the reunification process." *Tr.*, pg. 39, lines 18-20.

It is Preston's obligation to take the steps and obtain the treatment necessary for him to be a safe parent for the parties' children. The court has provided Preston with the opportunity to parent the children in a safe environment and to change his

parenting time if he were to utilize therapeutic services and obtain the skills needed to repair his relationship with the parties' children. The court did not grant Jackie any authority over whether Preston participates in therapy or whether a re-assessment is appropriate. Instead, the court deferred to the recommendations of professionals as to whether that has been accomplished. Based on the above, it is clear that the district court did not abuse its discretion in entering the Final Parenting Plan.

**B. THE DISTRICT COURT DID NOT ERR BY ORDERING CHILD SUPPORT AND MEDICAL SUPPORT PLUS PAYMENT OF THE CHILDREN'S EXTRA-CURRICULAR EXPENSES.**

One of the purposes of Title 40 of the Montana Code Annotated is to “make reasonable provision for spouse and minor children during and after litigation.” Mont. Code Ann. 40-4-101(4). In a dissolution of marriage case, a district court is required to establish a child support and medical support order for the support of the parties' children in accordance with the Montana Child Support Guidelines. Mont. Code Ann. § 40-4-204(1)-(2), (4). The court entered a child support order establishing that Preston was obligated to pay \$274 per month per child for a total of \$822 per month total. Doc. 159, Ex. B. The court also established a medical support order for the support of the minor children, including an equal split of the children's medical, dental, ocular and counseling expenses, as well as health insurance premiums, co-payments and deductibles. *Id.* At the time of trial, the

parties' children were covered by Healthy Montana Kids. Following trial, the children became ineligible for health insurance through Healthy Montana Kids. Doc. 176. The medical support order entered by the district court provides for a contingency plan if the children's coverage no longer becomes available and allows for the parties to enroll the children in an individual insurance plan. Doc. 159, Ex. B. The court also ordered that the parents were obligated for additional expenses for the children, specifically: (1) Jackie is solely responsible for the children's childcare costs (Doc. 134, pg. 6, ¶ 7(d)); and (2) the parties were equally obligated to pay the children's extra-curricular activity registrations and equipment expenses (Doc. 134, pg. 7, ¶ f(iii)).

Montana law provides that a court *may* choose to include the children's supplementary expenses, such as extra-curricular expenses, in the child support calculations. Mont. Admin. R. 37.62.123(1)(d). However, inclusion of those expenses is not mandatory. Montana Code Annotated § 40-4-234 sets forth the list of provisions that, at a minimum, must be included in a Final Parenting Plan, taking into consideration the children's best interests. The list of required provisions includes finances to support the child's needs and a division of decision-making authority for the children. Montana Code Annotated § 40-4-234(2)(d), (h).

In this case, the court entered a child support order in accordance with the Montana Child Support Guidelines, a medical support order, and a separate order

for equal payment of the children’s extra-curricular expenses as part of the Final Parenting Plan. There is an order of protection in place that prohibits Preston from communicating with Jackie and the parties do not have communication with one another. Ex. Y. After hearing the testimony and evidence presented, the court granted Jackie sole decision-making authority, including decisions related to the extra-curricular activities they participate in. The court heard testimony as to the children’s extra-curricular activities (*Tr.*, pg. 319, lines 10-14) and found that “the children are actively involved in extra-curricular activities, including soccer, softball, track, drama, choir and swimming lessons.” Doc. 159, pg. 6, ¶ c. Based upon the testimony provided, the court ordered that the parties equally split the children’s extra-curricular expenses in addition to child and medical support. Doc. 134, pg. 5, ¶ c.

On March 12, 2025 Jackie filed her Amended Proposed Parenting Plan with the Court and served a copy of her proposed parenting plan on Preston through his attorney of record. Doc. 159. Jackie included the 50/50 split of the children’s extra-curricular expenses in her Amended Proposed Parenting Plan. *Id.*, pg. 7, ¶ f(iii). On May 5, 2025 Jackie filed her proposed Findings of Fact, Conclusions of Law and Decree with the Court and served a copy on Preston through his attorney of record in which she requested that her proposed Amended Parenting Plan filed on March 12, 2025 be adopted as the final parenting plan. Preston had adequate notice of

Jackie's intent to request an equal division of the children's extra-curricular activities. At trial, Jackie provided testimony as to the children's extra-curricular activities (*Tr.*, pg. 319, lines 10-14) and she also testified that she believed her Amended Proposed Parenting Plan filed on March 12, 2025 was in the best interest of the children and asked that it be adopted by the Court. *Tr.*, pgs. 331-332, lines 24-6. Preston did not testify about the children's extra-curricular activities nor did he present any alternative to the court for the split of those costs.

It would appear from Preston's opening brief that he believes he should not have to share in the cost of any of the children's extra-curricular expenses and that Jackie should bear the sole responsibility of ensuring that the children participate in the activities that provide for their enrichment and socialization. However, the court has the authority to divide the cost of the children's activities outside of each parent's child support obligation. Preston fails to cite to any law or administrative rule that prohibits the court from taking such action. The district court did not abuse its discretion in entering an order for payment of the children's extra-curricular expenses.

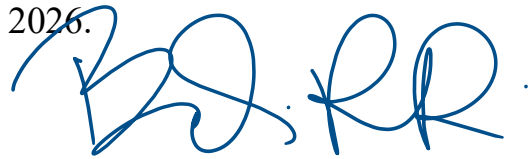
## VII. CONCLUSION

The district court acted within its discretion when it entered the Final Parenting Plan. In doing so, the court relied on testimony from multiple professionals who had all been actively involved with the family. The court appropriately balanced

Preston's right to parent with the children's best interest (including their right to safety) in ordering the Final Parenting Plan.

The district court acted within its discretion when it entered the Final Parenting Plan requiring that the parties equally split the children's extra-curricular expenses in addition to child support and medical support in accordance with Montana Code Annotated § 40-4-234(2)(d), (h).

DATED this 14th day of January, 2026.




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Brandi R. Ries, *Attorney for Appellee*

**CERTIFICATE OF COMPLIANCE**

I hereby certify pursuant to Rule 16 and 22 of the Montana Rules of Appellate Procedure that this Appellee's Response Brief is printed with a proportionally spaced roman text, typeface of 14 points, is doubled spaced, with a word count of 6,593 and 28 pages.

DATED this 14th day of January, 2026.



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Brandi R. Ries, *Attorney for Appellee*

## CERTIFICATE OF SERVICE

I, Brandi Rose Ries, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 01-14-2026:

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