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CLERK OF THE SUPREME COURT
STATE OF MONTANA
Case Number: OP 26-0326

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 26-0326

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JUN 02 2026
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Clerk of Supreme Court
State of Montana

CLARK RYAN RAMSEY,

Petitioner,

v.

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY, THE HONORABLE SETH M. CUNNINGHAM, Presiding,

Respondent.

ORDER

Petitioner Clark Ryan Ramsey seeks a writ of supervisory control over the Thirteenth Judicial District Court, Yellowstone County, in Cause No. DR-2020-160. Ramsey contends the District Court erred by denying his Emergency Ex Parte Motion to Issue an Emergency Custody Order and Amend Parenting Plan because the District Court misapplied the legal standard that governs motions filed under § 40-4-220, MCA.

Ramsey petitioned for dissolution of his marriage to Whitney Lynn Soderholm in the Thirteenth Judicial District Court, Yellowstone County, on February 12, 2020. The District Court entered a Final Parenting Plan in that matter in September 2022. At the time the petition for dissolution was filed, Ramsey, Soderholm, and the three children of the marriage lived in Montana. Ramsey continues to live in Montana. Soderholm and the children moved to Virginia in July 2022. The Final Parenting Plan granted primary physical custody to Soderholm, who would continue to live in Virginia, and allowed Ramsey to spend time with the children in Virginia each month during the school year and to spend time with the children in either Virginia or Montana during school breaks.

In September 2024, Ramsey petitioned for a protective order on behalf of the children in the King William County Juvenile and Domestic Relations Court of Virginia

(Virginia JDR Court) based on allegations of child abuse. The Virginia JDR Court issued a protective order that prohibits Soderholm from using corporal punishment or allowing anyone else to use corporal punishment, but the order does not otherwise limit Soderholm's custody over the children. The protective order remains effective until June 6, 2026. In November 2024, Ramsey moved the District Court to relinquish jurisdiction of the child custody determination to the Virginia JDR Court. The District Court denied Ramsey's motion. Ramsey appealed the District Court's Order. Contemporaneous with this Order, we have issued an Opinion affirming the District Court in that matter.

On January 1, 2026, Ramsey filed an Emergency Ex Parte Motion to Issue an Emergency Custody Order and Amend Parenting Plan pursuant to §§ 40-4-219(1) and 40-4-220(2)(a)(ii), MCA, requesting the District Court immediately grant Ramsey full primary custody of the children, remove the children from Virginia and enroll them in school in Montana, and to only permit Soderholm to communicate with the children through supervised telephone contact through an appropriate provider. Ramsey's supporting affidavit alleged that one of the children, B.E.R., experienced sexual abuse while in Soderholm's care and that the children experienced neglect and physical abuse while in Soderholm's care. Soderholm opposed Ramsey's motion. Soderholm's supporting affidavit disputed Ramsey's allegations of abuse and neglect. The text messages attached to each parties' brief indicate that Ramsey and Soderholm discussed B.E.R.'s troubling behavior in November 2025, and Soderholm expressed concern about B.E.R. experiencing sexual abuse because Ramsey had informed her that his father had been charged with a sex crime in August 2025. Soderholm's affidavit attested that she scheduled B.E.R. to see a medical provider while under her care after she and Ramsey could not agree on a provider.

On February 13, 2026, the District Court denied Ramsey's motion, reasoning that § 40-4-220(2)(b), MCA, did not require it to accept the allegations in Ramsey's affidavit as true and even if it accepted Ramsey's allegations as true, the circumstances did not warrant granting Ramsey's motion because Ramsey's affidavit primarily consisted of conclusory statements, Soderholm's affidavit disputed many of Ramsey's claims, and

granting Ramsey's relief would not be in the best interests of the children. However, the District Court's Order set a hearing for March 6, 2026, to allow the parties to submit relevant supplemental information in support of their respective positions. On March 3, 2026, Ramsey moved the District Court to continue the March 6, 2026 hearing to late June or early July, asserting that he required the time to gather relevant records and assess the necessity of an expert witness. The District Court denied Ramsey's motion for a continuance.

The District Court held the hearing as scheduled on March 6, 2026. The District Court asked the parties to present their argument, clarifying that the parties should present evidence that supports the allegations in their respective affidavits rather than reiterating what was already stated in the affidavits. Other than testifying as to why B.E.R. did not see a medical provider until January 2026, Ramsey offered no other evidence in support of the allegations in his affidavit. The District Court admitted into evidence the January 2026 psychological assessment of B.E.R. The assessment did not indicate B.E.R. had been sexually abused and recommended that B.E.R. continue to see his school counselor and receive occupational therapy. On March 13, 2026, the District Court issued an order denying Ramsey's motion, reiterating its conclusion from its February 13, 2026 Order.

Supervisory control is an extraordinary remedy that may be invoked when the case involves purely legal questions and urgent or emergency factors make the normal appeal process inadequate. M. R. App. P. 14(3). The case must meet one of three additional criteria: (a) the other court is proceeding under a mistake of law and is causing a gross injustice; (b) constitutional issues of state-wide importance are involved; or (c) the other court has granted or denied a motion for substitution of a judge in a criminal case. M. R. App. P. 14(3)(a)-(c). Whether supervisory control is appropriate is a case-by-case decision. *Stokes v. Mont. Thirteenth Jud. Dist. Ct.*, 2011 MT 182, ¶ 5, 361 Mont. 279, 259 P.3d 745 (citations omitted). Consistent with Rule 14(3), it is the Court's practice to refrain from exercising supervisory control when the petitioner has an adequate remedy of appeal. *E.g., Buckles v. Mont. Seventh Jud. Dist. Ct.*, No. OP 16-0517, 386 Mont. 393, 386 P.3d

545 (table) (Oct. 18, 2016); *Lichte v. Mont. Eighteenth Jud. Dist. Ct.*, No. OP 16-0482, 385 Mont. 540, 382 P.3d 868 (table) (Aug. 24, 2016).

Ramsey requests us to assert supervisory control because he contends the District Court procedurally erred in three respects when it denied his motion. Ramsey asserts the District Court: (1) resolved factual disputes based on the parties' affidavits; (2) applied an incorrect standard of review to his affidavit; and (3) denied the motion before holding a hearing.

Section 40-4-220, MCA, determines whether a movant's supporting affidavit makes a showing that triggers the "mandatory hearing requirement under § 40-4-220, MCA." *In re A.M.B.-B.*, 2025 MT 270, ¶ 12, 425 Mont. 79, 579 P.3d 989. The affidavit must demonstrate "an emergency situation has arisen . . . that endangers the child's physical, mental, or emotional health" and that "an immediate change in the parenting plan change is necessary to protect the child." Section 40-4-220(2)(a)(ii), MCA. We have stated that § 40-4-220, MCA, "does not require a parent to establish safety conclusively at the affidavit stage; it requires a showing that, if proven, warrants examining whether" the requested relief "could safely serve the child's best interest." *In re A.M.B.-B.*, ¶ 17. At the affidavit stage, § 40-4-220, asks whether "the sworn-showing taken as true . . . warrant[s] testing [the allegations] through live evidence" at a subsequent hearing. *See In re A.M.B.-B.*, ¶ 17.

Assuming for the sake of argument that the District Court misapplied § 40-4-220(2), MCA, by not accepting the allegations of Ramsey's affidavit as true, by resolving factual disputes based on the competing affidavits, or by denying Ramsey's motion before holding a hearing, Ramsey still cannot show that the District Court's alleged errors caused a gross injustice because the District Court held an evidentiary hearing on March 6, 2026, at which Ramsey could have presented evidence to substantiate the allegations in his affidavit, as provided by § 40-4-220, MCA. Ramsey failed to carry the "heavy burden" to prove he was entitled to the requested relief. *In re Marriage of Bessette*, ¶ 19, 2019 MT 35, 394 Mont. 262, 434 P.3d 894 (citation omitted).

IT IS THEREFORE ORDERED that Ramsey's Petition for a Writ of Supervisory Control is DENIED and DISMISSED.

The Clerk is directed to provide immediate notice of this Order to counsel for Petitioner, all counsel of record in the Thirteenth Judicial District Court, Yellowstone County, Cause No. DR-2020-160, and the Honorable Seth M. Cunningham, presiding.

DATED this 2nd day of June, 2026.

Justices