

DA 07-0486

IN THE SUPREME COURT OF THE STATE OF MONTANA

2008 MT 278N

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SUSAN GARDNER,

Plaintiff and Appellant,

v.

MIKE LEE,

Defendant and Appellee.

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APPEAL FROM: District Court of the Twentieth Judicial District,  
In and For the County of Lake, Cause No. DV-06-180  
Honorable Deborah Kim Christopher, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Susan Gardner, (Pro Se); Polson, Montana

For Appellee:

James M. Ramlow, James E. Vidal; Kaufman; Vidal, Hileman, &  
Ramlow, PC; Kalispell, Montana

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Submitted on Briefs: June 18, 2008

Decided: August 5, 2008

Filed:

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Clerk

Justice W. William Leaphart delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court 1996 Internal Operating Rules, as amended in 2003, the following memorandum decision shall not be cited as precedent. It shall be filed as a public document with the Clerk of the Supreme Court and its case title, Supreme Court cause number and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Pursuant to M. R. App. P. 8(2), the appellant has a duty to present this Court with a "record sufficient to enable it to rule upon the issues raised." Under M. R. App. P. 8(3), the appellant also has the duty to request a transcript of the proceedings deemed necessary for the record on appeal, and to pay for the cost of producing the transcript. Appellant Susan Gardner failed to provide a transcript of the prior proceedings in the instant case. Following the District Court's ruling in favor of Lee, Gardner refused to give her trial exhibits to the Clerk of Court. Gardner violated the District Court's order and compromised the chain of custody by removing the exhibits from the courtroom. As a result of Gardner's actions, the record before this Court is insufficient, and prevents us from conducting a meaningful appellate review.

¶3 It is appropriate to decide this case pursuant to our Order of February 11, 2003, amending Section 1.3 of our 1996 Internal Operating Rules and providing for memorandum opinions. Pursuant to M. R. App. P. 8(2), we affirm the District Court's

ruling on the basis that Appellant Gardner has presented this Court with a record that is insufficient for appellate review.

/S/ W. WILLIAM LEAPHART

We concur:

/S/ KARLA M. GRAY  
/S/ JAMES C. NELSON  
/S/ JOHN WARNER  
/S/ BRIAN MORRIS