

No. 02-513

IN THE SUPREME COURT OF THE STATE OF MONTANA

2003 MT 204N

STATE OF MONTANA,

Plaintiff and Respondent,

v.

CASSIDY JESUS WOOD,

Defendant and Appellant.

APPEAL FROM: District Court of the Twenty-First Judicial District,
In and for the County of Ravalli, Cause No. DC-01-154,
The Honorable Jeffrey H. Langton, Judge presiding.

COUNSEL OF RECORD:

For Appellant:

Larry D. Mansch, Mansch & McLaverty, PLLP, Hamilton, Montana

For Respondent:

Hon. Mike McGrath, Attorney General; Mark Mattioli,
Assistant Attorney General, Helena, Montana

George Corn, Ravalli County Attorney, Hamilton, Montana

Submitted on Briefs: April 10, 2003

Decided: August 12, 2003

Filed:

Clerk

Justice Jim Regnier delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court 1996 Internal Operating Rules, the following decision shall not be cited as precedent but shall be filed as a public document with the Clerk of the Supreme Court and shall be reported by case title, Supreme Court cause number, and result to the State Reporter Publishing Company and to West Group in the quarterly table of noncitable cases issued by this Court.

¶2 On October 10, 2001, the State filed an information charging the Defendant, Cassidy Wood, with conspiracy, attempted criminal possession with intent to distribute, and operation of an unlawful clandestine laboratory. Wood pled not guilty and sought to suppress the evidence obtained against him in separate searches. The Twenty-First Judicial District Court, Ravalli County, denied Wood's motion to suppress and the case proceeded to a jury trial. Wood moved for a directed verdict on all three counts at the close of the State's case-in-chief. The District Court denied Wood's motion and the jury subsequently found Wood guilty on all three charges. On appeal, Wood challenges the District Court's denial of his motion to suppress and his motion for a directed verdict on counts two and three.

¶3 Rule 23(a)(4), M.R.App.P., requires that an appellant present a concise, cohesive argument which "contain[s] the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and pages of the record relied on." Wood's brief contains conclusory allegations of reversible error with no citations to the record in support of his position. This Court has repeatedly held that we will

not consider unsupported issues or arguments. *In re Custody of Krause*, 2001 MT 37, ¶ 32, 304 Mont. 202, ¶ 32, 19 P.3d 811, ¶ 32. Similarly, this Court is under no obligation to locate authorities or formulate arguments for a party in support of positions taken on appeal. *In re B.P.*, 2001 MT 219, ¶ 41, 306 Mont. 430, ¶ 41, 35 P.3d 291, ¶ 41. Failure to comply with Rule 23(a)(4), M.R.App.P., is fatal to an appeal. *State v. Blackcrow*, 1999 MT 44, ¶ 33, 293 Mont. 374, ¶ 33, 975 P.2d 1253, ¶ 33.

¶4 A district court's decision is presumed correct and it is the appellant who bears the burden of establishing error by that court. *Matter of M.J.W.*, 1998 MT 142, ¶ 18, 289 Mont. 232, ¶ 18, 961 P.2d 105, ¶ 18. Wood simply has not met his burden in this regard. Accordingly, we hereby dismiss Wood's appeal for failing to comply with the Montana Rules of Appellate Procedure and affirm the decision of the District Court.

/S/ JIM REGNIER

We Concur:

/S/ JAMES C. NELSON
/S/ PATRICIA COTTER
/S/ W. WILLIAM LEAPHART
/S/ JIM RICE