

DA 17-0464

IN THE SUPREME COURT OF THE STATE OF MONTANA

2018 MT 303N

CITY OF BILLINGS,

Plaintiff and Appellee,

v.

RANDY S. LAEDEKE,

Defendant and Appellant.

APPEAL FROM: District Court of the Thirteenth Judicial District,
In and For the County of Yellowstone, Cause Nos. DC 17-135, DC 17-136,
and DC 17-137
Honorable Michael G. Moses, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Randy S. Laedeke, Self-Represented, Billings, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, David A. Buchler, Assistant
Attorney General, Helena, Montana

Brent Brooks, Billings City Attorney, Melanie S. Jack, Deputy City
Attorney, Billings, Montana

Scott D. Twito, Yellowstone County Attorney, Billings, Montana

Submitted on Briefs: October 17, 2018
Decided: December 11, 2018

Filed:



Clerk

Justice Laurie McKinnon delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, 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 Randy S. Laedeke (Laedeke) appeals from an order of the Thirteenth Judicial District Court, Yellowstone County, dismissing his appeal from the Municipal Court of the City of Billings. We affirm.

¶3 On January 11, 2017, the Municipal Court entered a criminal judgment against Laedeke. Laedeke, representing himself pro se, filed a notice of appeal with the District Court. The District Court subsequently set a briefing schedule, providing Laedeke until 5:00 p.m. on March 1, 2017, to file his opening brief. Three minutes before his brief was due, at 4:57 p.m. on March 1, 2017, Laedeke filed his first motion to extend the deadline, requesting a two-day extension. The District Court granted the request, setting a new deadline of 5:00 p.m. on March 3, 2017.

¶4 Eight minutes before his brief was due, at 4:52 p.m. on March 3, 2017, Laedeke filed his second motion to extend the deadline, citing computer and printer issues, and requested an extension until March 6, 2017. The District Court granted Laedeke's second request for an extension, allowing him until 11:00 a.m. on March 10, 2017 to file his brief. On March 10, 2017, Laedeke requested a third extension, citing a litany of issues. The District Court granted Laedeke's third request for an extension, setting a new deadline of

11:00 a.m. on March 17, 2017. In its order, the District Court expressed frustration regarding the amount of judicial time already expended on Laedeke's motions and extended Laedeke's time to file his opening brief "for the last time." (Emphasis in original.) The District Court reiterated, "No further excuses will be accepted. No additional time will be allowed."

¶5 At 10:28 a.m. on March 17, 2017, the District Court received a fourth extension request from Laedeke in which he asked the court to extend the deadline from 11:00 a.m. to 5:00 p.m. The City objected to Laedeke's fourth extension request. The District Court denied Laedeke's fourth extension request and dismissed Laedeke's appeal based on his failure to timely file his opening brief. Laedeke appeals.

¶6 The grant of a motion to dismiss in a criminal case is a question of law we review de novo. *State v. Frazier*, 2005 MT 99, ¶ 3, 326 Mont. 524, 111 P.3d 215. Rule 14(c) of the Montana Uniform Municipal Court Rules of Appeal to District Court (Rule 14(c)) provides that "if an appellant fails to file a brief within the time provided by this rule, or within the time extended, the appeal shall be deemed without merit and subject the appeal to summary dismissal by the district court." We are willing to make accommodations for pro se litigants, but we must, nonetheless, balance that willingness against deferring to a district court's application of the rules of civil procedure. *Frazier*, ¶ 7. While we review the grant of a motion to dismiss de novo, we will not reverse a district court for insisting that parties timely comply with statutory directives and rules of civil procedure. *Frazier*, ¶ 9.

¶7 In this case, the District Court accommodated Laedeke as a pro se litigant and granted him three extensions to file his opening brief. In its order granting Laedeke’s third request, the District Court clearly stated it would not approve any additional extensions. Thereafter, Laedeke failed to comply with the fourth deadline and the District Court subsequently dismissed the case pursuant to Rule 14(c). We will not reverse the District Court for insisting that Laedeke timely comply with the fourth deadline and accordingly affirm its order dismissing Laedeke’s appeal.

¶8 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. This appeal presents no constitutional issues, no issues of first impression, and does not establish new precedent or modify existing precedent.

¶9 Affirmed.

/S/ LAURIE McKINNON

We concur:

/S/ MIKE McGRATH
/S/ JAMES JEREMIAH SHEA
/S/ BETH BAKER
/S/ DIRK M. SANDEFUR