

DA 18-0586

IN THE SUPREME COURT OF THE STATE OF MONTANA

2020 MT 43N

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CITY OF MISSOULA,

Plaintiff and Appellee,

v.

STEPHEN LEUCHTMAN,

Defendant and Appellant.

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APPEAL FROM: District Court of the Fourth Judicial District,  
In and For the County of Missoula, Cause No. DC-16-512  
Honorable Robert L. Deschamps, III, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Stephen Leuchtman, Self Represented, Hamilton, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, Roy Brown, Assistant  
Attorney General, Helena, Montana


Jim Nugent, City Attorney, Doug Schaller, Deputy City Attorney,  
Missoula, Montana

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Submitted on Briefs: December 4, 2019

Decided: February 18, 2020

Filed:

  
Clerk

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Chief Justice Mike McGrath 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 Stephen Leuchtman appeals a Fourth Judicial District Court order dismissing his appeal of a Municipal Court order requiring he comply with conditions of his sentence. We affirm.

¶3 In 2016, Leuchtman was convicted in Missoula Municipal Court for violating an Order of Protection. The Municipal Court continued previously set conditions of bond, including a condition requiring Leuchtman comply with GPS monitoring, but stayed execution of the sentence pending appeal. Leuchtman appealed to the District Court, which affirmed his conviction. Leuchtman next appealed to this Court, which also affirmed. *City of Missoula v. Leuchtman*, No. DA 17-0155, 2017 MT 303N, 2017 Mont. LEXIS 702.<sup>1</sup> Following remittitur, the Municipal Court reinstated the 2016 sentencing order. On February 27, 2018, Leuchtman appealed the sentencing order to the District Court. On March 6, 2018, the Municipal Court record was transmitted and filed with the clerk of the

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<sup>1</sup> On appeal to this Court, Leuchtman argued, *inter alia*, that the Municipal Court imposed unreasonable bond revocation conditions and the conditions of his release violated his right to access the courts. We determined Leuchtman effectively waived these claims because they were not raised in the District Court. *Leuchtman*, ¶ 10.

District Court. On September 28, 2018, over six months after transmittal of the record, the District Court dismissed Leuchtman's appeal for failure to file an opening brief or request an extension to file. Leuchtman appeals.

¶4 On appeal from a municipal court of record, the district court functions as an intermediate appellate court. *City of Billings v. Nelson*, 2014 MT 98, ¶ 15, 374 Mont. 444, 322 P.3d 1039. When reviewing the decision of the district court in such an appeal, we review the case as if the appeal had originally been filed in this Court, employing the appropriate standard of review. *Nelson*, ¶ 15. We review discretionary rulings for an abuse of discretion. *City of Missoula v. Girard*, 2013 MT 168, ¶ 10, 370 Mont. 443, 303 P.3d 1283.

¶5 Leuchtman argues that: (1) the District Court was required to notify him of the transmission of the record after he filed his notice of appeal, and (2) his GPS monitoring condition was unreasonable and prejudiced his ability to assist with his defense. This Court will not review issues that were not preserved for appeal in the district court. *Ellenburg v. Chase*, 2004 MT 66, ¶ 14, 320 Mont. 315, 87 P.3d 473. We previously determined that Leuchtman waived his right to challenge his GPS condition in the direct appeal of the Order of Protection violation because he did not raise the issue in District Court. *Leuchtman*, ¶ 10. For the same reason, we decline to address the issue here. Consequently, we need not address whether the District Court was required to notify Leuchtman of the transmission of record after he filed his notice of appeal. The District Court did not err in dismissing Leuchtman's appeal of his sentencing order.

¶6 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶7 Affirmed.

/S/ MIKE McGRATH

We Concur:

/S/ JAMES JEREMIAH SHEA  
/S/ LAURIE McKINNON  
/S/ BETH BAKER  
/S/ INGRID GUSTAFSON