DA 21-0111

IN THE SUPREME COURT OF THE STATE OF MONTANA

2021 MT 273N

JADA KU,

      Plaintiff and Appellant,

  v.

GREAT FALLS PUBLIC LIBRARY,

      Defendant and Appellee.

APPEAL FROM: District Court of the Eighth Judicial District,
In and For the County of Cascade, Cause No. CDV-20-379
Honorable John A. Kutzman, Presiding Judge

COUNSEL OF RECORD:

    For Appellant:

        Jada Ku, Self-Represented, Great Falls, Montana

    For Appellee:

        Jordan Y. Crosby, James R. Zadick, Ugrin Alexander Zadick, P.C.,
Great Falls, Montana

            Submitted on Briefs: September 29, 2021

                    Decided: October 19, 2021

Filed:

                      _____
                            Clerk

Justice Ingrid Gustafson 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   Jada Ku appeals from the February 16, 2021 Dismissal Order from the Eighth Judicial District Court, Cascade County. Ku filed a complaint against the Great Falls Public Library (GFPL) on July 17, 2020. She alleged "Breach of Confidence," "Discrimination of my mental Disability," "Intimidation," and "Harassment" and sought financial compensation and a public apology. Ku attached 114 pages of her handwritten diary, as well as letters she wrote to various government agencies about her complaints against GFPL. Ku did not include a right to sue letter or dismissal from the Human Rights Bureau (HRB) or the Equal Employment Opportunity Commission (EEOC). On August 11, 2020, GFPL filed a motion to dismiss for failure to state a claim under M. R. Civ. P. 12(b)(6) and for lack of jurisdiction under M. R. Civ. P. 12(b)(1) for failure to exhaust administrative remedies. Ku filed an untimely response on October 29, 2020. Ku then filed an amended complaint on December 7, 2020, without leave of the District Court. She did not include a dismissal or right to sue letter from the HRB or EEOC or allege such a letter had been issued. The GFPL renewed its motion to dismiss the case on December 17, 2020. On February 16, 2021, the District Court dismissed the case under

M. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction, as Ku did not allege or provide evidence that she had completed the mandatory administrative process through the HRB for an unlawful discrimination claim. Ku appeals.

¶3   In her briefing on appeal, Ku maintains she has a discrimination claim against GFPL. She recounts her interactions with the HRB and states the HRB investigator did not provide her with a right to sue letter after she asked him to do so in summer 2020. She argues the District Court erred in dismissing her case as the court should have appointed her counsel because she has a mental disability and an interpreter due to a language barrier.
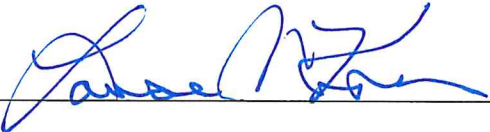
¶4   "[A] district court's decision is presumed correct and it is the appellant who bears the burden of establishing error by that court." *In re Marriage of McMahon*, 2002 MT 198, ¶ 7, 311 Mont. 175, 53 P.3d 1266. An appellant's brief on appeal must raise legal errors with the district court's order and contain citations to legal authorities in support of the appellant's contentions. *See* M. R. App. P. 12(1)(g). Ku has failed to articulate a legal error with the District Court's orders or cite to any legal authority in support of her contentions. She has failed to meet her burden of establishing error by the District Court.

¶5   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.

¶6   Affirmed.

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                                                            Justice

We concur:

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Justices