

Case No. _____

SUPREME COURT OF THE UNITED STATES

**Jada Ku
Petitioner-Appellant**

v.

**Montana Human Rights Bureau
Respondent-Appellee**

IN THE SUPREME COURT OF THE STATE OF MONTANA

**No. DA 21-0588
2022 MT 102N**

A MOTION TO FILE PETITION OUT OF TIME

**Jada Ku
300 56th Street South
Great Falls, Montana 59405
Phone: (406) 899-2527
Pro Se Petitioner
Counsel of Record**

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Part VII Rule 30 of the Rules of Supreme Court of the United States, Applicant Jada Ku hereby requests a extension of time within which to file a petition for a writ of certiorari. Pro Se Petitioner recently submitted a Writ of Certiorari October 18, 2022 based on information provided by staff at the Montana Eighth Judicial District Court of Cascade County and the Supreme Court of the State of Montana, but it was returned.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is Jada Ku vs. Montana Human Rights Bureau. The Supreme Court of the State of Montana denied the Applicant's motion for reconsideration on November 2, 2021.

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to Supreme Court of the United States Rules Part III, Rule 10(b). A petition for a Writ of Certiorari was due to be filed on or before August 22, 2022. Ms. Ku has recently submitted a Writ of Certiorari on October 18, 2022, that was returned on October 28, 2022 (See Exhibit 1) but felt the importance of providing an explanation.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests this extension of time to have submitted Writ of

Certiorari be received and accepted by Supreme Court of United States which to seeking review of the decision of the Supreme Court of the State of Montana in this case.

1. Pro Se Petitioner requests an extension of time because Ms. Ku did not receive the necessary documents from the Supreme Court of the State of Montana in a timely manner. This was the primary reason why the Writ of Certiorari was submitted at a later date.
2. Pro Se Petitioner had not received any copies of the Court Paperwork from the Supreme Court of the State of Montana. In the past Ms. Ku had gotten copies of all Supreme Court of the State of Montana documents, through the Court Clerk, Tina Henry and Deputy, Elizabeth Sweeney located at the District Court House, through the US mail. Because Ms. Ku had not received the Supreme Court of the State of Montana documents, I went to the District Court House in person on August 22, 2022 and inquired about the status of my case. Ms. Ku was told by Deputy, Elizabeth Sweeney, that the case was completed and that she mailed the documents to Ms. Ku. However, Ms. Ku never received any of the documents regarding the Supreme Court of the State of Montana.
3. That same day, August 22, 2022, Pro Se Petitioner was told that I could get a copy of the documents for \$7.00 (\$1.00 per page). I did pay the \$7.00 for a copy of the documents (see Exhibit 2). Ms. Ku then began working on the Writ of Certiorari immediately after obtaining the

documents from the Supreme Court of the State of Montana.

4. When the Writ of Certiorari was returned on October 18, 2022, Ms. Ku wrote a letter to Ms. Lisa Nesbitt on November 7, 2022 (see Exhibit 3) requesting information on a way to get an exception, due to the circumstances that Ms. Ku did not get the paperwork until the deadline for the Writ of Certiorari. Ms. Nesbitt informed Ms. Ku in a letter dated 11/17/2022 that I would have to file a motion to file the Petition Out of Time (see Exhibit 4). This is the reason that Ms. Ku is completing and filing this motion.
5. Pro Se Petitioner seeks to comply with requirements of The Supreme Court of the United States.
6. Pro Se Petitioner seek not to abuse the discretion of The Supreme Court of the United States.

CONCLUSION

Pro Se Petitioner humbly seek acceptance and review by The Supreme Court of United States for MOTION TO FILE PETITION OUT OF TIME.

December 22, 2022

Jada Ku
300 56th Street South
Great Falls, Montana 59405
Phone: (406) 899-2527
Pro Se Petitioner
Counsel of Record

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

October 28, 2022

Jada Ku
300 56th St., South
Great Falls, MT 59405

RE: Ku v. MT Human Rights Bureau
MTSC No. DA 21-0588

Dear Ms. Ku:

The above-entitled petition for a writ of certiorari was postmarked October 18, 2022 and received October 21, 2022. The papers are returned for the following reason(s):

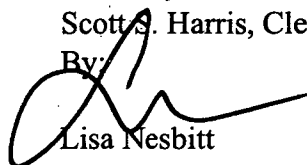
The petition is out-of-time. The date of the lower court judgment or order denying a timely petition for rehearing was May 24, 2022. Therefore, the petition was due on or before August 22, 2022. Rules 13.1, 29.2 and 30.1. When the time to file a petition for a writ of certiorari in a civil case (habeas action included) has expired, the Court no longer has the power to review the petition.

The time for filing a petition for a writ of certiorari is not controlled by the date of the issuance of the mandate (remittitur). Rule 13.3.

Your petitions and check in the amount of \$300.00 are returned.

Sincerely,
Scott S. Harris, Clerk

By:



Lisa Nesbitt
(202) 479-3038

Enclosures

EXHIBIT - 1

Date: 8/22/2022

Cascade County District Court

NO. 0128202

Time: 11:58 AM

Receipt

Page 1 of 1

Received of: Ku, Jada (plaintiff)

\$ 7.00

Seven and 00/100 Dollars

| Case: DV-7-2021-0000147-DT | Plaintiff: Jada Ku vs. Montana Human Rights Bureau | Amount |
|----------------------------|--|--------|
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| Copies - First 10 Pages | | 7.00 |
| Default | | |

| | | |
|---------------|--|-------------|
| Total: | | 7.00 |
|---------------|--|-------------|

EXHIBIT - 2

Payment Method: Cash

Tina Henry, Clerk of District Court

Amount Tendered: 7.00

By: _____
Deputy Clerk

Clerk: KMORRIS



ORIGINAL

DA 21-0588

IN THE SUPREME COURT OF THE STATE OF MONTANA

2022 MT 102N

JADA KU,

Plaintiff and Appellant,

v.

MONTANA HUMAN RIGHTS BUREAU,

Defendant and Appellee.

FILED

MAY 24 2022

Bowen Greenwood
Clerk of Supreme Court
State of Montana

APPEAL FROM: District Court of the Eighth Judicial District,
In and For the County of Cascade, Cause No. ADV-2021-0147(d)
Honorable John W. Parker, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Jada Ku, Self-Represented, Great Falls, Montana

For Appellee:

Michele L. Peterson-Cook, Quinlan L. O'Connor, Department of
Labor & Industry, Helena, Montana

Submitted on Briefs: May 4, 2022

Decided: May 24, 2022

Filed:


Clerk

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 In 2002, Appellant Jada Ku (then Jasoog Sanchez) filed a complaint against Great Falls Public Schools with the Montana Human Rights Bureau (HRB). She alleged that Great Falls Public Schools had discriminated against her due to her race. The HRB dismissed her complaint on timeliness grounds because under § 49-2-501(4), MCA, such complaints must be filed "within 180 days after the alleged unlawful discriminatory practice occurred or was discovered." The discrimination she alleged was beyond that timeframe. Ku appealed the HRB's dismissal to the Montana Human Rights Commission, which affirmed. Ku appealed that decision to district court, where it was affirmed, and she appealed the district court's order to this Court. We also affirmed. *Sanchez v. Great Falls Public Schools*, DA 03-338, 2003 MT 301N, 2003 Mont. LEXIS 760.

¶3 Over 17 years later, in March 2021, Ku filed a complaint in the Eighth Judicial District Court in Cascade County. This complaint alleged that the HRB had discriminated against her when it dismissed her Great Falls Public Schools claim years ago. The HRB filed a motion to dismiss under Montana Rule of Civil Procedure 12(b)(1). On November

2, 2021, the District Court issued an order granting the HRB's motion and dismissing Ku's case with prejudice. She appeals that decision to this Court, and we affirm.

¶4 Montana Rule of Civil Procedure 12(b)(1) addresses a court's subject-matter jurisdiction. Dismissal under this rule is warranted if a plaintiff's complaint fails to state "facts that, if true, would grant the district court subject matter jurisdiction." *Ballas v. Missoula City Bd. of Adjustment*, 2007 MT 299, ¶ 9, 340 Mont. 56, 172 P.3d 1232. We review a district court's decision on such a motion for correctness. *Ballas*, ¶ 9.

¶5 The Montana Human Rights Act, at Title 49, chapters 1-4, MCA, governs when district courts have subject matter jurisdiction to hear claims about discrimination based on race or other factors. A district court cannot hear such a claim until after the plaintiff has first filed it with the HRB. If the HRB dismisses a complaint, the filing party may then initiate an action in district court within 90 days. Section 49-2-512, MCA. Even if a complaint alleges discrimination by the HRB itself, the plaintiff must still follow the procedures in the Human Rights Act and file first with the HRB before appealing any dismissal to district court. The HRB typically transfers the investigation of claims against itself (which create a conflict of interest) to another agency like the Equal Employment Opportunity Commission.

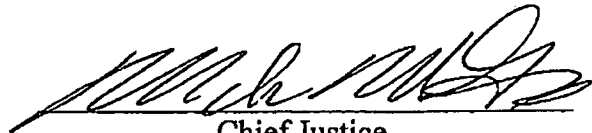
¶6 Ku did not follow the Human Rights Act procedure by filing her complaint first at the HRB. She instead went directly to the District Court, which has no subject matter jurisdiction to hear such a case until the HRB has first issued a decision. Furthermore, Ku's complaint against the HRB regards alleged discrimination nearly 20 years ago. This is well beyond the 180-day period in which she would have needed to initiate an HRB

process that she could ultimately appeal to the District Court. The District Court was correct to grant the HRB's motion to dismiss here because it lacked subject matter jurisdiction to hear the case.

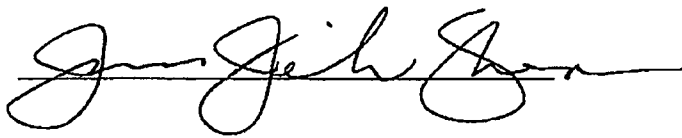
¶7 Ku requested an attorney and an interpreter for the District Court's hearing on this matter. The District Court arranged a Korean interpreter for Ku but did not appoint her an attorney. Ku raises this issue on appeal here, but the District Court's decision was correct. No statutory authority exists in Montana for a district court to appoint counsel in civil cases like Ku's. This Court has previously communicated that rule to Ku in orders regarding other appeals she has filed, such as in her 2021 case against Great Falls Public Library that was also dismissed because Ku did not follow the appropriate HRB process required by law. *Ku v. Great Falls Public Library*, DA 21-0111, 2021 MT 273N, 2021 Mont. LEXIS 841.

¶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. 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.

¶9 The District Court's November 2, 2021 order of dismissal is affirmed.


Chief Justice

We Concur:

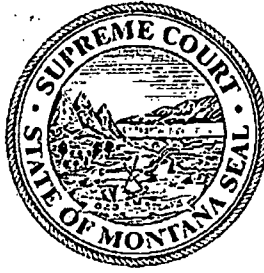


James H. D.

Peter J. H.

August H.

Justices



CLERK OF DISTRICT COURT

2022 JUN 13 PM 4:00

FILED

BY

IN THE SUPREME COURT OF THE STATE OF MONTANA
THE OFFICE OF THE CLERK OF SUPREME COURT
HELENA, MONTANA 59620-3003

June 9, 2022

REMITTITUR

Supreme Court Case No. DA 21-0588
District Court Case No. ADV-2021-0147(d)

JADA KU,

Plaintiff and Appellant,

v.

MONTANA HUMAN RIGHTS BUREAU,

Defendant and Appellee.

This case was a review of the order/judgment of the District Court.

IT IS ORDERED by the Supreme Court in an opinion, that the decision of the District Court is Affirmed.

The appeal record is hereby returned to the Clerk of District Court of Cascade County.

I certify that the attached is a true and correct copy of the opinion filed by the Supreme Court on May 24, 2022.

Sincerely,

Bowen Greenwood
Clerk of the Supreme Court

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

Jada Ku,
Plaintiff/ Petitioner,

Vs.

Montana Human Rights Bureau,
Defendant/ Respondent

Case Number: DV-7-2021-000147-DT

NOTICE OF FILING
REMITTITUR

2022 JUN 14 PM 2:50

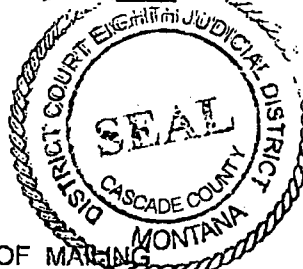
FILED

To: Plaintiff's Attorney: Pro Se

Defendant's Attorney: Michele L. Peterson-Cook

NOTICE IS HEREBY GIVEN OF THE RECEIPT OF Remittitur from the Supreme Court of the State of Montana of the above-entitled case.

DATED this 14th day of June-2022.



TINA HENRY, CLERK OF COURT

By [Signature]
Deputy

CERTIFICATE OF MAILING

This is to certify that the foregoing was
duly served by mail upon counsel of
record at their address this 14th

day of June, 2022

TINA HENRY, CLERK OF COURT

By [Signature] DEPUTY

November 7, 2022

Supreme Court of the United States
Ms. Lisa Nesbitt, Case Analyst
Office of the Clerk
1 First Street N.E.
Washington, DC 20543-0001

Dear Ms. Lisa Nesbitt:

I am writing in regards to my case Jada Ku v. Montana Human Rights Bureau MTSC No. DA 21-0588. I received your letter on 10/31/2022, the next day I met with my Counselor, who advised me to write you a letter to explain why I filed the petition at a later date. I followed my Counselor's advise and went to Ms. Margaret Keener of North Central Independent Living Services Inc. (NCILS), who assisted me with writing this letter of response to you.

I want to explain that I did not receive copies of the documents in a timely manner and this is the reason I didn't file the Petition for a Writ of Certiorari before August 22, 2022. I received the Notice of Filing (dated June 9, 2022) for the Montana Supreme Court No. DA 21-0588 regarding Remittitur on June 11, 2022. I waited for the remaining documents, including the Opinion of the Supreme Court, to be sent to me so I could complete the Petition for the Writ of Certiorari. After a couple of months, on August 22, 2022, I went, in person, to the Clerk of Court's Office to find out what was going on with Human Rights Bureau case. I spoke with Deputy Elizabeth Sweeney about the documents, she told me that she mailed them, but I never received them. I was told that I could get a copy of the documents for \$7.00 (\$1.00 per page). I did pay the \$7.00 for a copy of the documents. I took those documents to my Counselor, so she could help explain them to me and give me advise on August 25, 2022. The next day, I went to Ms. Keener of NCILS on August 26, 2022 and we started writing my Petition for the Writ of Certiorari right away, I then mailed it to the US Supreme Court. The denial letter (written on October 28, 2022) I received on October 31, 2022.

I am hoping that the United States Supreme Court will reconsider my Petition for the Writ of Certiorari for this case, due to the fact that I did not receive the needed documents in a timely matter.

I appreciate your assistance in this matter.

Respectfully,

EXHIBIT - 3

Jada Ku
300 56th Street South
Great Falls, Montana 59405
Phone: (406) 899-2527

Please find the enclosed copy of:

- Notice Of Filing Supreme Court No. DA21-0588
- Cascade County District Court Receipt
- DA 21-0588 In The Supreme Court Of The State Of Montana
- Montana Eighth Judicial District Court, Cascade County - Notice of Filing Remittitur
- In The Supreme Court Of The State Of Montana - Remittitur
- No. DA 21-0588 2022 MT 102N Supreme Court of the United States Petition For Writ Of Certiorari

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

November 17, 2022

Jada Ku
300 56th St., South
Great Falls, MT 59405

RE: Ku v. MT Human Rights Bureau
MTSC No. DA 21-0588


Dear Ms. Ku:

The above-entitled petition for a writ of certiorari was originally postmarked October 18, 2022 and received again on November 14, 2022. The papers are returned for the following reason(s):

If you are seeking to file your petition out of time, you must submit your petitions with a motion to direct the Clerk to file it out of time.

In addition, please note that the proof of service and certificate of compliance must be separate from the petition, not within it. See Rule 29.5 and Rule 33.1(h).

Sincerely,
Scott S. Harris, Clerk
By:



Lisa Nesbitt
(202) 479-3038

Enclosures

EXHIBIT - 4