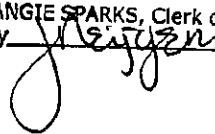


FILED

JUL 06 2021

ANGIE SPARKS, Clerk of District Court  
By  Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY

JUSTICE JIM RICE,

Petitioner,

v.

THE MONTANA STATE  
LEGISLATURE, by Senator Mark  
Blasdel, President of the Senate, and  
Representative Wylie Galt, Speaker of  
the House of Representatives,

Respondents.

Cause No.: BDV-2021-451

**ORDER DENYING JUNE 23, 2021  
DISMISSAL MOTION**

On June 23, 2021, the Montana State Legislature (Legislature) moved to dismiss Justice Rice's Declaratory Relief Petition. It claims that this declaratory proceeding is moot since it withdrew the underlying subpoena. It did not file a supporting brief as required by Rule 2(a), Mont. Unif. Dist. Ct. R.

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1 On July 1, 2021, Justice Rice filed his brief in opposition to the  
2 Legislature's dismissal motion. He claims this matter is not moot based on the  
3 voluntary cessation and public interest exceptions. *See Havre Daily News, LLC v.*  
4 *City of Havre*, 2006 MT 215, ¶34, 333 Mont. 331, 142 P.3d 864; *Walker v. State*,  
5 2003 MT 134, ¶ 41, 316 Mont. 103, 68 P.3d 872; see also, *McLaughlin v. Mont.*  
6 *State. Leg.*, 2021 MT 120, ¶ 11, 404 Mont. 166, P.3d.

7 The Legislature has admitted that its dismissal motion is without  
8 merit by failing to file a supporting brief. Mont. Unif. Dist. Ct. R. 2(b).  
9 Consequently, its motion should be **DENIED**. In the event the Legislature files  
10 another dismissal motion, the Court respectfully requests the parties also address  
11 whether, based upon the withdrawn subpoena, Justice Rice is now seeking an  
12 advisory opinion from this Court relative to his April 19, 2021 Declaratory and  
13 Injunctive Relief Petition.<sup>1</sup> See *Arnone v. City of Bozeman*, 2016 MT 184, ¶ 10,  
14 384 Mont. 250, 376 P.3d 786 (citing authority) (the Uniform Declaratory  
15 Judgment Act "does not license litigants to fish in judicial ponds for legal  
16 advice").

17 Accordingly, **IT IS HEREBY ORDERED, ADJUDGED and**  
18 **DECREED** that the Legislature's June 23, 2021 dismissal motion is **DENIED**  
19 **without prejudice** since it failed to comply with Mont. Unif. Dist. Ct. R. 2(a).

20 **ORDERED** this 6<sup>th</sup> day of July 2021.

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24 MICHAEL F. McMAHON  
25 District Court Judge

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<sup>1</sup> Justice Rice specifically requested, in relevant part, that this Court "declare the Subpoena invalid pursuant to § 27-8-202, MCA, and permanently enjoin it pursuant to § 27-19-102, MCA."

1 cc: Curt Drake, (via email to: curt@drakemt.com)  
2 Kristin Hansen/Derek Oestreicher, (via email to: KHansen@mt.gov /  
3 derek.oestreicher@mt.gov)

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