

1  
2 IN THE SUPREME COURT OF THE STATE OF NEVADA  
3  
4

5 JANEAL CALKINS,

Case No.: 83053

6 Appellant,

7 vs.  
8

9 WAYLON HUBER,

10 Respondent.  
11  
12

FILED

SEP 23 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *Richard*  
DEPUTY CLERK

13 **MOTION TO DISMISS FAST TRACK CHILD CUSTODY APPEAL.**  
14

15 This is a motion to dismiss the fast track child custody appeal due to improper  
16 procedure and incomplete fast track appeal.  
17

18 Respondent is officially requesting the Nevada Supreme Court dismiss the Fast  
19 Track Child Custody Appeal filed by appellant on 06/14/2021 by counsel Elizabeth  
20 Bittner Esq.  
21

22 Supreme Court Case History.  
23

24 On 06/14/2021 an Appeal was filed by Bittner Legal representing appellant  
25 JANEAL CALKINS. The appeal was recommended for a settlement program.  
26 Respondent WAYLON HUBER then informed the court that he was no longer  
27  
28

RECEIVED  
SEP 23 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

21-27564

1 represented by counsel removing him from the program. On 8/3/2021 Filed Order  
2 Removing From Settlement Program and Reinstating Deadlines for Filing  
3 Documents. Respondent will not be retaining counsel for this appeal and thus  
4 appeal is removed from settlement program. Appellant(s): 14 days transcript  
5 request; 40 days fast track statement and appendix; Respondent(s); 21 days from  
6 fast track statement to file fast track response. (SC) On September 20<sup>th</sup> 2021 the  
7 fast track brief was filed.  
8  
9

#### 10 Procedural issues 11

12 On Aug 3<sup>rd</sup>, 2021, an order was filed and signed by Honorable Judge Carolyn  
13 Worrell. Both parties were served this order, but appellant failed to comply with  
14 the order issued, and rules of proper procedure. Per the Order the Appellant was  
15 required to serve a transcript request in the district court and file two file stamped  
16 copies of that request form in the supreme court *See NRAP 3E©(2)(A)*. If no  
17 transcript is to be requested, appellant shall file and serve a certificate to that effect  
18 with this court within the same time period.  
19  
20

#### 21 Rule 9. TRANSCRIPT; DUTY OF COUNSEL: DUTY OF THE COURT 22 REPORTER OR RECORDER

23 (a) Counsels duty to request Transcript (1) Necessary Transcripts. (A) Counsel have  
24 a duty to confer and attempt to reach an agreement concerning the transcripts  
25 necessary for the courts review on appeal. (B) Unless otherwise provided in these  
26 rules. The appellant shall file transcript forms in request form in accordance with  
27 rules 9(a)(3) when a verbatim record was made of the district court proceedings  
28

1 and the necessary portions of the transcript were not prepared and filed in the  
2 district court before the appeal was docketed under Rule 12. (C) If no transcript is  
3 to be requested the appellant shall file and serve a certificate to that effect withing  
4 the time period set forth in Rule 9(a)(3) for the filing of a transcript request form.  
5 Such certificate shall substantially comply with Form 14 In the Appendix of  
6 Forms.

7 (7) Consequences of Failure to Comply. A party's failure to comply with the  
8 provisions of this Rule may result in sanctions, including dismissal of the appeal.  
9

10 Appellant failed to comply with Order "Settlement Order/Procedural" document  
11 21-22474 dated Aug 3<sup>rd</sup> 2021, and case should be dismissed and proper sanctions  
12 to be applied.  
13

14  
15 This document does not contain the Social Security number of any person. I  
16 declare under penalty of perjury, under the law of the state of Nevada, that the  
17 foregoing statements are true and correct.  
18  
19  
20

21 Dated this 22<sup>nd</sup> day of September 2021.  
22

23   
24

25 WAYLON HUBER In Pro see  
26 4151 Two Rock Dr Winnemucca, NV 89445  
27  
28

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13 **PROOF OF SERVICE**

14 This is a proof of service for the "Motion to Dismiss Fast Track Child Custody  
15 Appeal.  
16

17 Mailed to via US mail to  
18 Elizabeth Bittner Esq  
19 1225 Westfield Ave Ste 7  
20 Reno, NV 89509

21 This document does not contain the Social Security number of any person.  
22 I declare under penalty of perjury, under the law of the state of Nevada,  
23 that the foregoing statements are true and correct.  
24  
25



In Pro see