

FILED

JUN 30 2022

ANGIE SPARKS, Clerk of District Court  
By MARY M GOYINS, Deputy Clerk

**MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

RIKKI HELD; LANDER B., by and through his guardian Sara Busse; BADGE B., by and through is guardian Sara Busse; SARIEL SANDOVAL; KIAN T., by and through his guardian Todd Tanner; GEORGIANNA FISCHER; KATHRYN GRACE GIBSON-SNYDER; EVA L., by and through her guardian Mark Lighthiser; MICA K., by and through his guardian Rachel Kanton; OLIVIA VESOVICH; JEFFREY K., by and through his guardian Lara King; NATHANIEL K., by and through his guardian Laura King; CLAIRE VLASES; RUBGY D., by and through her guardian Shane Doyle; and TALEAH HERNANDEZ,

Plaintiffs,

v.

STATE OF MONTANA, GOVERNOR GREG GIANFORTE, MONTANA

Cause No. CDV-2020-307

**ORDER ON RULE 60(a)  
MOTION FOR CLARIFICATION**

1  
2 DEPARTMENT OF  
3 ENVIRONMENTAL QUALITY,  
4 MONTANA DEPARTMENT OF  
5 NATURAL RESOURCES AND  
6 CONSERVATION, MONTANA  
7 DEPARTMENT OF  
8 TRANSPORTATION, and MONTANA  
9 PUBLIC SERVICE COMMISSION,

Defendants.

10 Defendants State of Montana, et al., filed a motion for clarification  
11 on May 6, 2022. The motion, filed under Montana Rule of Civil Procedure 60(a),  
12 asks the Court to correct a clerical error in the August 4, 2021, Order on Motion  
13 to Dismiss. The State's motion asks the Court to confirm that it intended to  
14 dismiss Request for Relief 5 from Plaintiffs' Complaint for Declaratory and  
15 Injunctive Relief. Youth Plaintiffs oppose the motion in a response filed May 20,  
16 2022, arguing the Court purposefully did not dismiss Request for Relief 5.  
17 Defendants replied on May 24, 2022.

18 Under Montana Rule of Civil Procedure 60(a), "The court may  
19 correct a clerical mistake or mistake arising from oversight or omission whenever  
20 one is found in a judgment, order, or other part of the record. The court may do  
21 so on motion or on its own, with or without notice." Pursuant to Rule 60(a), a  
22 court may correct a clerical error, but may not correct a "judicial error" affecting  
23 the "substantive rights of the parties as pronounced in the judgment." *Thomas v.*  
*Thomas*, 189 Mont. 547, 550, 617 P.2d 133, 135 (1980).


24 Defendants, in this case, seek clarification on the Order on Motion  
25 to Dismiss that expressly dismissed Youth Plaintiffs' Requests for Relief 6, 7, 8,

1 and 9. The dismissal made no mention of Request for Relief 5. However, the  
2 body of the Order on Motion to Dismiss states that the Court dismisses requests  
3 for injunctive relief while allowing Plaintiffs' "claims for declaratory relief to  
4 move forward." Order on Mot. to Dismiss 22, Aug. 4, 2021.

5 Plaintiffs' Request for Relief 5 seeks an injunctive remedy.  
6 Request for Relief 5 asks the Court to "[p]ermanently enjoin Defendants . . . from  
7 subjecting Youth Plaintiffs to the State's Energy Policy, Mont. Code Ann.  
8 § 90-4-1001(c)-(g), the aggregate acts, policies, and conditions described herein,  
9 and the Climate Change Exception to the [Montana Environmental Policy Act],  
10 Mont. Code Ann. § 75-1-201(2)(a)." Defendants argue that because Request for  
11 Relief 5 seeks injunctive relief, the Court inadvertently omitted it from its list of  
12 dismissed claims.

13 While Request for Relief 5 does seek an injunctive remedy, the  
14 Court nonetheless finds Request for Relief 5 would be a logical extension and  
15 result if Montana Code Annotated § 90-4-1001(c)-(g) or § 75-1-201(2)(a) were  
16 declared unconstitutional. The language contained in the Order on Motion to  
17 Dismiss indicating dismissal of all injunctive relief was a clerical error. *See*  
18 Mont. R. Civ. P. 60(a). This Order clarifies that requests for injunctive relief  
19 contained in the complaint were dismissed, except for Request for Relief 5.

20 DATED this 30 day of June 2022.

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24 KATHY SEELEY  
25 District Court Judge

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