

IN THE SUPREME COURT OF THE STATE OF MONTANA  
Cause No. DA 23-0575

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RIKKI HELD, ET AL.,

Plaintiffs and Appellees,

v.

THE STATE OF MONTANA, ET AL.,

Defendants and Appellants.

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On Appeal from The Montana First Judicial District Court,  
Lewis And Clark County, Cause No. DDV-2020-307  
The Honorable Kathy Seeley, Presiding

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BRIEF *AMICI CURIAE* OF ENVIRONMENTAL AND CONSTITUTIONAL  
LAW PROFESSORS IN SUPPORT OF PLAINTIFFS/APPELLEES

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[Appearances on next page.]

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## INTEREST OF THE AMICUS CURIAE

*Amicus curiae* comprise a group of nationally and internationally recognized experts on environmental and constitutional law who bring a broad spectrum of legal insight into the issues of climate change, constitutional law, and related legal issues. A signatories list follows.

## STATEMENT OF THE CASE

This case concerns whether the Montana Constitution protects the right to a life-sustaining climate. Based on constitutional text, controlling cases from Montana, and persuasive jurisprudence involving similar text from elsewhere, amici law professors say the answer is yes and thus that the Supreme Court should affirm the District Court's decision that the Montana Constitution's right to a healthy environment and right to dignity grant a vindicable right to a life-sustaining climate.

Enacted in 1972, the Montana Constitution provides that "All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment . . ." Mont. Const. art. II, § 3. It requires that "[t]he state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." Mont. Const. art. IX, § 1(1). Further, it requires that the Legislature provide "adequate remedies for the protection of

the environmental life support system from degradation” and “to prevent unreasonable depletion and degradation of natural resources.” Mont. Const. art. IX, § 1(3). The Montana Constitution also recognizes that “[t]he dignity of the human being is inviolable. No person shall be denied the equal protection of the laws.” Mont. Const. art. II, 4.

Montana is responsible for a disproportionate portion of greenhouse gas emissions, and with it, climate change. In the Court’s words, “Montana is a major emitter of GHG emissions in the world in absolute terms, in per person terms, and historically.” *Held v. Montana*, Cause No. CDV-2020-307, Montana 1st Judicial District, 2023 WL 5229257 (Mont. Dist. Aug. 14, 2023). (Doc. 405) at ¶ 222. Extraction accounts for 70 million tons of CO<sub>2</sub> being released into the atmosphere annually, more than many other countries, including Brazil, Japan, Mexico, Spain, and the United Kingdom. *Id.* at ¶ 215. Transportation and processing accounts for another 80 million tons of CO<sub>2</sub> annually, about the same as Colombia, which has 50 times more people. *Id.* at ¶ 217. Consumption accounts for another 32 million tons of CO<sub>2</sub>, *Id.* at ¶ 218, more per capita than all but five states. *Id.* at ¶ 220. In all, Montana is responsible for about 166 million tons of CO<sub>2</sub> emissions annually, *Id.* at ¶ 218, roughly the same as Argentina (with forty-seven million residents), the

Netherlands (with eighteen million residents), or Pakistan (with 248 million residents). *Id.* at ¶ 219.

The climate crisis has profound effects on the State of Montana, and with it, pushes constitutional envelopes. The District Court found that annual “extreme heat days” (temperatures of more than 90 degrees) in Montana are expected to increase by 11 - 30 days by midcentury. *Id.* at ¶ 96. Montana is expected to experience 5.6°F to 9.8°F of warming by 2100. *Id.* at ¶ 97. This will reduce snowpack and shorten snowpack runoff duration in the spring and summer, *Id.* at ¶ 148, and melt the glaciers in famed Glacier National Park, affecting water sources throughout the state, region and the Continent. *Id.* at ¶ 152-54.

This has already resulted in myriad adverse effects in Montana. Summer streamflow in Montana’s rivers has decreased by approximately 20 percent since the 1960’s. *Id.* at ¶ 170. Stream temperatures have increased between 1-2°C. *Id.* Montana’s fire season is two months longer than a generation ago, due to declining snowpack, early spring snowmelt, decreased summer precipitation, and warmer temperatures. *Id.* at ¶ 183. In the District Court’s words, *Id.* at ¶ 193:

The science is clear that there are catastrophic harms to the natural environment of Montana and Plaintiffs and future generations of the State due to anthropogenic climate change. The degradation to Montana’s environment, and the resulting harm to Plaintiffs, will worsen if the State continues ignoring GHG emissions and climate change.

Youth Plaintiffs commenced this action in March 2020, arguing that the Montana Environmental Policy Act's (MEPA) exclusion of consideration by state agencies of the causes or effects of greenhouse gases contravenes the "right to a clean and healthful environment," the right to dignity, and other rights guaranteed by the State's constitution. Complaint at 90-102 (Doc. 1); *see also, Held v. Montana*, Cause No. CDV-2020-307, Montana 1st Judicial District, 2023 WL 5229257 (Mont. Dist. Aug. 14, 2023). (Doc. 405) ("Defendants are . . . unconstitutionally depleting and degrading Montana's environment and natural resources . . . destabiliz[ing] the climate system . . . depriving the Young Plaintiffs of their constitutionally guaranteed rights under the Montana Constitution Article II, Sectio[n] 3. . . and Article IX, Section 1; . . . [Defendant's] continue to violate the fundamental rights of Youth Plaintiff to individual dignity under Article II, Section 4 . . ."). The Court allowed Plaintiffs' MEPA claims to proceed to trial. Doc. 405 at 8 (" . . . [denying] Defendants' motion for summary judgment").

The State moved to dismiss the case and/or claims within it, including challenging justiciability, standing, whether the "right to a clean and healthful environment" is self-executing and actionable, and remedies. *Id.* at 3, 8. The court denied most of the State's motions, found the Plaintiffs' claims to be

constitutionally cognizable, and set a trial date. *Id.* at 8. The State then filed emergency petitions to stop the case from proceeding, which this Court denied. *Id.*

The State then argued that a last-minute amendment to MEPA “to explicitly prohibit the State from considering greenhouse gases in MEPA decisions” mooted Plaintiffs’ claims. The District Court rejected this approach too, holding: “Based on the plain language of the implicated constitutional provisions, the intent of the Framers, and Montana Supreme Court precedent, it would not be absurd to find that a life-sustaining climate system is included in the ‘clean and healthful environment’ and ‘environmental life-support system’ contemplated by the Framers.” *Id.* at 2, 17, 25.

At trial Plaintiffs demonstrated how climate change is harming current and future generations of Montanans, *Id.* at 46 (“... science is clear there are catastrophic harms ... due to climate change”) and how the State’s complicity is making things worse. *Id.* (“degradation . . . and resulting harm. . . will continue to worsen if the State continues ignoring GHG emissions and climate change”).

Based on the evidence adduced at trial the District Court held that that the State of Montana indeed violated Plaintiffs’ “right to a clean and healthful environment,” and the “inviolable” right to dignity enshrined in the Montana Constitution. *Id.* at 86, 102. Specifically, the District Court concluded that the

MEPA limitation violates the Plaintiffs’ rights to a clean and healthful environment, and that a clean and healthful environment is necessary for Plaintiffs to enjoy their right to dignity, among other rights. Mont. Const. art. II, §3-4, art. IX, §1; Doc 405 at 92-98 (“climate is included in the ‘clean and healthful environment’ and ‘environmental life support system’”). The Defendants’ appeal to the Montana Supreme Court followed.

### **STANDARD OF REVIEW**

The Montana Supreme Court reviews a District Court’s conclusion of law and interpretations of the Constitution *de novo* for “correctness.” *City of Missoula v. Girard*, 2013 MT 168, ¶10, 370 Mont. 443, 303 P.3d 1283; *Mont. Digital, LLC v. Trinity Lutheran Church*, 2013 MT 168, ¶9, 370 Mont. 443, 473 P.3d 1009 (“review the District Court’s conclusions of law for correctness”). The District Court’s findings of fact are reviewed under the clearly erroneous standard. *In re Est. of Kuralt*, 2000 MT 359, ¶14, 303 Mont. 335, 15 P.3d 931.

### **SUMMARY OF THE ARGUMENT**

The District Court correctly held that Montana’s constitutional right to a clean and healthful environment and to dignity incorporate the right to a life-sustaining climate. Montana’s constitution is unique in both providing a right to a healthful environment, Mont. Const. art. II, § 3 (“All persons [have] the right to a

clean and healthful environment...”) and to human dignity. Mont. Const. art. II, §4 (“The dignity of the human being is inviolable”).

First, text and controlling cases show that the District Court correctly held the right to a clean and healthful environment incorporates the right to a life-sustaining climate. The Montana Constitution provides that all persons have the right to a “clean and healthful environment,” Art. II, Sec. 3, and that “the legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.” Art. IX, Sec.1. The Montana Supreme Court has ruled that the right to a healthful environment requires a climate capable of sustaining a life support system.

Second, text and controlling and persuasive caselaw shows that the District Court correctly held that the MEPA Limitation and Mont. Code. Ann. § 75-1-201(6)(a)(ii) implicates Plaintiffs’ right to dignity under Article II, Sec. 4 of the Montana Constitution. The Supreme Court of Montana has confirmed that the Montana Constitution establishes the inviolable. The right to dignity has also been used to address climate action in Puerto Rico and countries such as Nigeria, Pakistan, and Germany. Thus, the District Court correctly ruled that the right to dignity incorporates a right to a life-sustaining climate.

## ARGUMENT

### **I. Montana’s Right to a Clean and Healthful Environment Incorporates the Right to a Life-Sustaining Climate.**

There is textual and controlling support for the District Court’s determination that the “clean and healthful environment” and “environmental life support system” provisions of the Montana Constitution afford a life-sustaining climate. Doc. 405 at 102.

#### **A. The Constitutional Provisions in Article II, Section 3 and Article IX, Section 1 Incorporate the Right to a Life-Sustaining Climate.**

The Montana Constitution guarantees the right to a “clean and healthful environment” in two places. The right to a “clean and healthful environment” is an inalienable right as stated by the Constitution. Mont. Const. art. II, § 3 (“All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment...”). Furthermore, the Montana Constitution provides that the environment shall be maintained and improved for current and future generations. Mont. Const. art IX, § 1(1) (“The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations”). Lastly, the Constitution provides that there shall be remedies to protect the environment’s life support system and prevent



unreasonable destruction of this state's natural resources. Mont. Const. art IX, § 1(3) (“The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources”). The language of the Constitution draws a clear line from a healthful environment to a climate capable of sustaining human life.

**B. The Supreme Court's Ruling in *Mont. Env't Info. Ctr.* Incorporates the Right to a Life-Sustaining Climate.**

This Court has ruled that Article II, Section 3 and Article IX, Section 1 are to be read together. *Montana Env't Info. Ctr. v. Dep't of Env't Quality*, 1999 MT 248, ¶¶65, 296 Mont. 207, 988 P.2d 1236. The “environmental life support system” includes the air, water, and land, and is meant to be “all-encompassing.” *Id.* at ¶ 67 (citing Mont. Const. Convention, Vol. IV at 1201, March 1, 1972) (quoting Delegate McNeil, “the term ‘environmental life support system’ is all-encompassing, including but not limited to air, water, and land; and whatever interpretation is afforded this phrase by the Legislature and courts, there is no question that it *cannot be degraded*) (emphasis added in original). The “clean and healthful environment” provisions are meant to be preventative in nature. *Id.* at ¶69 (citing Mont. Const. Convention, Vol. IV at 1205, (March 1, 1972) (quoting Delegate McNeil, [*O*]ur

*intention was to permit no degradation* from the present environment and affirmatively require enhancement of what we have now”) (emphasis in original). There is no benefit to require monetary damages if the damage to the environment is irreversible. *Id.* at ¶71 (citing Mont. Const. Convention, Vol. V at 1230, (March 1, 1972) (quoting Delegate Robinson, “[I]t does very little good to pay someone monetary damages because the air has been polluted or because the stream has been polluted if you can’t change the condition of the environment once it has been destroyed”). The intent was to make the provisions as strong as possible. *Id.* at ¶75 (citing Mont. Const. Convention, Vol. IV at 1209, (March 1, 1972) (“... agreed upon by both sides of the debate that it was the convention’s intention to adopt whatever the convention could agree was the stronger language”).

The intent of the framers of the “clean and healthful environment” provisions intended for the “environmental life-support system” to be comprehensive. If the climate is allowed to be degraded, then it would result in the destruction of Montana’s natural resources, worsen the health of its citizens, and frustrate the framer’s intent. The uncontested factual findings from the District Court show that GHG pollution and climate impacts are already significantly degrading Montana’s environment and natural resources. Doc. 405 at ¶ 140-193.

**C. The Supreme Court’s Ruling in *Park Cnty. Env’t Council* Incorporates the Right to a Life-Sustaining Climate.**

The framers took these provisions seriously. In *Park Cnty. Env’t Council* this Court determined that the framers intended for these provisions to be the strongest of any state constitution. *Park Cnty. Env’t Council v. Montana Dep’t of Env’t Quality*, 2020 MT 303, ¶61, 402 MT. 168, 477 P.3d 288 (“we determined that the framers of the Montana Constitution intended it to contain ‘the strongest environmental protection provision found in any state constitution’”). This Court also held that Article IX, Sec. 1 of the Montana Constitution protects future generations’ environmental rights while also protecting the ‘environmental life-support system’ from unreasonable destruction. *Id.* at ¶ 62 (“... while requiring ‘protection’ of the environmental life support system ‘from degradation’ and ‘prevent[ion of] unreasonable depletion and degradation’ of the state’s natural resources”). Moreover, the citizens of Montana have a right to be constitutionally free of environmental harm that contravene the constitution. *Id.* (“This forward-looking and preventative language clearly indicates that Montanans have a right not only to reactive measures after a constitutionally-proscribed environmental harm has occurred, but to be free of its occurrence in the first place”). The purpose of the forward-looking language the convention agreed upon is for the protection of future generations. Micah Drew, *To a Clean and Healthful Environment*, Mont. Free Press:

Flathead Beacon (June 5, 2023), <https://montanafreepress.org/2023/06/05/to-a-clean-and-healthy-environment/>. (Noting Jerome Cate, “Throughout the land, young people are asking us to do something about the environment [b]ecause they’re the ones that are going to have to live with it”).

Applying *Park County* here, the framers intended to create the strongest environmental protections for current and future generations. The way that maximizes fealty to the framers’ intent is to ensure that there is no “unreasonable depletion and degradation of the state’s natural resources,” and incorporate the right to a life-sustaining climate in the right to a clean and healthy environment. Accordingly, the District Court order is consistent with Montana’s constitutional jurisprudence and the intent of the framers. Doc. 405, Conclusions of Law at ¶¶ 37-59.

**D. Other Jurisdictions Have Recognized the Right to a Life-Sustaining Climate, so Too Should Montana.**

The Hawaii Constitution guarantees a right of conservation and protection for its natural resources for present and future generations. Haw. Const. art. 11 § 1 (“For the benefit of present and future generations, the State ... shall conserve and protect Hawaii’s natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources ...”). It requires that the State protect its natural resources for all

people, present and future. *Id.* (“All public natural resources are held in trust by the State for the benefit of the people”). The Constitution prevents the State from harming the public interest. *Matter of Hawai'i Elec. Light Co., Inc.*, 152 Haw. 352, 526 P.3d 329, 347 (2023) (Wilson, J., concurring) (citation omitted) (the Constitution “prohibits the State from taking action ‘that substantially impairs the public interest’ in a trust source”). For all natural resources to be conserved, CO<sub>2</sub> levels must remain below 350ppm. *Id.* at 348 (“for all other natural resources ... to be conserved for future generations ... CO<sub>2</sub> must be reduced to below 350ppm”). The only way to achieve that aim is a life-sustaining climate system. *Id.* (“a life-sustaining climate system is only possible if atmospheric CO<sub>2</sub> concentrations are limited to below 350ppm”). Hawaii’s protection for natural resources is preventative in nature. *Id.* (citation omitted) (“The public trust ‘does not remain fixed for all time, but must conform to changing needs and circumstances’”).

Thus, the District Court correctly held that the MEPA limitation violated the Plaintiffs’ right to a clean and healthful environment, which includes Montana’s climate.

## **II. Montana’s Constitutional Right to Dignity Incorporates a Right to a Life-Sustaining Climate.**

The District Court correctly held that the MEPA Limitation and Mont. Code Ann. § 75-1-201(6)(a)(ii) are unconstitutional. The Montana constitution

recognizes the right to human dignity. Mont. Const. art. II, §4 (“The dignity of the human being is inviolable”). The Plaintiffs’ constitutional claims hinge on whether the MEPA Limitation and Mont. Code Ann. § 75-1-201(6)(a)(ii) caused unconstitutional degradation of Montana’s environment and natural resources violating Article II, Sec. 3, and Article IX, Sec. 1. Doc. 405 at 92-93 (“impossible for the Court to find that the MEPA Limitation and Mont. Code Ann. § 75-1-201(6)(a)(ii) do not violate Article II, Sec. 3 and Article IX Sec. 1, and then find [the] statutes violate . . . rights to . . . dignity”).

The Court correctly held the right to dignity incorporates a right to a stable environment, implicated by their ruling on Article II, Sec. 3, and Article IX Sec. 1. Doc. 405 at 102 (“fundamental constitutional right to a clean and healthful environment, which includes climate as part of the environmental life-support system”). The Montana constitution, Montana case law, and jurisdictions in the United States and abroad support the District Court’s conclusion.

**A. Article II Section 4 of the Montana Constitution Incorporates the Right to a Life-Sustaining Climate.**

Montana’s Constitution protects human dignity. Mont. Const. art. II, §4 (“The dignity of the human being is inviolable”). Dignity is inherent, equal, and inalienable. The 1972 Montana Constitutional Convention Delegates intended the right to dignity to protect future generations. Mont. Const. Convention, Vol. VIII,

Bill of Rights Proposal at 2, 4 (March 1, 1972) (“spirit [of the proposed declaration was to ensure a] more responsible government . . . constitutionally commanded never to forget that government is created solely for the welfare of the people”). They wanted Montanans to enjoy the natural beauty of Montana. Mont. Const. pmbl. (“desiring to improve the quality of life . . . for future generations”). The infringement of dignity inhibits the liberties enumerated in *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923) (“contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness”) (citations omitted).

Inherent in Montanan’s right to dignity is the right to a stable environment. An unstable environment restricts the ability of Americans to live out the freedoms proscribed to them. Erin Daly & James R. May, *Can the U.S. Constitution Encompass a Right to a Life-Sustaining Climate? (Yes, it Can.)*, UCLA Journal of Environmental Law and Policy, 39, 47 (2021) (“Government action can and does impact the stability of the climate system and the ability of American citizens to own property, . . . exercise all their other rights, . . . live full and free lives”).

The effects of climate change infringe upon the individual dignity of the Plaintiffs. Doc. 405 at 46-64; 33. (“barriers to keeping family wealth and future economic opportunities . . . [forced to] evacuate [home] . . . distress and fear . . . [and] harms their ability to participate in cultural practices”).

**B. Under Montana Case Law, the Right to Dignity Incorporates the Right to a Life-Sustaining Climate.**

The Supreme Court of Montana has held Article II, Sec. 4 is a fundamental, enforceable right. *Walker v. State*, 2003 MT 134, ¶74, 316 Mont. 103, 68 P.3d 872. (“rights found in Montana’s Declaration of Rights as being ‘fundamental,’ . . . significant components of liberty. . .”) (citation omitted). The Court also recognized that the right to dignity is inviolable. *Id.* at ¶82 (“dignity clause commands that the intrinsic worth and the basic humanity of persons may not be violated”). In *Walker*, the plaintiff alleged he was subject to cruel and unusual punishment while incarcerated by the State of Montana violating his right to dignity. The Court agreed with Mr. Walker. *Id.* at ¶98 (“Constitution forbids correctional practices which . . . disregard the innate dignity of human beings”).

In *Armstrong v. State*, the Montana Supreme Court ruled that a statute prohibiting physicians from performing abortions was unconstitutional. *Armstrong v. State*, 1999 MT 261, ¶75 296 Mont. 361, 989 P.2d 364 (“the core constitutional right infringed by the legislation is . . . fundamental right to individual privacy”).



The right to dignity was implicated during the Court’s analysis. *Id.* at ¶72 (“Respect for the dignity of each individual . . . demands that people have for themselves the moral right and moral responsibility to confront the most fundamental questions about the meaning and value of their own lives and the intrinsic value of life in general, answering to their own consciences and convictions”). The Court acknowledged the responsibility of protecting the right to privacy and dignity is to respect individual choices and practices. *Id.* at ¶73 (“each person’s enjoyment of these . . . rights is not without a corresponding cost . . . [rather to ‘recognize] corresponding responsibilities’”) (citing Mont. Const. art. II, §3). That responsibility does not require government to degrade that individual dignity. *Id.* at ¶74 (“the price . . . for our commitment to the values and ideals . . . is simply tolerance”).

In *Stand Up Montana v. Missoula Cnty. Pub. Sch.*, plaintiffs claimed a school district’s mandatory masking policies during the Covid-19 pandemic violated the right to dignity. *Stand Up Montana v. Missoula Cnty. Pub. Sch.*, 2022 MT 153, ¶11, 409 Mont. 330, 514 P.3d 1062. The Court disagreed with the plaintiffs because, compared to *Walker*, the plaintiffs were not deprived of any basic necessities. *Id.* at ¶18 (“living conditions on A-block constitute an affront to the inviolable right to

dignity. . .”) (citing *Walker*, 2003 MT at ¶84). While the Court disagreed with the plaintiffs, it nevertheless confirmed the right to dignity as an inviolable right.

Allowing the continued degradation and depletion of Montana’s environment is akin to disregarding the innate dignity of those who live in and enjoy that environment. As the effects of climate change persist, the living conditions of the Plaintiffs will continue to erode. Of course, the Constitutional Delegates’ intention was to not only to preserve the beauty of Montana but to enhance that beauty, which is wholly in the welfare of the Plaintiffs.

**C. Puerto Rico Recognizes the Inviolable Right to Dignity that Incorporates a Right to a Life-Sustaining Climate.**

Montana’s constitutional protections for dignity owes its origins in part to the Constitution of Puerto Rico. P.R. Const. art. II, §1 (“The dignity of the human being is inviolable”). The Montana Constitutional Delegates ultimately borrowed the same language for the Montana Constitution. *See* Vicki C. Jackson, Note, Constitutional Dialogue and Human Dignity: States and Transnational Constitutional Discourse. 65 Mont. L. Rev. 15, 7-9 (2004).

In Puerto Rico, the right to dignity is used to protect religious freedoms. For example, in *Hernández Lozada v. Tirado Flecha*, a Jehovah's Witnesses who was in a serious car accident, refused a blood transfusion. *Hernández Lozada v. Tirado Flecha*, 177 D.P.R. 893, \*901 (2010). The District Court however ordered the blood

transfusion. The boy's estate sued claiming the ordered blood transfusion denied the deceased's right to dignity. The Puerto Rico Supreme Court agreed. *Id.* at \*933 (“ . . . the Constitution of the Commonwealth of Puerto Rico . . . protect the right of people to refuse medical treatment, even if their decision entails fatal consequences for their life”).

The concurring opinion emphasizes that dignity must be protected and respected. *Id.* at \*944 (Rodriguez, Assoc. J., concurring) (“[a democracy's] morality lies . . . in the recognition of the dignity of the human being, the high respect [dignity] deserves and the responsibility consequently that has all the constitutional order to rest in it, protect it and defend it . . . a supreme legal value”) (citation omitted).

**D. The Right to Dignity is a Globally Recognized Fundamental Right and Includes the Right to a Life-Sustaining Climate.**

In 1945 the United Nations Charter established that dignity is a universal and inviolable right. U.N. Charter pmb. (“ . . . fundamental human righ[t]. . . [recognizing the] dignity and worth of the human person”). Dignity was further engrained into the global stage under the United Nation's Universal Declaration of Human Rights. G.A. Res. 217. (III) A, Universal Declaration of Human Rights, pmb., (Dec. 10, 1948) (“[dignity is] inherent . . . equal and inalienable . . . the foundation of freedom, justice and peace. . .”).

At a global level, the right to dignity includes the right to a stable environment. The Constitution of the Federal Republic of Nigeria protects the fundamental rights to life and dignity. Const. of Nigeria (1999), §33, 34. (“Every person has a right to life . . . [e]very individual is entitled to respect for the dignity of [their] person”). In 2005 the Federal High Court found the rights to life and dignity include the right to a healthy environment. *Gbemre*, (2005) FHC/B/CS/53/05 AHRLR at 151, 155 (Nigeria) (“constitutionally guaranteed fundamental rights to life and dignity of the human person . . . include[s] the right to [a] clean, poison-free, pollution free healthy environment”).

In *Gbemre*, the petitioner argued that Shell Petroleum’s gas flaring in the Niger Delta violated his rights to life and dignity. *Id.* at 152. Shell’s activities severely harmed Gbemre’s community and environment. *Id.* at 153-54. (“exposed them to increased risk of premature death, respiratory illness, asthma, and cancer . . . [emitted] carbon dioxide and methane . . . pollut[ing] their food and water . . . reduce[d] crop production . . . [caused] acid rain . . . [from] sulphur dioxide and nitrogen oxides). The court held the right to life and dignity included the right to live in a life-sustaining climate. *Id.* at 154 (“conducive for human beings to reside in for . . . development and full enjoyment of life”).

The Lahore High Court in Pakistan used Article 14 of their Constitution to address climate change. Pak. Const. chp. 1, art. 14 (“The dignity of man, subject to law, the privacy of home shall be inviolable”). In *Asghar Leghari v. Federation of Pakistan*, the petitioner urged Pakistan to adopt more concrete strategies to combat the threat of climate change. *Asghar Leghari v. Fed’n of Pak.*, W.P. No. 25501/2015 (Pak.) (2018). The court used the right to dignity to establish the Climate Change Commission (“CCC”), tasked with finding ways to steer Pakistan towards climate resilient development. *Id.* (. . . [climate change is] “no longer a distant threat”). Finding that the CCC accomplished nearly 67% of its priority items, the Court dissolved the CCC in 2018. Now, the Standing Committee on Climate Change acts as a link between the Court and the Executive to continue sustainable development and to protect the fundamental rights of the people of Pakistan. *Id.*

Similarly, in *Neubauer et al., v. Germany*, the German Constitutional Court in 2021 found that the Federal Climate Change Act (the “Act”), violates the right to dignity recognized by the German Basic Law (the Constitution of Germany). Grundgesetz (GG) (Basic Law), art. 1, §1, translation at [https://www.gesetze-im-internet.de/englisch\\_gg/englisch\\_gg.html](https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html) (“Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority”); Bundesverfassungsgericht (BVerfG) (Fed. Const. Ct.), Mar. 24, 2021, Case No.

BvR 2656/18/1, BvR78/20/1, BvR 9620/1, BvR 288/20, para. 60, (Ger.)

[https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324\\_1bvr265618en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324_1bvr265618en.html). The Court encouraged future legislation to be climate centered. *Id.* at para. 255.

*Held v. Montana* is like *Gbemre*, *Asghar Leghari*, and *Neubauer* in that climate change has had real effects on their respective communities. The courts in Nigeria, Pakistan, and Germany, all recognized that their respective constitutional rights to dignity support a constitutional claim for climate action.

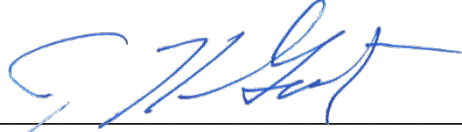
Thus, the District Court correctly held that a clean and healthful environment is necessary to protect Montana's Article II right to dignity, which also incorporates a right to a life-sustaining climate. The Supreme Court should affirm the District Court's decision.

## CONCLUSION

For all the above reasons, the Supreme Court should affirm the District Court's decision in full, including the conclusion that the Montana Constitution protects the right to a life-sustaining climate.

DATED this 19th day of March, 2024.

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I certify that the attached BRIEF FOR THE PLAINTIFF-APPELLEES AS AMICUS CURIAE complies with Montana Rule of Appellate Procedure 11(4) because the amici brief is proportionately spaced using Microsoft Word 2016 in 14-point Equity Text A font and contains 4,891 words, excluding the parts of the brief excluded by the Rule.



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