

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43669

<b>In the Matter of: C.J.T.F.A.V., a Minor.</b>	)	
	)	
<hr/> <b>DENNIS W. BRAULICK,</b>	)	<b>2016 Unpublished Opinion No. 731</b>
	)	
<b>Petitioner-Appellant,</b>	)	<b>Filed: October 17, 2016</b>
	)	
<b>v.</b>	)	<b>Stephen W. Kenyon, Clerk</b>
	)	
<b>KIMBERLY VAN SWERINGER,</b>	)	<b>THIS IS AN UNPUBLISHED</b>
	)	<b>OPINION AND SHALL NOT</b>
<b>Respondent.</b>	)	<b>BE CITED AS AUTHORITY</b>
	)	
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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Cynthia K.C. Meyer, District Judge. Hon. Scott Wayman, Magistrate.

District court’s order dismissing intermediate appeal, vacated and case remanded.

Dennis W. Braulick, Post Falls, pro se appellant.

Flammia and Solomon, P.C.; Anne Solomon, Coeur d’Alene, for respondent.

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Before MELANSON, Chief Judge; GUTIERREZ, Judge;  
and GRATTON, Judge

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PER CURIAM

Dennis W. Braulick appeals from the district court’s decision dismissing the intermediate appeal of the magistrate’s grant of summary judgment in favor of Kimberly Van Sweringer. We vacate the district court’s order of dismissal and remand this case for further proceedings.

This is a guardianship case, filed by Braulick seeking guardianship of Van Sweringer’s minor child. The magistrate entered summary judgment in favor of Van Sweringer, and Braulick filed an intermediate appeal with the district court. The district court ultimately dismissed the appeal and awarded attorney fees to Van Sweringer. The district court dismissed the appeal because Braulick “failed to comply with the Idaho Appellate Rules, to support and argue an

assignment of error, to raise an issue, and to file an opening brief.” On appeal, Van Sweringer also claims that Braulick failed to file an intermediate appellate brief. While the register of actions from the district court contains no entry for the filing of an intermediate appellate brief by Braulick, the Idaho Supreme Court granted Braulick’s motion to augment our record on appeal with a document entitled “Petitioner’s Brief,” which identifies the appeal as being in the district court, contains the correct case number, is dated and bears a clerk’s file stamp of November 14, 2014, and contains Braulick’s arguments. The district court’s decision dismissing the intermediate appeal was not entered until September 10, 2015. This Court cannot reconcile the fact that the Petitioner’s Brief bears a clerk’s file stamp yet it is not entered in the register of actions. Therefore, explanatory circumstances being absent in our record, we vacate the district court’s dismissal of the intermediate appeal and remand for further proceedings.