CIVIL

Pre-Trial Decision

36. **Failure to State a Claim**

We review de novo a district court's ruling on a motion to dismiss pursuant to M. R. Civ. P. 12(b)(6). ***Western Sec. Bank v. Eide Bailly LLP***, 2010 MT 291, ¶ 18, 359 Mont. 34, 249 P.3d 35 (citation omitted).

A district court's determination that a complaint has failed to state a claim for which relief can be granted is a conclusion of law which we review for correctness. ***Sinclair v. Burlington Northern & Sante Fe Ry.***, 2008 MT 424, ¶ 25, 347 Mont. 395, 200 P.3d 46 (citation omitted).

We construe the complaint in the light most favorable to the plaintiffs when reviewing an order dismissing a complaint under M. R. Civ. P. 12(b)(6). A court should not dismiss a complaint for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief. ***Jones v. Mont. Univ. Sys.***, 2007 MT 82, ¶ 15, 337 Mont. 1, 155 P.3d 1247 (citations omitted).

A district court may dismiss a petition for postconviction relief as a matter of law for failure to state a claim pursuant to § 46-21-201(1)(a), MCA, and we review a court's conclusions of law for correctness. ***Herman v. State***, 2006 MT 7, ¶ 13, 330 Mont. 267, 127 P.3d 422.