No. 1025157

Court of Appeals No. 83082-1-I

SUPREME COURT
OF THE STATE OF WASHINGTON

AMANDA R. COWAN,

Respondent,

v.

JOSHUA T. COWAN,

Petitioner.

ANSWER TO PETITION FOR REVIEW

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INTRODUCTION

Joshua Cowan's petition is based on the unsupported and unsupportable premise that Respondent Amanda Cowan made false accusations to obtain an unfounded DVPO. The DVPO is based on excessive corporal punishment *Joshua admitted*. The child's pediatrician reported it to Child Protective Services ("CPS"), who involved the police. CPS determined the allegation was founded and the police issued a notice of removal. Joshua waived review of the DVPO on appeal. His premise crumbles.

This case does not present the issue Joshua asks this Court to review: false accusations and unfounded DVPOs used for litigation advantage. Nor should this Court take review just to state the obvious: that doing so is wrong.

Joshua's remaining arguments are unrelated to RAP 13.4(b)(4), the only ground he raises for review. They are wrong in any event. This Court should deny review.

RESTATEMENT OF ISSUES PRESENTED FOR REVIEW

1. The appellate court affirmed the order granting relocation of the parties' children under the Child Relocation Act ("CRA") but reversed the parenting plan having found: (a) that the trial court could not modify non-residential aspects of the parenting plan absent a separate petition to modify; and (b) that a DVPO entered against Joshua was not *res judicata* in the relocation trial. Did the appellate court correctly hold that these errors were harmless, where the relocation decision was not based on the DVPO or its underlying facts?

2. Did the court properly apply CRA factors 4 and 7?

3. Do these issues fail to meet the "substantial public interest" standard, where the DVPO was well grounded in fact and unchallenged on appeal, and where the public has no interest in the trial court's highly discretionary decisions in a private family matter.

FACTS RELEVANT TO ANSWER

The following facts are taken from the appellate court opinion. ***Marriage of Cowan***, No. 83082-1-I (consolidated with No. 83860-1-I and No. 84148-1-I) (2023). Additional facts are provided in the arguments below.

A. Overview.

Amanda[1] "obtained a one-year Domestic Violence Protection Order (DVPO) against [Joshua] following a spanking incident of one of their children." No. 83082-1-I at 1. "At a later relocation trial, the court granted [Amanda's] requests to preclude the father from introducing any evidence challenging the spanking incident …." *Id*. In weighing the CRA's 11 factors, the trial court considered Joshua's "abusive use of conflict but not the spanking incident …." *Id*. Although neither party petitioned to modify

[1] Consistent with the appellate opinion and briefing conventions, this brief identifies the parties by their first names to avoid confusion. *Id*. at 2 n.2.

the parenting plan separate from the relocation, the trial court adopted conditions in the parenting plan that "mirrored those from the DVPO." *Id*. Joshua appealed the relocation, modification, DVPO, and denial of a CR 60 motion to vacate the DVPO. *Id*. at 1, 11 n. 7.

The appellate court affirmed the relocation, holding that the trial court properly applied the relocation presumption and correctly addressed CRA factors 4 and 7. *Id*. at 1, 20-25. The court held that "a DVPO is not the type of 'court order' contemplated by RCW 26.09.525(2)"[2] to

[2] The statute provides that "'substantially equal residential time' includes arrangements in which forty-five percent or more of the child's residential time is spent with each parent. In determining the percentage, the court must (a) consider only time spent with parents and not any time ordered for nonparents under chapter 26.11 RCW; and (b) *base its determination on the amount of time designated in the court order* unless: (i) There has been an ongoing pattern of substantial deviation from the residential schedule; (ii) both parents have agreed to the deviation; and (iii) the deviation is not based on circumstances that are beyond either parent's ability to control." RCW 26.09.525 (2) (emphasis added).

determine whether the relocation presumption applies. *Id*. at 1-2, 23-24. But the court held too that the trial court's reliance on the DVPO as the basis of the relocation presumption was harmless error, where the trial court correctly ruled that the relocation presumption also applied under the existing parenting plan. *Id*. at 24-25.

The appellate court held that the "trial court also abused its discretion in precluding [Joshua], under res judicata, collateral estoppel, and law of the case from introducing evidence challenging the spanking incident in the relocation trial." No 83082-1-I at 2, 12-17. The court held too that the trial court erred in modifying the parenting plan beyond those "residential aspects related to the relocation …." *Id*. at 18-20. Thus, the court reversed the parenting plan. *Id*. at 2, 20.

But the appellate court also held that these errors were harmless as to the relocation order "because the spanking incident did not play a factor in that decision." *Id*.

at 25. Rather, the trial court found the likelihood of future abuse was so remote that no RCW 26.09.191 limitations for abuse were warranted, and its relocation analysis considered only Father's abusive use of conflict, which he did not challenge on appeal. *Id*. at 2, 21.

The appellate court affirmed the relocation order but reversed the parenting plan. *Id*. at 2, 25. Because the court affirmed the relocation, it held that the residential aspects of the parenting plan would remain in place "until the trial court on remand can consider and enter a new parenting plan consistent with [the] opinion." *Id*. at 25.

B. Amanda obtained a DVPO after Joshua repeatedly spanked then two-year-old E.C. leaving bruising.

The parties separated in 2019 after being married for 10 years. *Id*. at 2. Their parenting plan provided that the children would reside with Amanda "16 out of 28 nights, or approximately 57 percent of the residential time." *Id*.

In April 2021, Amanda sought a DVPO against Joshua based on a March 15 event during which he spanked then two-year-old E.C., leaving "severe bruising on her hip and thigh." *Id*. at 3. Amanda discovered the severe bruising when bathing E.C. after "the children came home from a weekend with Joshua." *Id*. "Amanda called Joshua and he explained he had to 'spank her' repeatedly because she was not obeying him and kept getting out of bed." *Id*. "Amanda sent a picture of [E.C.'s] bruising to her pediatrician, who contacted [CPS]. CPS then contacted the police." *Id*. "The [trial] court entered a temporary DVPO, prohibiting contact between Joshua and the children. *Id*.

Amanda filed a relocation notice in May, arguing: (1) that St. George, Utah would be "a better environment for her children; (2) [that] she could no longer afford to live in the greater Seattle area; (3) [that] she had a job offer in St. George; and (4) [that] she could afford a new townhome in St. George." *Id*. Amanda planned to move in August, and

her motion stated her intent "to reside with her parents in Union, Washington, in between selling her home in King County and moving to Utah." *Id*.

Amanda filed a proposed parenting plan, attached to her relocation notice, asking the court to prohibit Joshua from having contact with the children while CPS and the police were still investigating "the spanking incident." *Id*. at 4. She also asked that "Joshua be evaluated for substance abuse and anger management and/or domestic violence," and that he be ordered to comply with any treatment recommendations. *Id*.

Joshua successfully moved to prevent the temporary relocation. *Id*. at 4. One week later, "a trial court commissioner found that Joshua's excessive corporal punishment of E.C. constituted domestic violence," ordering a one-year DVPO that would expire on July 21, 2022. *Id*. The "commissioner explained that although corporal punishment is legal in Washington, excessive

corporal punishment is not." *Id*. "The commissioner limited Joshua's contact with his children by prohibiting any overnight visits, but otherwise allowed contact as permitted by the then-existing parenting plan schedule. The commissioner also ordered Joshua either participate in a domestic violence perpetrator treatment program or obtain a domestic violence assessment and comply with its recommendation." *Id*. at 4-5. The trial court subsequently denied Joshua's' motion to revise the commissioner's order. *Id*. at 5. Although Joshua appealed from the order denying revision, he never argued the issue and the appellate court held that he waived review. *Id*. at 5, 11 n.7.

Amanda amended her relocation notice in August, adding to her reasons for relocating that she was engaged and her fiancé lived in in Mapleton, Utah where she intended to relocate. *Id*. at 5. Her attached proposed parenting plan sought .191 limitations on Joshua, though

neither party petitioned to modify the parenting plan aside from the requested relocation. *Id*.

"Joshua moved to vacate the DVPO under CR 60(b). The court denied the motion in March 2022." *Id*. Although Joshua appealed that decision too, the appellate court ruled that he waived review, having failed to ever argue the issue. *Id*. at 5, 11 n.7.

C. The trial.

1. The trial court granted Amanda a relocation, finding that she was entitled to the presumption under the DVPO and/or the parenting plan, but also that it would permit the relocation without the presumption.

"In April, the court held a five-day trial regarding [Amanda's] request to relocate the children to Utah." *Id*. at 5. Amanda asked the court to enter "RCW 26.09.191 findings and limitations on Joshua and order the same conditions required by the DVPO." *Id*. Joshua countered "that he intended to contest any allegation of child abuse and that he intended to introduce evidence to dispute that

claim." *Id*. at 5-6. "Amanda moved in limine for the court to preclude Joshua from introducing any evidence related to the excessive spanking incident. Amanda argued under res judicata that Joshua should not be able to relitigate this issue. Amanda asserted that the DVPO should stand on its own and that she should be able to rely on it at trial. The court granted the motion, ruling that it would accept the DVPO finding under res judicata (claim preclusion), collateral estoppel (issue preclusion), and 'the law of the case.'" *Id*. at 6. "The court clarified, however, that while it accepted the fact that Joshua excessively spanked E.C., how that fact would weigh into the court's consideration of RCW 26.09.191 limitations was a matter of the court's broad discretion." *Id*.

"The court granted Amanda's request to relocate with the children." *Id*. at 9. The trial court ruled that the relocation presumption applied under the DVPO, but also that the outcome would be the same under the parties'

2020 parenting plan, under which Amanda was entitled to the relocation presumption. *Id*. at 7-10. And the court ruled too that the CRA "factors would still have supported relocation even if Amanda was not afforded the presumption …." *Id*. at 10. As to the factors, the court considered all 11, entering findings on each. *Id*. at 8-9.

2. The trial court declined to impose any .191 limitations on Joshua based on abuse.

The trial court acknowledged that Joshua's "over-spanking of E.C. occurred but used its discretion to not limit residential time under RCW 26.09.191(2)(n)." *Id*. at 7. This provision allows a court to decline to impose .191 limitations upon "expressly" finding that "contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be

in the child's best interests to apply [.191] limitations …." RCW 26.09.191(2)(n).

The court, "however, found that Amanda proved that Joshua abusively used conflict …." *Id*. at 7. Joshua did not challenge that finding on appeal. *Id*. at 22.

3. The trial court also modified the parties' parenting plan.

The court also modified the parties' parenting plan, noting "two reasons supporting limitations on Joshua under RCW 26.09.191" – child abuse and abusive use of conflict. *Id*. at 10. But, as indicated in its oral ruling, the court declined to impose "RCW 26.09.191(2)(a) residential time limitations by exercising its discretion under RCW 26.09.191(2)(n) …." *Id*. The parenting plan required "compliance with the DVPO [and] adopted conditions that were first imposed under the DVPO," such as "not using corporal punishment on his children …." *Id*. at 10-11.

D. The appeal.

As mentioned above, Joshua appealed from the DVPO, the order denying his CR 60 motion to vacate the DVPO, the relocation order, and the modified parenting plan. Again, the appellate court held that Joshua waived review to the DVPO (*id*. at 11 n. 7):

> Though Joshua assigns error to the entry of the DVPO, order denying his motion for revision, and order denying his motion to vacate, he does not provide substantive argument as to why these orders were improper. Thus, we do not address these claims. RAP 10.3(a)(6) (requiring an appellant's brief to provide "argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record"); see also Jackson v. Quality Loan Serv. Corp., 186 Wn. App. 838, 845, 347 P.3d 487 (2015).

The court affirmed the order granting relocation, holding that while the DVPO could not give rise to the relocation presumption, that the parenting plan could and did, making the trial court's erroneous reliance on the DVPO harmless. *Id*. at 2, 23-25. Indeed, Joshua conceded in his reply brief, that the appellate court could affirm the

relocation presumption based on the parties' 2020 parenting plan. Reply 35. Moreover, Joshua seems to agree that *any* error regarding the presumption was harmless given the trial court's indication that it would have reached the same outcome regardless of the presumption. *See* Pet. 12 (citing 4 RP 934).

The appellate court also rejected Joshua's challenges to CRA factors 4 and 7, addressed fully below. No 83082-1-I at 20-23; *infra*, Argument § D. The appellate court will "reverse a trial court's order permitting relocation of children upon a finding of manifest abuse of discretion." *Id*. at 20 (citing ***Marriage of Horner***, 151 Wn.2d 884, 893, 93 P.3d 124 (2004)). The appellate court found none. No 83082-1-I at 20-23.

In short, the court ruled that Joshua waived review of two of his three appeals and that many errors in his third appeal were harmless.

But the appellate court reversed the parenting plan, holding that the trial court erred in modifying non-residential aspects of the parenting plan absent a petition to modify. No. 83082-1-I at 2, 25. The court also reversed the trial court's ruling that Joshua was barred by res judicata from re-litigating the spanking incident. *Id*. at 2, 25. These reversals did not affect the court's affirming the relocation order (*id*. at 25):

> Although the trial court abused its discretion in precluding Joshua from introducing evidence challenging the spanking incident, the error was harmless as to the decision to grant Amanda's request to relocate the children because the spanking incident did not play a factor in that decision. Thus, we affirm the relocation order, but where neither party petitioned to modify the parenting plan, we reverse the parenting plan because the trial court abused its discretion in modifying the parenting plan beyond the limited modification allowed for pursuant to a relocation. Because we affirm the relocation, the residential schedule will remain until the trial court on remand can consider and enter a new parenting plan consistent with this opinion.

REASONS THIS COURT SHOULD DENY REVIEW

A. This Court need not take review to state the obvious. Pet. 20-25.

Joshua's first argument is that this Court should take review to definitively condemn "using exaggerated or unfounded claims of abuse to gain a tactical advantage in family court …." Pet. 24-25. He raises only RAP 13.4(b)(4), petitions involving "an issue of substantial public interest that should be determined by" this Court. Pet. 19. But Joshua's point is uncontested, leaving nothing for this Court to determine.

Joshua's argument is principally quotations from secondary source material discussing the consequences of parties in family-law cases making false abuse allegations to gain a tactical advantage. Pet. 20-22. Amanda agrees that when this happens, it is bad. No reasonable person would disagree. This Court need not and should not take review to state the obvious.

B. This case does not present the issue Joshua asks this Court to review, where the DVPO was well grounded in fact, and where Joshua waived appellate review of the DVPO.

Joshua's petition rests on the unsupported and unsupportable premise that Amanda made "false" allegations to obtain an "unfounded" DVPO. Pet. 25, 31, 33, 34. That is simply false for the many reasons discussed above and below. Moreover, the trial court did not find the allegations false or the DVPO unfounded. And Joshua waived appellate review of the DVPO and the order denying his motion to vacate the DVPO. The entire premise of Joshua's petition is baseless, so it does not present the issue he asks this Court to review. This Court should deny review.

Joshua's petition assumes, without any discussion much less support, that the DVPO is unfounded. Pet. 25, 31, 33, 34. That is false.

The DVPO resulted from severe bruising Amanda discovered on then two-year-old E.C while bathing her the day after the children returned from their residential time with Joshua. 1 CP 6-7. When Amanda asked Joshua about the bruising, he acknowledged spanking E.C., stating that he had to because she was disobeying him by repeatedly getting out of bed. *Id*. E.C.'s eight-year-old sister tried to stop Joshua from spanking E.C., asking whether it was too many spankings. *Id*. Joshua responded, "'not if it makes her listen.'" *Id*.

Amanda contacted E.C.'s pediatrician and sent her a picture of the bruising. CP 6, 13. The pediatrician contacted CPS, who involved the police. CP 6. On March 23, the police issued a "Notification of Removal of Children" citing the ongoing investigation and the "[d]anger of further physical abuse." CP 6, 11. CPS later determined the abuse allegation was "founded." CP 138.

The trial court issued a temporary DVPO on April 21, 2021, prohibiting contact between Joshua and the children. 1 CP 23-26. On July 21, 2021, the trial court Commissioner ruled that Joshua's excessive corporal punishment constituted domestic violence. DVPO RP 34-35; 1 CP 186-93. The Commissioner noted that while corporal punishment is legal in Washington, excessive corporal punishment is not. DVPO RP 33. The Commissioner continued that corporal punishment is not warranted to stop a child from getting out of bed, noting "there is a reason" a child gets out of bed "and a parent should be able to address that issue." *Id*. at 34. Finally, the Commissioner ruled that while a "quick tap on the behind" might be okay, Joshua admitted repeatedly spanking a two-year-old, which is "frankly" inappropriate. *Id*. Joshua omits most of the Commissioner's ruling granting the DVPO. Pet. 7-8.

The closest Joshua comes to offering any support for his allegation that Amanda's DVPO allegations were false

is citing the trial court's July 15, 2021 ruling denying temporary relocation. Pet. 6-7. Joshua notes that the trial court "found Amanda's abuse allegations 'suspect' [and] was suspicious that Amanda was 'trying to manipulate the process in order to get a desired result.'" Pet. 7 (citing 7/15/21 RP 17-21). He ignores that this occurred one week *before* the trial court granted the DVPO.

But again, since Joshua did not challenge the DVPO on appeal, he *cannot* challenge it here. The entire premise of his petition is baseless. This Court should deny review.

C. Amanda did not gain any advantage from the DVPO in any event, where the appellate court reversed the parenting plan, affirming only the relocation order that was unaffected by allegations of domestic violence. Pet 25-34.

Joshua argues that the appellate court erred in holding that the trial court's errors related to the DVPO were harmless as to the relocation, claiming that "they allowed Amanda to gain advantages in the relocation analysis from her false allegations." Pet. 25. The premise

of this argument is that "the trial court did, in fact, consider the spanking and the DVPO in its analysis of the relocation factors." Pet at 26. That is simply untrue. Amanda's allegations were true, and the court did not consider the spanking incident under the CRA factors in any event. This Court should deny review.

Joshua claims that "the totality of the trial court's factor four analysis included its comments on the spanking allegation and the §191 findings and restrictions that it intended to impose." Pet. 26 (citing 4 RP 923-32, 946-50, 966). Joshua ignores the court's written finding, which does not mention the DVPO or the spanking incident, but is based entirely on abusive use of conflict (CP 655):

> The Court finds that the father has engaged in abusive use of conflict and will have an RCW 26.09.191 finding in the Final Parenting Plan. However, the Court also finds that this .191 limitation is largely remedied by the conditions the court is placing on the father, including his DV treatment and DV dads. …

This finding's mention of DV *favors Joshua*, where the court expressly found that the conditions in the parenting plan (reversed by the appellate court) "largely remedied" the .191 limitation for Joshua's abusive use of conflict. *Id*; *see also* 4 RP 939. In short, the written finding on factor 4 completely undermines Joshua's argument.

In any event, none of the record citations Joshua provides (without discussing) support this assertion. At 4 RP 923-32, the trial court ruled that while the spanking incident was abuse, it was exercising its discretion not to impose .191 limitations. That benefits Joshua.

At 923, the court stated that it needed to determine whether it would impose .191 limitations under CRA factor 4 ("Whether either parent … is subject to limitations under RCW 26.09.191 …"). At 924-25, the court discussed RCW 26.09.191. At 926-28, the court rejected Amanda's allegations that Joshua was abusive to her. Also at 928, the court addressed the DVPO, repeating that the weight

given to the DVPO was "completely within [the court's] discretion." 4 RP 928.

At 928-29, the court stated that the spanking incident was res judicata and that it was abuse within the meaning of RCW 26.09.191(2)(a). *Id*. at 292. The court continued to explain that it was exercising its discretion under RCW 26.09.191(2)(n) not to impose .191 limitations in the parenting plan. *Id*. at 930; *see also* CP 638.

At 931-32, the court found that Joshua engaged in abusive use of conflict. Again, this is the sole basis of the CRA factor 4 analysis. CP 655. Again too, Joshua did not challenge the sufficiency of the evidence to support the finding on abusive use of conflict. No. 83081-1-I at 22.

At 933-34, the court ruled that the DVPO is the order giving rise to the relocation presumption. This is immediately followed by the court's statement that Amanda would also be entitled to the presumption under the parenting plan. 4 RP 934.

Joshua next cites 4 RP 946-50, which follows the court's detailed analysis of each CRA factor. Pet. 26; 4 RP 934-46. Here, the court ruled that Amanda was entitled to relocate with the presumption in place under the DVPO. 4 RP 946-47. The court reiterated that it would reach the same outcome if the 2020 parenting plan applied instead of the DVPO:

> I'm now going to go through the same factors as if the parenting plan applied, but not the domestic violence protection order.
>
> Again, if the parenting plan applies to this family and the relocation, without my finding that there has been any significant modification under Section 525(2)(b) about moving to a 50/50 plan, that means the mother has the presumption, and the exact same analysis applies, and I would allow the mother to relocate.

Id. at 947. And the court continued on to rule that it would allow the relocation even if Amanda were not entitled to the relocation presumption (*id*. at 947-48):

> I'm now going to go through the same factors as if there was no presumption … even without the presumption in this case, the mother's request to relocate as analyzed through these factors, and with the children's best interests in mind, and their quality

> of life, the disruption, their lack of access to their parents, their grandparents, et cetera, and their father, I would still allow this relocation.

At 949, the court addresses conditions in the parenting plan, not the CRA relocation analysis. Indeed, nothing in this section Joshua relies on addresses the CRA factor analysis. 4 RP 946-50. Rather, this largely addresses the relocation presumption, whose application under the DVPO is the epitome of a harmless error, where it applies under the parenting plan. *Id*.

Finally, Joshua cites 4 RP 966. This addresses the parenting plan only, not the relocation. It does not remotely support Joshua's argument.

Joshua next speculates that if the trial court had admitted his excluded evidence, many of the CRA factors might have come out differently. Pet. 28-32. But as the appellate court stated during oral argument, the record on

appeal did not include this evidence.[3] With no idea what Joshua's witnesses would have said, Joshua cannot possibly demonstrate that their testimony would have changed anything, much less what the change would be. This Court should reject this rank speculation.

In short, the appellate court correctly ruled that the errors regarding the DVPO were harmless to the relocation, where "the spanking incident did not play a factor" in the relocation decision. This Court should deny review.

D. The trial court was well within its broad discretion in ruling on CRA factors 4 and 7. Pet. 32-34.

The trial court properly exercised its very broad discretion in weighing CRA factors 4 and 7, and there is no

[3] Wash. Court of Appeals oral argument, ***Marriage of Cowan***, No. 83082-1-I (June 6, 2023), at 20 min., 34 sec., video recording by TVW, Washington State's Public Affairs network, https://tvw.org/video/division-1-court-of-appeals-2023061164.

substantial public interest in this issue in any event. This Court should deny review.

Joshua argues that CRA factor 4, whether a parent "is subject to limitations under RCW 26.09.191," bars the court from considering whether it will enter new .191 limitations as part of the parenting plan resulting from the relocation trial. Pet. 32. The appellate court disagreed, holding that the trial court's decision was consistent with existing precedent:

> As previously discussed, this court in Pennamen [***Marriage of Pennamen***, 135 Wn. App. 790, 804, 146 P.3d 466 (2006)], held that where "RCW 26.09.520(4) requires the court to consider whether either parent is subject to RCW 26.09.191 limitations, which include a long-term impairment resulting from drug abuse that interferes with the performance of parenting functions," the trial court "properly viewed the mother's history of methamphetamine use as relevant to the question whether the detrimental effects of the relocation outweighed the benefits" when considering factor 4. 135 Wn. App. at 804. Nothing in that case suggested that a court had previously imposed RCW 26.09.191 limitations against the mother. This court rejected the mother's argument that the mere consideration of the existence of RCW 26.09.191 limitations under RCW

> 26.09.520(4) equated to a modification of the parenting plan. Id. at 807.

No. 83082-1-I at 21. Simply stated, under "Pennamen, the trial court was able to consider the abusive use of conflict limitation when considering factor 4 of the relocation factors." *Id*. at 22. Joshua completely ignores ***Pennamen*** and the appellate court's holding on this point. Pet. 33-34.

Joshua next argues that the trial court erred in considering Amanda's current residence in Union Washington – as it must under CRA factor 7 – because she left the marital home in Maple Valley Washington and moved in with her parents pending the relocation trial. Pet. 33-34; 1 CP 141. This, he argues, allowed Amanda to benefit from her unauthorized move. Pet. 33-34. Joshua omits much.

Acknowledging that she "jumped the gun," Amanda and the children moved in with her parents before the relocation trial. 7/15/21 RP 15; 1 CP 141. She did so "to

provide a safer and more stable environment for the children." 1 CP 141. At the time, Joshua had no right to visitation under the DVPO. 7/15/21 RP 15; 1 CP 186-88.

Union indisputably was the "current" location when the court weighed CRA Factor 7. RCW 26.09.520(7). Joshua offers no support whatsoever for his claim that the trial court erred in considering Amanda's current, albeit temporary, location. Pet. 33-34. It is precisely because Joshua failed to offer "any supporting authority" that the appellate court rejected this argument. No. 83082-1-I at 22.

Joshua also fails to establish any prejudice resulting from these alleged errors. Pet. 32-34. There is none. Indeed, Joshua agrees that the facts supporting a .191 limitation are relevant to other relocation factors. *See* Pet. 32. He cannot possibly establish that he was harmed by the court's consideration of an abusive use of conflict .191 limitation under CRA factor 4, when he admits the same

considerations are relevant to factors 1 and 3.[4] Nor does Joshua even attempt to show he was harmed by the court's comparison of Union, Washington to Utah, rather than Maple Valley, Washington to Utah. Pet. 33-34.

Finally, neither of these alleged errors involve a substantial public interest this Court should decide, the only ground raised for review. Pet. 19 (citing RAP 13.4(b)). There is no public interest, much less a substantial one, in this Court determining whether the trial court abused its very broad discretion in applying the CRA factors to the facts of this case.

In short, the trial courts CRA factor analysis was well within its broad discretion. This Court should deny review.

CONCLUSION

This Court should deny review.

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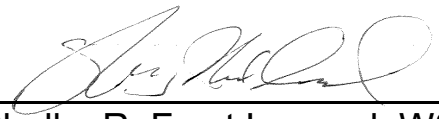
[4] Factor 1 addresses the strength of the child's relationship with each parent, and factor 3 addresses the comparative detriment in disrupting the child's contact with each parent. RCW 26.09.520(1) & (3).

The undersigned hereby certifies under RAP 18.17(2)(b) that this document contains 4951 words.

RESPECTFULLY SUBMITTED this 22nd day of December 2023.

MASTERS LAW GROUP, P.L.L.C.



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CERTIFICATE OF SERVICE

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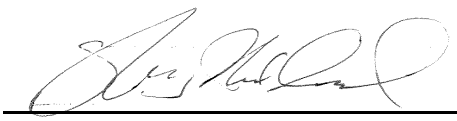

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