COURT OF APPEALS No. 34975-6-III

PIERCE COUNTY No. 15-3-01760-7

SUPREME COURT OF THE COURT OF APPEALS
OF THE STATE OF WASHINGTON

In re the Parenting and Support of:

N.R.M; Child,

Duane Moore,

Appellant,

and

Kayla Vallee,

Respondent.

ON APPEAL FROM PIERCE COUNTY SUPERIOR COURT
Honorable Brian Chushcoff

PETITION FOR REVIEW

Duane Moore
Pro Se

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IDENTITY OF PETITIONER

DUANE MOORE, appellant, respectfully seeks review by the designated appellate court for grounds 1, 3, 4, 5, 6, 7, 8, and 9 listed in CR 59 shown in trial and the resulting Final Parenting Plan, Child Support Order and Findings of Fact entered on January 26, 2016; Appellant challenges the Superior Court orders under RCW 26.09.002 for fundamental fairness and seeks review for constitutional violations. Review section 4.2 Major Decisions and 4.3 in the Final Parenting Plan entered on January 26, 2016, section 3.8 in the Order on Child Support entered on January 26, 2016, section 2.10 of Findings of Fact entered on January 26, 2016 regarding settlement conference information. Additionally, appellant seeks review as to completeness of written findings regarding attorney fees in Order on Reconsideration entered on February 22, 2016, and section 4 of the Order on Reconsideration entered on February 22, 2016. Appellant seeks review for harmfulness of newly discovered error in administrative merging/infusing of cause number 14-3-04997-6 facts into the above cause number shown in Order on Reconsideration. I DUANE MOORE respectfully asks the Supreme Court of the Court of Appeals to accept review of the Court of Appeals Division III's opinion filed on July 11, 2017 and the Order Denying Motion for Reconsideration filed on August 22, 2017.

COURT OF APPEALS DECISION

Mr. Moore respectfully seeks review of the entire order filed by the Court of Appeals Division III on July 11, 2017 which addresses the categories of Procedural History

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and Facts of the Case, Analysis, Support Obligation, Parenting Plan, and Sanctions. There are many critical pieces of information that was not addressed within this review that can be thoroughly brought to the courts attention with approval of review. This was brought up in the briefing stage and reinstated during the Motion for Reconsideration filed on August 22, 2017.

ISSUES PRESENTED FOR REVIEW

1. Did the trial court err when it disregarded all the physical evidence towards the petitioner Ms. Vallee that showed gross neglect and valid concerns that would warrant assignment of a guardian ad litem?

2. Did the trial court err when they gave full negative attention to Mr. Moore for situations and ignored Ms. Vallee for similar and identical situations?

3. Did the trial court err by making gross mistakes with merging another family law case with Mr. Moore's case?

4. Did the trial court err when it abused its discretion by not properly applying the "Childs Best Interest" laws within RCW 26.09.002?

5. Did the trial court err when it did not address the settlement conference practices issue that were discussed during trial and during the reconsideration?

6. Did the trial court err when it wrongfully assigned sanctions for Ms. Vallee's attorney's fees to Mr. Moore?

7. Did the trial court err when it failed to acknowledge and assign deviation within the child support order when it was requested several times during trial and reconsideration?

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8. Did the trial court err when it miscalculated Mr. Moore's income on the child support worksheet although he specified his hours worked during trial?

9. Did the trial court err when it provided incorrect facts within section (4) of the judges "Order on Respondent's Motion for Reconsideration"?

10. Did the trial court err when it failed to consider Mr. Moore's position as the primary parent of N.R.M?

11. Did the trial court err when it gave Ms. Vallee sole decision making towards childcare despite all the critical information presented against the best interest of N.R.M.?

12. Did the trial court err when it refused to address factors highly relevant within RCW 26.09.187 and assign a parenting plan accordingly?

13. Did the trial court err by showing favoritism to Ms. Vallee and applied the friendly parent concept within the case?

STATEMENT OF THE CASE

On May 8, 2015, a Petition for Residential Schedule/Parenting Plan/Child Support was filed in Pierce County Superior Court regarding N.R.M[1]. Kayla Vallee, N.R.M's mother, was the petitioner, and Duane Moore, N.R.M's father and appellant herein, was the respondent. On May 8, 2015, a mutual protection order was placed by both parties that included a parenting plan that followed N.R.M's standard schedule with Mr. Moore of Friday to Tuesday morning every week (CP 43 – 46). This residential schedule with Mr. Moore had been practiced since N.R.M was 4 months old.

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On June 11, 2015, the same court commissioner adopted a new temporary parenting plan that consisted of Mr. Moore practicing residential time with N.R.M on Monday at 5pm to Thursday at 8pm every week (CP 47 – 55). This schedule was proposed by Ms. Vallee. The commissioner's basis was on the fact that the amount of physical evidence and undeniable facts that Mr. Moore supplied to this case was overwhelming ("Present Sense Impression" admissible under ER 803(1)). Mr. Moore immediately filed a Motion for Revision on June 15, 2015 with Judge Chushcoff, addressing that the new temporary parenting plan created a situation where N.R.M and Mr. Moore's daughter will not see each other.

On July 2, 2015; Judge Chushcoff denied a revision although he was supplied with the same declaration which covered Mr. Moore's valid concerns, new sibling separation stresses and practiced residential schedule. On October 5, 2015 Kayla Vallee set a Motion for Contempt for child support payments, co-parenting counseling attendance, and daycare attendance. The Contempt charge was dismissed on November 2, 2015 with the findings that child support payed by Mr. Moore was mistakenly applied to the account where Ms. Vallee was paying Mr. Moore (RP 200 -201) and that Ms. Vallee agreed upon a current family/marriage counselor that Mr. Moore's insurance paid for since cost was an issue (RP 172).

On December 14, 2015; Mr. Moore and Ms. Vallee partook in a Settlement Conference with Judge Martin. Trial commenced between Mr. Moore and Ms. Vallee on January 14, 2016 and concluded on January 19, 2016. On January 26, 2016; Judge Chushcoff ordered a Parenting Plan Final Order (CP 78 – 87), Order of Child Support Final Order (CP 59 – 77), Judgement and Order Establishing Residential Schedule/Parenting Plan Child Support (CP 93 – 99), and Finding of Facts and Conclusions of Law (CP 88 – 92).

On February 3, 2016 appellant Mr. Moore filed a timely Motion for Reconsideration with

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newly discovered evidence when he noticed errors within the final orders (CP 100 – 111)(CP 112 – 117). On February 22, 2016; Judge Chushcoff only changed Mr. Moore and Ms. Vallee's birthdates that were incorrect and denied everything else (CP 118 and 119). Mr. Moore then filed a Notice of Appeal when no resolve was found for the errors at the trial court and after further investigation presented even more unforeseeable errors and suffering. A notice dated January 5, 2017 stated that the case was then transferred from COAII to COAIII to reduce backlog. An opinion was filed by the Court of Appeals Division III on July 11, 2017 and the Order Denying Motion for Reconsideration filed on August 22, 2017. Thus now Mr. Moore seeks review from the Supreme Court of the Court of Appeals.

ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

In brief, Mr. Moore seeks a full review to be accepted because it can help correct the many errors that were made such as an example of disregarding a Guardian ad Litem when physical evidence was available for the court to see. Review of this case in whole will provide justice within this case. It is important for NRM, Mr. Moore's family and Ms. Vallee's family to practice time every week due to the negative changes that persist due to the momentous changes in NRM's life today. To bring attention to areas within the case that were greatly overlooked although specified within briefs but unacknowledged by the court. Mr. Moore brings these issues of the Parenting Plan, Child Support, and errors within the case for the best interest of N.R.M. He seeks to do the right thing for his son and end the hardships that have taken place upon he and N.R.M with the courts final orders. Being a parent is one of the most important jobs anyone can have in the world. Why pull a child away from a beneficial part of their life? As much of as blessing that all children are; no one with children can ever imagine

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being less of a parent.

CONCLUSION

1. It is requested with respect that the court provides Mr. Moore and new trial, provide him with a Friday to Sunday residential schedule every week, or provide him with a weekly residential schedule that complies with RCW 26.09.002.

2. It is requested with respect that the court applies a deviation to Mr. Moore in the Child Support order for time spent and for having another child.

3. It is requested with respect that the court reverses the trial courts order to pay the opposing counsels attorney fees.

4. It is requested with respect that the court removes the sole decision restriction for childcare attendance decisions from the parenting plan.

5. It is requested with respect that the trial court provides details of the trial court's decision towards the case within the Findings of Facts and Conclusion of Law.

6. It is requested with respect that the court denies the opposing parties request for attorney fees towards the appeal.

7. It is requested that the critical materials be reviewed that would have warranted a Guardian ad Litem for the case.

8. It is requested that justice is presented within the case and one party doesn't have favor over the other for identical situations.

9.It is requested that the case be reviewed in its entirety so that the court may see the dishonesty that was presented greatly by the opposing party.

A copy of the decisions is attached to this Petition for Review.

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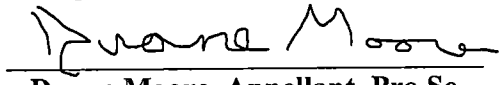
SIGNED and DATED this 17th day of September 2017.

Respectfully submitted,



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The Court of Appeals
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July 11, 2017

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CASE # 349756
Kayla Vallee, Respondent v. Duane Moore, Appellant
PIERCE COUNTY SUPERIOR COURT No. 153017607

Dear Counsel:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file an original and two copies of the motion (unless filed electronically). If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion (may be filed by electronic facsimile transmission). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Renee S. Townsley

Renee S. Townsley
Clerk/Administrator

RST:ko
Attach.
c: **E-mail** Hon. Bryan Chushcoff

FILED
JULY 11, 2017
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

In the Matter of the Parentage and Support of N.R.M. Child, KAYLA VALLEE, Respondent, and DUANE MOORE, Appellant.	)	No. 34975-6-III
	)	UNPUBLISHED OPINION

KORSMO, J. — Duane Moore, representing himself, appeals the outcome of the trial determining the visitation and support obligations for N.R.M., his child with respondent Kayla Vallee. The appeal presents numerous arguments concerning the support obligation, the parenting plan, a sanction imposed on Mr. Moore at trial, and the denial of reconsideration. Addressing the arguments by the four topics noted above, we affirm.[1]

[1] In addition to ordering the claims differently than the parties do, we reformulate several of the appellant's arguments.

PROCEDURAL HISTORY[2]

The parents sometimes lived together and sometimes maintained separate households during their relationship. After the relationship ended, the couple was unable to communicate productively or agree on visitation terms, although both parents recognized the importance of the other parent in the baby's life. On one occasion, Moore took the child home from daycare and denied Vallee access to the 18 month old, telling her to obtain a parenting plan. She then filed suit.

The matter ultimately went to trial before the Honorable Bryan Chushcoff after failed attempts at negotiating a resolution of the case. Each party asked the court to adopt their respective proposed parenting plan. At the conclusion of the trial, the court took the matter under advisement. The following week, Judge Chushcoff filed a parenting plan and a support order. The court also imposed $2,000 in sanctions against Mr. Moore for intransigence during the failed settlement negotiations.

Mr. Moore sought reconsideration on several bases, including a contention that the trial judge had not properly weighed the strength of his bond with the child. He reiterated his request for greater weekend visitation with the child. The court corrected some minor

[2] Most of the facts concerning the relationship and the trial court's ruling are not relevant to this appeal, but additional facts will be discussed as necessary in conjunction with our discussion of some of the issues.

typographical errors in the order, but otherwise denied reconsideration. Mr. Moore then filed this appeal.

ANALYSIS

We will address the claims raised by Mr. Moore in accordance with the subject matter of his arguments. First, we will address the support obligation order before turning to the parenting plan, sanction, and reconsideration arguments.

Initially, it is appropriate to remember these words of wisdom concerning the importance of finality in domestic relations rulings:

> We once again repeat the rule that trial court decisions in a dissolution action will seldom be changed upon appeal. Such decisions are difficult at best. Appellate courts should not encourage appeals by tinkering with them. The emotional and financial interests affected by such decisions are best served by finality. The spouse who challenges such decisions bears the heavy burden of showing a manifest abuse of discretion on the part of the trial court.

In re Marriage of Landry, 103 Wn.2d 807, 809, 699 P.2d 214 (1985). This emphasis on finality and moving forward is reflected in the well-settled standards that govern review of domestic relations cases. Discretion is abused when it is exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971). A court acts on untenable grounds when its factual findings are not supported by the record; it acts for untenable reasons if it uses an incorrect standard of law or the facts do not meet the requirements of the standard of law. *State v. Rundquist*, 79 Wn. App. 786, 793, 905 P.2d 922 (1995).

Support Obligation

Mr. Moore contends that the trial court erred in entering the support order by (1) including information from a different case, (2) failing to grant a deviation, and (3) calculating the obligation on the basis of evidence presented at trial instead of using post-trial information. These contentions lack merit.

The law governing these challenges is clearly settled. Child support is set by statute and the statutory scheme divides the support obligation proportionately to the parents' respective income levels. RCW 26.19.001, .080(1). The statutes allow the trial court to deviate from the standard schedule and provide a nonexclusive list of reasons for deviation. RCW 26.19.075. One of those reasons, relied on by Mr. Moore here, is a support obligation to children from another relationship. RCW 26.19.075(1)(e). That basis for deviation is permitted only if the parent is actually paying the support obligation. RCW 26.19.075(1)(e)(iii). The parent seeking the deviation also must show that the support obligation is judicially enforceable. *In re Parentage of O.A.J.*, 190 Wn. App. 826, 835, 363 P.3d 1 (2015). We review the court's deviation ruling for abuse of discretion. RCW 26.19.075(4); *In re Marriage of Rusch*, 124 Wn. App. 226, 236, 98 P.3d 1216 (2004), *overruled in part on other grounds by In re Marriage of McCausland*, 159 Wn.2d 607, 152 P.3d 1013 (2007).

Mr. Moore's first argument is that because the order entered by the trial court contained the dates of birth of another couple whose marriage was dissolved in Pierce

County, the trial court somehow "merged" the two cases together. This argument is utterly without merit. The birthdates were corrected as a result of the motion for reconsideration. Nothing in the records of the case suggests that the trial court applied the wrong financial information in setting the support obligation. If such had happened, Mr. Moore easily would have been able to demonstrate the error on the record.

Mr. Moore also argues that the trial court should have granted him a deviation down due to his support obligation for an older child. There are several problems with this argument. He did not present it at trial.[3] His request during reconsideration came too late. More importantly, our record does not support any factual basis for granting the request. Nothing in the evidence presented at trial suggests that Mr. Moore was subject to a formal support obligation or that he was paying that obligation. Nor did the motion for reconsideration mention any evidence in the record that would have supported the deviation. This argument lacks support in the record.

Finally, Mr. Moore claims that the court miscalculated his income and submitted a letter from his employer, written four months after the trial, which states Moore works less than 80 hours per pay period. However, this court does not consider evidence that was not before the trial court. RAP 9.11(a). More importantly, the evidence contradicted Mr. Moore's own trial testimony that he did work 40 hours per week. The trial court

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[3] While Mr. Moore argues that the request was in his written materials presented to the trial court, he did not designate those documents on appeal and they are not before us.

understandably ruled on the basis of the evidence before it and could not possibly err in failing to anticipate a later occurring change.

The trial court had very tenable bases for rejecting Mr. Moore's arguments. There was neither error nor abuse of discretion in the rulings concerning the support obligation.

Parenting Plan

Mr. Moore challenges several aspects of the parenting plan. Many of these challenges are based on his personal view of his relationship with N.R.M. and his personal view of the child's best interests. He again fails to demonstrate error.

Parenting plans are individualized decisions that depend on a wide variety of factors, including "'culture, family history, the emotional stability of the parents and children, finances, and any of the other factors that could bear upon the best interests of the children.'" *In re Parentage of Jannot*, 149 Wn.2d 123, 127, 65 P.3d 664 (2003) (quoting *In re Parentage of Jannot*, 110 Wn. App. 16, 19-20, 37 P.3d 1265 (2002)). The combination of relevant factors and their comparative weight are different in every case and no rule of general applicability can be effectively constructed. *See Jannot*, 110 Wn. App. at 20. The trial court is better suited than an appellate court to weigh these varied factors on a case-by-case basis. *Id.*; *In re Marriage of Maughan*, 113 Wn. App. 301, 305, 53 P.3d 535 (2002). In large measure this results from the trial court's unique opportunity to observe the parties and thereby determine the best interests of the child. *In re Marriage of Timmons*, 94 Wn.2d 594, 600, 617 P.2d 1032 (1980). Accordingly, this

court reviews a parenting plan for abuse of discretion. *In re Marriage of Kovacs*, 121 Wn.2d 795, 801, 854 P.2d 629 (1993); *In re Marriage of Jensen-Branch*, 78 Wn. App. 482, 490, 899 P.2d 803 (1995).

The trial court expressly told the parties at the conclusion of argument that because the parents "don't work well with each other," it would be necessary to implement "a straightforward fairly simple parenting plan" that minimized parental contact. Report of Proceedings (RP) at 269. To that end, the court designated Ms. Vallee as the primary residential parent and gave her authority to make daycare decisions, while leaving the parents to jointly make all other major decisions. The court also directed that Mr. Moore would have custody of the child every other week from Thursday at 6:00 p.m. to Sunday at 6:00 p.m. Clerk's Papers (CP) at 80, 84-85.

Mr. Moore contends that the trial court erred in not giving him 50 percent of the child's time, arguing that the schedule should give him N.R.M. every week instead of every other week, just as the temporary parenting plan had done. He contends that the court's order is not in the best interests of the child. He also argues that the court erred in not considering him the primary parent, erred in giving Ms. Moore the daycare decision-making authority, and showed bias against him by applying the "friendly parent" standard in favor of Ms. Vallee. Since there is nothing in the record to suggest that the

court applied the friendly parent doctrine, we do not further discuss that claim.[4] We will address the other contentions in the order stated.

The primary objection is that the final parenting plan did not follow the temporary parenting plan's schedule and, instead, allowed visitation only on alternate weekends. At trial, Mr. Moore asked for a plan that left the child with him on the first, third, and fourth weekends of every month, while leaving N.R.M. with his mother and his brothers[5] on the second weekend and any fifth weekend that might occur. RP at 149-150. In its oral remarks, the court rejected Ms. Vallee's request for co-parenting counseling because the parties could hardly talk to each other. The judge noted that both parents were more interested in being right than in communicating with each other. RP at 268-269. To that end, the court believed a simplified relationship was in order.

Mr. Moore cites to the public policy that a child's best interests ordinarily are served by maintaining the existing patterns of child-parent interaction. RCW 26.09.002.[6] That policy, however, also recognizes that those patterns will be altered "to the extent necessitated by the changed relationship of the parents." *Id.* Even Mr. Moore's trial testimony asked for a different plan than the temporary parenting plan, although he was

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[4] Washington law does not recognize the "friendly parent" doctrine. *See In re Marriage of Rossmiller*, 112 Wn. App. 304, 311, 48 P.3d 377 (2002); *In re Marriage of Lawrence*, 105 Wn. App. 683, 687, 20 P.3d 972 (2001).

[5] Ms. Vallee has three sons from an earlier relationship.

[6] Of course, the original interaction pattern was disrupted when the couple no longer lived together.

only conceding one weekend a month to Ms. Vallee. The trial court recognized that co-parenting was not possible given the failure of the couple to work together. This was a tenable basis, recognized by statutory policy, for settling on the final parenting plan. It was not in N.R.M.'s best interests to see his parents fight any more frequently than was necessary.[7]

Mr. Moore also argues that the court improperly weighed[8] the strength of his relationship with N.R.M., an error that he believes impacted both the weekend visitation schedule and the designation of Ms. Vallee as the primary residential parent. In his mind, Mr. Moore believes his ties with N.R.M. are stronger than those between the child and Ms. Vallee. The trial court, however, found that both adults were good parents to the child. RP at 268. There was no finding that Mr. Moore had a stronger relationship. If

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[7] Mr. Moore also fails to explain why the *temporary* parenting plan should have been given any weight in setting the final plan. The whole purpose of a temporary plan—which typically is entered without background information or by the agreement of the parties—is to have some rules in place while the court considers what is in the child's long-term best interests. The fact a temporary plan had been entered did not somehow bind the trial court in the future. RCW 26.09.191(5).

[8] Although one of his argument captions alleges that the court failed to analyze the RCW 26.09.187(3)(a) factors, he does not argue that point in the brief. Instead, he focuses on the facts that support his view that he had the stronger relationship with the child, RCW 26.09.187(3)(a)(i), the most important of the factors. *See* RCW 26.09.187(3)(a). A trial court should make a record of its consideration of these factors. *E.g.*, *In re Parenting & Support of C.T.*, 193 Wn. App. 427, 443, 378 P.3d 183 (2016). The record provided us does not show that consideration, but the failure to argue the point precludes us from determining that it did not happen. Even on reconsideration, Mr. Moore did not claim that the trial judge failed to apply the statute. He simply disagreed with the result of the weighing.

Mr. Moore believed he had a stronger relationship, he was free to prove the point. He did not. This court is not in the business of weighing evidence and making its own factual determinations. *E.g, Quinn v. Cherry Lane Auto Plaza, Inc.*, 153 Wn. App. 710, 717, 225 P.3d 266 (2009). This argument has no factual support in the record.

The designation of Ms. Vallee as the primary custodial parent was not an abuse of discretion. The child was principally living with her and the other children. Even the parenting plan proposed by Mr. Moore left N.R.M. with Ms. Vallee the greater share of the week. In such circumstances, she was understandably recognized as the primary custodian.

Mr. Moore next complains that Ms. Vallee was given control over the daycare decision making. Again, we see no abuse of discretion in leaving that decision to the primary custodial parent. It was understandably desirable to keep Ms. Vallee's children together and it was appropriate for her to be able to have convenient daycare. The demonstrated lack of ability to get along with each other on this very issue[9] was an obvious reason to not leave Mr. Moore with equal control over this important determination—particularly where that decision would also impact the other children.

[9] See the example discussed in the following section.

The inability of the parents to work together was a legitimate basis for the court to consider when finalizing the parenting plan. Minimizing the conflict between the two was in the child's best interests. The trial court did not abuse its discretion.

Sanction

Mr. Moore next argues that the court erroneously sanctioned him for intransigence during the settlement negotiations. There was no abuse of the trial court's considerable discretion in this ruling.

The decision to impose sanctions is one within the trial court's discretion. *In re Marriage of Mattson*, 95 Wn. App. 592, 604, 976 P.2d 157 (1999). Here, the trial court expressly found:

> The court finds that Moore altered settlement documents and intentionally failed to disclose that fact to the Petitioner's counsel in an apparent attempt to deceive Petitioner to have this court enter documents to resolve this matter on terms that were not, in fact, agreed to by Petitioner.

CP at 92. The record amply supports this determination. Ms. Vallee testified to the alterations and the altered documents were introduced at trial for the sole purpose of demonstrating the alterations. Mr. Moore did such things as insert the word "not" into statements in the settlement form. For example, he altered the proposal that "the child shall attend daycare with the mother's other children" into "the child shall not attend daycare with the mother's other children." RP at 68. While there are many other examples, this one is typical. Mr. Moore altered the meaning of key provisions of the

settlement document, signed it, and then attempted to deceive Ms. Vallee and her counsel into believing that he had agreed to their proposal.

Ms. Vallee's attorney indicated that she expended attorney fees totaling $2,040 in attending the settlement hearing and in seeking sanctions for Mr. Moore's misbehavior in that forum. CP at 130-131. The trial court awarded $2,000 of that sum. CP at 92.

There was a clear basis for finding Mr. Moore intransigent. He was free to not agree with the settlement proposals. However, he could not alter those proposals and then attempt to deceive the other side by claiming to have agreed to the original proposals. This was a waste of time that demonstrated that his interest in settlement was a sham. It was appropriate to reimburse Ms. Vallee for the costs imposed on her by Mr. Moore as a result of this fruitless exercise.

The trial court did not abuse its discretion.

Reconsideration

The only remaining contention is the argument that the court erred in stating in its order denying reconsideration that "the parties *agreed* it was inappropriate for the Respondent to have residential time *every* weekend as had been the case pending trial." CP at 119 (alteration in original). Mr. Moore contends that he did not agree that it was inappropriate.

As with the other issues presented by this appeal, we review a court's order on reconsideration for abuse of discretion. *City of Longview v. Wallin*, 174 Wn. App. 763,

776, 301 P.3d 45 (2013). While this challenged recitation was of little moment since the court did not err in setting the visitation schedule, it also did not amount to an abuse of discretion. Both parties filed parenting plans that permitted the other to have some weekend time with N.R.M. That fact permitted the trial court to infer that the parties agreed that it was not appropriate for one parent to have every weekend.

The court did not abuse its discretion in denying reconsideration.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Korsmo, J.

WE CONCUR:

Fearing, C.J.

Lawrence-Berrey, J.

Renee S. Townsley
Clerk/Administrator

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The Court of Appeals
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August 22, 2017

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CASE # 349756
Kayla Vallee, Respondent v. Duane Moore, Appellant
PIERCE COUNTY SUPERIOR COURT No. 153017607

Dear Counsel:

Enclosed is a copy of the Order Denying Motion for Reconsideration.

A party may seek discretionary review by the Supreme Court of the Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a Petition for Review, an original and a copy (unless filed electronically) of the Petition for Review in this Court within 30 days after the Order Denying Motion for Reconsideration is filed (may be filed by electronic facsimile transmission). RAP 13.4(a). The Petition for Review will then be forwarded to the Supreme Court.

If the party opposing the petition wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service.

Sincerely,

Renee S Townsley

Renee S. Townsley
Clerk/Administrator

RST:ko
Attachment

FILED
AUGUST 22, 2017
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

In the Matter of the Parentage and Support of N.R.M. Child, KAYLA VALLEE, Respondent, and DUANE MOORE, Appellant.	No. 34975-6-III ORDER DENYING MOTION FOR RECONSIDERATION

THE COURT has considered appellant's motion for reconsideration and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED, the motion for reconsideration of this court's decision of July 11, 2017 is hereby denied.

PANEL: Judges Korsmo, Fearing, Lawrence-Berrey

FOR THE COURT:

George Fearing

GEORGE FEARING
Chief Judge

DUANE MOORE - FILING PRO SE

September 19, 2017 - 10:35 PM

Filing Petition for Review

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Trial Court Case Title:

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University Place, WA, 98467
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SUPREME COURT OF THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON

DUANE MOORE, Appellant, and, KAYLA VALLEE, Respondent.	COURT OF APPEALS No. 34975-6-III PIERCE COUNTY No. 15-3-01760-7 **Affidavit of Service for Petition for Review**

CERTIFICATE OF SERVICE

I, Duane Moore certify that on the 17th day of September 2017, I caused a true and correct copy of the Petition For Review to be served on the following in the manner indicated below:

Counsel for Kayla Vallee
Name Kelly Malsam
Address 15 S. Grady Way Ste #400
Renton, WA 98057

( ) U.S. Mail
( ) Hand Delivery
(X) COA electronic services

Duane Moore

Duane Moore, Appellant, Pro Se

DUANE MOORE
7310 56TH St. Ct. W. Apt. C
University Place, WA 98467
(425) 638-2672

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