SUPREME COURT CASE no. 102583-1

Division III Case No. 386805

SUPREME COURT OF
STATE OF WASHINGTON

In the MATTER of CUSTODY of K.P. and L.P.

Angela Lockridge, Respondent
v.
Linda Harris, Petitioner

Motion for Discretionary Review

Made by Linda Harris
RCW 26.10 Final Order Holder 2013 to 2022
RAP 13.4
Treated as a Petition for Review

Submitted on 11/26/23 by:
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UNPUBLISHED CASE (GR 14.1):

I. IDENTITY OF MOVING PARTY

Linda Harris, appellant to Division III, moves the State Supreme Court for Discretionary Review.

II. OPINION SOUGHT TO BE REVIEWED

The Opinion sought to be reviewed issued from Division III on 10/24/23. The Minor Guardianship Statute (MGS) is at issue. RCW 11.130.

III. ISSUES FOR REVIEW

Issue No. 1: Should the children have gotten attorneys prior to the trial that was held on 9/6/22 and 9/7/22 on modifying the final RCW 26.10 parenting plan? Answer: Yes.

Issue No. 2: Should the child, L.P., have gotten an attorney after the trial court ordered the GAL to determine if the child should have an attorney and the GAL reported L.P. should have an attorney? Answer: Yes.

Issue No. 3: Should Linda Harris have been sanctioned for seeking attorneys for the children? Answer: No.

Issue No. 4: Should this issue of first-impression be reviewed by the State Supreme Court under RAP 13.4(b)? Answer: Yes.

Issue No. 5: Was the absence of an attorney for L.P. prejudicial to the trial result? Answer: Yes.

Issue No. 6: Was the Trial Court's adoption of a GAL report from a case dismissed before final judgment a misapplication of res judicata? Answer: Yes.

Issue No. 7: Did Division III err to count that issue preclusion from Issue 6, above, as merely ER 201 taking of judicial notice? Answer: Yes.

Issue No. 8: Did the legislature intend RCW 11.130.240 and .245 to be essentially identical and thus redundantly pass RCW 11.130.245? Answer: No; distinctions between existing RCW 26.10 and newly-minted RCW 11.130 orders were intended.

Issue No. 9: Were any of the sanctions appropriately levied against Linda Harris who raised K.P. all of his life and who raised L.P. for over a decade, including under an RCW 26.10 Final Order? Answer: No.

IV. STATEMENT OF THE CASE

There were three notices of appeal filed: 12/23/21 (CP: 831-39); 6/26/22 (CP:1250-69); and 9/14/22 (CP:1478-89).

The 9/22/22 Ruling of the Division III Commissioner consolidated all the orders under the three notices of appeal into this one appeal. The issues of the confusion in the case law about finality of sanctions orders were mooted, as all orders

were addressed in a consolidated appeal, under that 9/22/22 Ruling.

A. Statement of the Case Up To 12/23/21

In 2012 Linda Harris filed a non-parental action under RCW 26.10, and received custody of the two children, K.P. (now 17) and L.P. (now 14), with a final order issuing in 2013.

On 6/24/13 a RCW 26.10 FINAL ORDER of non-parental custody was entered in Spokane County case no. 12-3-00932-3. CP:785-792. (And see FFCL at CP:793-99.) A minor modification under normal modification procedure with adequate cause was entered on 2/9/18. CP:807-14.

On 6/14/21, the mother of the children, Angela Lockridge, filed a "Petition to Terminate Non-Custody Order" -- using the Minor Guardianship process of RCW 11.130.240 -- in Spokane County case no. 21-4-01137-32. CP:1-6.

Linda Harris was initially pro se, as can be seen in the initial orders, listed below. Linda Harris later, after hiring counsel, would argue that RCW 11.130.240 was distinct from

RCW 11.130.245, and that the matter should proceed under RCW 11.130.245 as a modification "subject to" the MSG, which was position rejected by Judge Cooney on 12/10/21; however, that ruling was followed by Judge Cooney's invitation to appeal his ruling. 12/10/21 VRP at page 11.

Citations to the record regarding these facts follow, below.

At the oral hearing on 8/5/21, the court commissioner denied Angela Lockridge's request to terminate the RCW 26.10 final order, as the commissioner orally ruled that the matter required service on the children, and ruled that the termination of the RCW 26.10 final order could only occur after trial. CP:671-85 (NOTE: VRP of 8/5/21 is in Clerk's Paper).

The written order from the 8/5/21 hearing and from he 8/5/21 oral ruling, did not issue until 8/13/21. CP:331-35. The court also entered a temporary parenting plan, at that time, giving Angela Lockridge every weekend visitation. CP:332.

On 8/9/21, the children (K.P. and L.P.) requested attorneys. CP:312-19. The motions were granted by ex parte courtroom order. CP:320-35.

The assigned family law court commissioner (High-Edward) then dismissed the attorney for the children on 8/27/21, and vacated the order appointing counsel for the children. CP:427-29.

The basis for vacating the order appointing counsel for the children was stated in the 8/13/21 order is as follows: The commissioner found that children may not have attorneys on a petition to terminate an order; the commissioner ruled that attorneys are only appointed for children during the creation of a Minor Guardianship, not during a modification or termination of one. CP:332.

On 9/16/21, the court commissioner ruled on Linda Harris's motion to vacate the visitation in the 8/13/21 Order and related issues. The commissioner denied Linda's motion without substantive consideration, and sanctioned Linda Harris

because the court held the motion *should have been* a motion to re-visit the prior temporary orders, and *should not have been* a motion to vacate prior temporary orders. CP:478-481. Linda was sanctioned $750 under CR 11, and a fee award was made in addition. CP:480. Also, $1180 in attorney's fees were awarded to Angela, against Linda, on 10/25/21 at CP:593.

The commissioner also found claims or issues to have been previously decided by Judge Anderson in a now-dismissed (voluntary non-suit) de facto parentage action to be determinative of the 9/16/21 motion. CP:479.

Linda hired counsel (Craig A. Mason) to file a revision of this order. The revision was filed on 9/27/21, CP:515-19, and Mr. Mason represented Linda thereafter. A motion to dismiss Angela's Petition to Terminate for lack of adequate cause was noted for hearing with the revision, supplemented by these memoranda: CP:521-530 (Memo on Motion to Dismiss), 531-35 (Memo on Vested Rights), and 536-38 (Memo on Issue

Preclusion). Linda's Response to Angela's Petition to Terminate was filed on 11/5/21. CP:642-48.

The revision was denied on 10/21/21 by Judge Cooney on the same basis as the commissioner had found: Namely, that CR 60 was not the appropriate vehicle for the motion; on that basis, once again, there was no substantive consideration of Ms. Harris' pro se motion to vacate. CP:590. A reconsideration of the denial of revision was filed on 10/29/21. CP:594-97. It was also denied by letter ruling of 11/22/21. CP:665.

The motion to dismiss the RCW 11.130 Petition for lack of adequate cause to modify the RCW 26.10 Final Order was re-set by the court on 10/21/21 to a later date, and that RCW 11.130.245 motion was finally heard on 12/10/21. The court's invitation to appeal to help determine the meaning of RCW 11.130.245 issued orally at the same time. VRP:11.

The written order issued on 12/13/21. CP:669-70.

NOTE on Omitting Unheard Motions: Other motions were filed in this case, but the *motions that did not proceed to hearing <u>are omitted</u>* from this statement of the case.

The main issues the 12/10/21 hearing were that the legislature clearly intended to distinguish final RCW 26.10 orders from guardianship orders, and that holders of RCW 26.10 final orders had vested rights that were consistent with the statutory language differences between RCW 11.130.240 and .245. (See below for authorities.)

Notice of Appeal was filed 12/23/21. CP:831-39.

B. Statement of the Case from 12/23/21 to 9/6/22 Trial

1. Sanction Order of 4/12/22

On 1/24/22, Linda Harris brought a motion to clarify the role of attorneys for the children, to clarify RCW 11.130.245 (modifying 26.10 orders) compared to RCW 11.130.240 (terminating MGS orders), and to consider replacing the GAL who had languished since initial appointment on September of 2021 without taking any action, and who had come on a DV

case opposing Mr. Mason. CP: 852-56. (Division III appears unaware of the personal animosities that unfortunately flare between counsel in family law litigation.)

The court ruled against Linda Harris on her motion to revisit these issues, and again sanctioned Linda (despite Linda casting her motion as a motion to revisit, per prior order), and that sanction and denial order issued 4/12/22. CP:950-56.

In this sanction order, the trial court appended the order signed by Mr. Dudley and Mr. Mason, who believed that they captured the essence of the court's ruling; instead, the court refused to sign that order signed by both counsel, and instead castigated Mr. Mason (despite Mr. Dudley's signature), and reached out to make dramatically negative findings against Linda Harris, and concluding by sanctioning Linda Harris $5000.00. CP: 950-56.

The sanction also issued because, desperate to be heard, K.P. filed a declaration (CP: 974-75) and L.P. filed a declaration (CP: 872-73) on 3/4/22.

Linda Harris was blamed for the children striving to be involved in the case, and that action by the children, too, was part of the sanction. CP:950-56.

The MGS language seems to require service of documents on minors over 12, and to allow their participation; however, this commissioner refused any participation. Id.

Ms. Harris filed a Motion for Revision on 4/15/22. CP: 995-999. Revision was denied on 5/5/22. CP: 950-56.

As part of the denial of revision, the trial court had said that Linda Harris had requested an "advisory opinion," as to the status of temporary orders under the MGS. A reconsideration was sought to argue against that conclusion. CP:1154-58. The reconsideration was denied by letter ruling on 5/31/22. CP:1188-1189.

2. Attorneys for the Children

On the issue of attorneys for the children, the GAL Petitioned for Instructions on 4/20/22, as the children refused to sign the GAL Order. K.P. soon relented, but L.P. refused to

sign. See 4/14/22 Order Appointing GAL (CP: 981-88), in which K.P. signed, but L.P. wrote, "I refuse to sign," at CP:988.

NOTE: Linda Harris was accused of slowing the appointment of the GAL, so on 4/13/22 Linda filed her proof of having first signed the GAL appointment on 9/21/21. CP:975-80.

On 5/9/22, the court commissioner commanded L.P. to appear in court on 5/11/22 to sign the GAL order, or the court would sign for her. CP:1142-43.

NOTE: Mr. Mason noted under his signature questions about the issue of service on L.P., CP:1143, and then the court appended instructions on page 1 of the Order, CP: 1142, to require service on L.P.

L.P. appeared on 5/11/22 to request counsel, and she signed an Amended Order Appointing GAL putting her request in writing. CP:1145-52, at CP:1151.

Commissioner High-Edward interviewed L.P. and instructed the GAL to investigate the need for attorneys for the children, and to Petition for Instruction after investigating.

On 7/21/22, the GAL Petitioned for Instructions to get attorneys for the children. CP: 1364-74. Linda Harris supplemented the GAL's motion with her own motion to appoint attorneys for the children. CP: 1378.

The hearing was held on 8/17/22, and the VRP of 8/17/22, was filed on 9/12/22, and can be found at CP:1429-54.

Commissioner Schmidt, new to the case, denied the motion to appoint attorneys for the children. CP:1402.

The motion was also renewed at trial by initial motion in the trial memo, and then again orally at trial, and that was denied, as well as the request for the children to testify. See Section C, below.

3. Contempt from 12/23/21 to Trial

Angela Lockridge brought a motion for contempt on 4/4/22 (CP:888-920) for the time from February 18, 2022,

through 4/4/22, for the children not wanting to visit her, and she and filed another contempt on 4/11/22 (CP:943-947) for the 4/8/22 visit that was missed for the same reason.

Linda asserted against the contempt charge that she had made reasonable efforts to effectuate the visitation, and Linda denied any bad faith. Linda noted that the children visited for over five months after the August, 2021, order requiring them to visit, and so something else in Angela's home was causing the refusal to visit by the children. CP: 1008-11; 1036-45; 1070-83; 957-62; 989-94; 1046-49; and 1003-07.

Linda was found in contempt by then-Commissioner High-Edward and was sanctioned by Order of 5/5/22 (CP:1133-37, as amended on 5/16/22, CP:1167-70). Linda Harris was also sanctioned $500 by Judge Cooney for seeking to revise this finding of contempt, by Order of 6/9/22. CP: 1235-36.

The judgment summary for the $5,000 sanction and the $750 contempt was entered on 6/21/22. CP: 1247. Appeal was

timely-filed on 6/26/22 (CP:1250-69), but, ultimately, consolidated into this appeal by the Division III commissioner.

Angela Lockridge brought another contempt, but it was denied on 10/6/22 by Judge McKay who heard that matter on 7/15/22. CP: 1502-3. (NOTE: Judge McKay was taking overflow from the family law docket on 7/15/22.)

C. Trial of 9/6/22 and 9/7/22 – Ruling 9/12/22

Trial was held on 9/6/22 and 9/7/22.

Linda Harris filed her 9/6/22 trial memorandum reminding the court that GAL hearsay can be the basis of the GAL opinion, but cannot be substantive fact. CP: 1405-09. That was raised again at trial, without the court making an explicit ruling, but the trial court appeared to agree with Mr. Mason. VRP: 156-58.

The GAL testified that the children wanted attorneys. See, e.g., VRP: 198-202. The request for attorneys for the children was also restated in Linda Harris's trial memo at CP:

1405-09. The request was made for the children to have attorneys and to be allowed to testify. Id.

The GAL testified: "The kids really wanted attorneys...." VRP at 202.

In reviewing the de facto parentage factors in which the GAL had made a report on a prior de facto case -- voluntarily non-suited by Linda Harris -- the GAL discussed her report from that case, which the trial court had accepted into this case (VRP: 211 to 213).

The GAL testified to her opinion that terminating the bonded relationship the children had with Linda Harris would cause the children trauma. E.g., "I think it would be trauma [sic]." VRP: 213.

NOTE: The GAL also admitted that she did not interview one of Linda Harris's key witnesses. VRP: 215.

The issue of the children's attorneys was again addressed by the GAL testimony at VRP: 221-223, and the GAL

presented her rationale for the kids having attorneys at VRP: 223.

Mr. Mason also revisited the issues of the children testifying and/or having attorneys at VRP: 451-54, all of which were denied at VRP: 454. In short, the children were denied counsel, and denied the option to testify. Id.

The court took the trial ruling under advisement after trial concluded (VRP: 469).

Final Orders were entered on 9/12/22, which terminated the Non-Parental Order and which restrained Linda Harris from the children. The *Order and Findings on Petition to Terminate or Change Minor Guardianship or Non-Parental Custody* is at CP: 1419-22. The *Restraining Order* is at CP: 1423-27.

Appeal was timely-filed. CP: 1478-89. As already noted, the Division III Commissioner consolidated all appeals and preserved all issues one appellate brief on 9/22/22. Ms. Lockridge filed no response, and so Ms. Harris could file no reply. Oral argument was held, with a focus on attorneys for

L.P. However, the child attorney issue was minimized in the Division III opinion of 10/24/23.

NOTE: K.P. turned 18 shortly after final orders and moved back to the home of Linda Harris; so the child at issue is L.P. from whom Linda Harris has been restrained by the final orders.

V. ARGUMENT

A. Attorneys for the Children

Division III is mystifying in its handling of this issue:

> *Appointment of Attorney for Children*
> In her brief, Linda Harris repeatedly mentions court commissioner rulings denying appointment of an attorney for the two children. Thus, Harris may be arguing that the trial court erred in not appointing attorneys for Kyle and Lucy.
>
> Linda Harris never assigns error to the several rulings denying the appointment. She also presents little, if any, argument in her brief on this subject. Therefore, we do not address the merits of the alleged mistake. Under RAP 10.3(a)(4), the appellant must place in her brief a "separate precise statement" of each error the appellant contends the trial court committed. Only issues raised in the assignments of error and argued to the appellate court are considered on appeal. *Weyerhaeuser Co. v. Commercial Union Insurance Co.*, 142 Wn.2d 654, 693, 15 P.3d 115 (2000).

Matter of Custody of K.P., No. 38680-5-III, 2023 WL 6996299, at *7 (Wash. Ct. App. Oct. 24, 2023).

In contrast to Division III's account, the Statement of the Case shows all the motions brought to get L.P. an attorney, and it shows that the trial court first said it could not appoint an attorney, under RCW 11.130.245 (error of law) and then the trial court implied it would follow the recommendation of the GAL, who recommended that L.P. get an attorney, at which point the trial court denied the motion (abuse of discretion).

The following references are from Linda's Division III Opening Brief:

Page 18 of Linda's Division III Opening Brief:

> The assignments of error will begin with the trial rulings, and then proceed to address the other orders; however, two over-arching issues remain that: (A) RCW 11.130.245 should have been applied to this case; and (B) the children should have had attorneys and been allowed participation under the MGS.

The attorney issue was identified as "over-arching."

Page 20 of Linda's Division III Opening Brief:

> Pages 2-3 -- *Errors of Law (Section 9):* (l) The court again applied the wrong standards of law, and (m) the "extreme result" would not have occurred had the court provided the children with counsel, and depriving the children of counsel was a prejudicial abuse of discretion.

Depriving the children of attorneys was clearly identified as an error. The Minor Guardianship Statute (MGS) is brand new, and so authority beyond the statute is scarce.

Pages 24-25 of Linda's Division III Opening Brief:

> ***6. Error of Denying Attorneys and Participation to the Children***
> ***Error (x):*** Should the children have been provided attorneys? ANSWER: Yes. Children in general, and these children in particular, should have been provided attorneys.
> ***Error (y):*** Should Linda have been sanctioned for seeking attorneys for the children? ANSWER: No. The MGS clearly indicates K.P. and L.P. were appropriate parties to have attorneys.
> ***Error (z):*** Should Linda Harris have been sanctioned for seeking attorneys for the children? ANSWER: No.

Once again, the 10/24/23 Division III Opinion is so far wrong as to be inexplicable. The new MGS needs a reasonable construction, especially regarding the participation of a 14 year

old like L.P. who dared to show up in court and make her request.

Page 25 of Linda's Division III Opening Brief: Linda Harris again raises the error later on page 25 of her brief:

> and it was error to again deny the children attorneys after the GAL provided a basis for giving the children attorneys at the 8/17/22 hearing (***Error dd***).

Division III distorts the story, documented in the Statement of the Case, above. L.P. refused to sign the order appointing the GAL. She was compelled to court or the judge would sign for her. L.P. appeared in court and requested an attorney. That is when the court ordered the GAL to investigate, and the GAL reported that L.P. should have an attorney. Commissioner Schmidt denied the motion for attorneys by the GAL (and by Linda Harris) on the eve of trial; meanwhile, Linda Harris had disqualified Judge High-Edward, and the case had been re-assigned. Judge High-Edward reached out to take the case back, and the motion for attorneys for the children, or to let them testify, was renewed at trial.

All of this insistence by L.P. for an attorney is lost in the inaccurate Division III summary:

> In a petition for instructions, the children's GAL recommended the trial court appoint attorneys for Kyle and Lucy. Linda Harris filed a motion repeating the request for the children to be given attorneys. Court Commissioner Jeremy Schmidt denied appointment of counsel. Commissioner Schmidt concluded that appointment of counsel for the children was not in their best interests because it would unnecessarily draw them into the litigation between mother and grandmother.

Matter of Custody of K.P., No. 38680-5-III, 2023 WL 6996299, at *3 (Wash. Ct. App. Oct. 24, 2023)

Linda also argued throughout her briefing in favor of attorneys for the children.

Under RAP 13.4(b)(3) and (4) this new statute should have substantial guidance provided by the State Supreme Court – for example, by definition, appointing attorneys for the children will "draw them into litigation." That is the entire point of giving older children attorneys under the new MGS – to give them a voice in determining their own fate.

Division III elides and underestimates this important aspect of the new MGS.

For Division III to minimize Linda Harris's emphasis on the attorney issue was a great disservice to her and the children, and was breathe-takingly inaccurate. The entire brief has attorneys for the children as a constant theme.

B. Irregularities

As noted in the Statement of the Case, Commissioner High-Edward first said that RCW 11.130.245 did not allow for attorneys for the children. Linda was sanctioned under that assumption for the children getting their own attorneys in ex parte by their own motions. The attorneys were discharged. Later, Commissioner High-Edward realized her legal error, and said the children could get attorneys, but that she would not appoint one for L.P. unless recommended by the GAL. After the GAL recommended an attorney for L.P. now Judge High-Edward would not appoint one.

Judge High-Edward would not let Linda Harris argue her case, precluding issues on the basis of a GAL report (from the same GAL Commissioner High-Edward imported into this case from a non-final/dismissed case. As Linda argued in pages 46-47 of her Opening Brief in Division III:

> The doctrines of issue preclusion require a final judgment on the merits to apply. See, e.g, *Ullery v. Fulleton*, 162 Wash. App. 596, 602–03, 256 P.3d 406, 410 (2011), and see CP:536-58. There was no final judgment in the voluntarily non-suited de facto case.
>
> Also, claim preclusion requires a final judgment on the merits. See e.g., *Hassan v. GCA Prod. Servs., Inc.*, 17 Wash. App. 2d 625, 633–35, 487 P.3d 203, 208–09, *review denied sub nom. Hassan v. GCA Prod. Servs., Inc,* 198 Wash. 2d 1018, 497 P.3d 372 (2021) ("The threshold requirement of [claim preclusion] is a valid and final judgment on the merits in a prior suit. *In re Marriage of Weiser,* 14 Wash. App. 2d 884, 903, 475 P.3d 237 (2020)" [internal quotation marks omitted]).
>
> This error of claim or issue preclusion in the 9/16/21 Order was highly prejudicial to Linda Harris and underlay subsequent sanctions which should be reversed.

It was also very odd to have the case re-assigned to a different judge, and then now-Judge High-Edward reached out to reassign the case to herself.

C. Obvious Prejudice Meriting Re-Trial

Commissioner Schmidt and Judge High-Edward already acknowledged the prejudice of L.P. not having an attorney, as L.P. clearly wanted to keep living with Linda Harris.

The weight of L.P.'s participation is what Judge High-Edward sought to avoid.

As this court recently said:

> If an abuse of discretion was committed, this court then reviews the error for prejudice to determine whether " 'within reasonable probabilities, the outcome of the trial would have been materially affected had the error not occurred.' " *State v. Bourgeois*, 133 Wash.2d 389, 403, 945 P.2d 1120 (1997).

Matter of Welfare of M.R., 200 Wash. 2d 363, 376, 518 P.3d 214, 220–21 (2022).

The prejudice to L.P. and to Linda Harris's interests are clear. These legal errors should be reversed and the matter promptly remanded for trial.

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D. Sanctions Against Linda Harris

Once again, the Division III 10/24/23 Opinion is so loose with the record as to be puzzling.

For example, Division III writes:

> Linda Harris fails to accompany, with a citation to authority, her contention that the superior court commissioner could have simply converted the CR 60 motion to a motion to revisit.

Matter of Custody of K.P., No. 38680-5-III, 2023 WL 6996299, at *7 (Wash. Ct. App. Oct. 24, 2023).

For a sample of Linda's authorities, see pages 42-43 of her Opening Brief:

> As presented in the Statement of the Case, Linda Harris was deprived of any substantive consideration of her "motion to vacate" the orders of 8/13/21, because technically it should have been a motion to re-visit.
>
> Angela Lockridge had presented *no prejudice from Linda's error as to form* of the motion, and courts often re-visit issues, mistaking their decisions as decisions to "vacate" interlocutory orders as if they were final orders. See, e.g., *Washburn v. Beatt Equip. Co.*, 120 Wash. 2d 246, 300–01, 840 P.2d 860, 890 (1992). And, on substantial compliance with procedures, see *Black v. Dep't of Labor & Indus.*, 131 Wash. 2d 547, 552–53, 933 P.2d 1025, 1028 (1997).

There was no substantive prejudice to Angela for Linda's procedural error of form. See e.g., *State v. Templeton*, 148 Wn.2d 193, 220, 59 P.3d 632 (2002) (A party seeking a new trial due to a violation of a court rule must show prejudice), and *State v. Templeton* was cited in the unpublished case, presented under GR 14.1, *State v. Hann*, 18 Wash. App. 2d 1065 (2021). And also see *Alpha Kappa Lambda Fraternity v. Washington State Univ.*, 152 Wash. App. 401, 414, 216 P.3d 451, 458 (2009) ("In reviewing an agency action for procedural error, '[t]he court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of'").

A harmless procedural error should have no effect, as the court said in *In re Becker*:

> Mr. Becker does not show he was prejudiced by the lack of a return on the writ. *Benn,* 134 Wash.2d at 914 n. 12, 952 P.2d 116 (to prevail on collateral attack, defendant must show prejudice from constitutional error). This procedural error is therefore harmless. *See State v. Wanrow,* 88 Wash.2d 221, 237, 559 P.2d 548 (1977).

In re Becker, 96 Wash. App. 902, 906, 982 P.2d 639, 641 (1999), *aff'd,* 143 Wash. 2d 491, 20 P.3d 409 (2001).

The trial court abused its discretion by failing to substantively consider Linda's motion to vacate.

The Dispiriting Mis-Representations of Division III:

Obviously, just drawing from these two pages of Linda's Division III brief, copious authority was presented to Division

III that -- just as in *Washburn v. Beatt Equip. Co.* – there is no reason to put form over substance when a motion to revisit is erroneously mis-cast as a CR 60 motion (in this case by a pro se litigant).

The sanctions should be vacated as part of State Supreme Court review of this case.

VI. CONCLUSION and RELIEF REQUESTED

A search of Linda Harris's Division III Opening Brief shows that attorneys for the children are mentioned 42 times, in named sections, sections referenced in this motion, and *en passim.* It was one of the two overarching themes of the brief. At page 18 of her Division III Brief, Linda wrote:

> ...two over-arching issues remain that: (A) RCW 11.130.245 should have been applied to this case; and (B) the children should have had attorneys and been allowed participation under the MGS.

The State Supreme Court should address the relationship between RCW 11.130.245 and .240, and should address the

issue of attorneys for children under the new Minor Guardianship Statute.

In this particular case, 14 year-old L.P. was very brave to appear in court, and to face Commissioner High-Edward in her black robe, and for L.P. to face that pressure and to request an attorney. L.P. was led to believe she would get an attorney if the GAL recommended one. The GAL recommended one, and the court still denied L.P. both the right to testify, and denied L.P. an attorney.

The outcome of trial was clearly prejudiced by L.P.'s enforced silence. (NOTE: The Division III opinion lists the appeal as from Judge Cooney, but it was from Judge High-Edward's trial and commissioner rulings – none of which were successfully revised.)

Under RAP 13.4(b) the K.P./L.P decision conflicts with established case law where it exists (RAP 13.4(b)(1)&(2), and more importantly, is a vital matter of undefined law of substantial public interest, and of constitutional magnitude as

the legislature clearly intended to give children over the age of 12 more of a voice in their lives in the non-parental (now Minor Guardianship) arena. It is presumed that the children's voices, over time, will cut both ways, but the constitutional issue is where, as here, the children intend to claim harm from being taken from their guardians and returned to their parents, and where children wish to plead their own issues of best interests and of detriment.

The legislature pointed the way for the participation of children over the age of 12, but, in this case, a 14 year old (L.P.) and a 17 year old (K.P.) were denied their rights to attorneys, and were denied the right to participate in a modification of a long-standing RCW 26.10 Final Order.

Review and reversal is requested.

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CERTIFICATION OF WORD COUNT: I certify that using the WORD program word count, the foregoing consists of 4833 words.

Respectfully submitted on 11/26/23,

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SUPREME COURT CASE NO. ____
Division III No. 386805

Supreme Court of
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DECLARATION OF SERVICE

I, Lori Mason, declare under penalty of perjury under the laws of the State of Washington, that on November 26, 2023, I provided, via the WA State Appellate Courts' Electronic Filing Portal, a copy of Petitioner's Motion for Discretionary Review to the following:

Angela Lockridge lockridge56@yahoo.com

LORI MASON, Paralegal to
Craig A. Mason, Attorney for Petitioner

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

IN THE MATTER OF THE CUSTODY OF K.P. AND L.P.	)))))))	No. 38680-5-III UNPUBLISHED OPINION

FEARING, C.J. — Linda Harris appeals decisions entered by the superior court during a process by which the court terminated Harris' custody of her grandchildren. The superior court returned custody to the mother, Angela Lockridge. We affirm the superior court.

FACTS

On June 24, 2013, Linda Harris obtained nonparental custody of her two grandchildren, "Kyle" and "Lucy," which are pseudonyms. Harris' daughter, Angela Lockridge, the mother of the children, agreed to the nonparental custody order because of her drug addiction and crimes. Lockridge was scheduled to serve a jail sentence. The children's father, Robert Greenamyer, was incarcerated as a sex offender. The nonparental custody order prohibited Lockridge or Greenamyer from contacting the children, except that Lockridge could visit with the children depending on her compliance with counselling and drug testing.

More than four years later, and on February 9, 2018, the nonparental custody order was modified based on agreement between Linda Harris and Angela Lockridge. The agreed parenting plan lacked specifics. The plan ordered Lockridge to complete a parenting assessment, drug and alcohol assessment, anger management course, and random urinalysis tests. A narrative attachment to the plan stated:

> (1) The parenting assessment is to provide a plan of reconciliation and reunification of
> (2) Angela and her children, [Kyle] and [Lucy]. This would begin with supervised visits,
> (3) and upon successful completion would move to unsupervised visits.

Clerk's Papers (CP) at 829.

PROCEDURE

On June 14, 2021, Angela Lockridge filed a petition to terminate the nonparental custody order.

Linda Harris, acting without counsel, filed numerous narrative declarations in opposition to Lockridge's petition. In these declarations, Harris asserted that Kyle and Lucy should be appointed attorneys. In an August 5, 2021 hearing, Commissioner Jacquelyn High-Edward ruled that the governing statute did not allow for appointment of counsel for Kyle and Lucy pursuant to a motion to terminate a guardianship. Nevertheless, on August 8, 2021, Kyle and Lucy filed motions, written in Harris'

handwriting, for the appointment of attorneys. Superior Court Commissioner Pro Tem Gregory Hicks approved appointment of attorneys for both children.

In an August 13, 2021 order, Commissioner High-Edward vacated the attorney appointments and sanctioned Linda Harris $500 for seeking attorneys in an ex parte hearing before a commissioner not assigned to the case and in violation of her August 5 ruling. Commissioner High-Edward also ordered that Angela Lockridge should have residential time with the children during weekends, that Lockridge and Harris should engage in joint decision making for the children, and that Lockridge and the children should engage in counseling. The court commissioner also appointed a guardian ad litem (GAL) for the case.

In an August 18, 2021 motion, Linda Harris requested to vacate the August 13 order under CR 60 and to overturn the $500 sanction. On September 16, 2021, Commissioner High-Edward filed an order addressing Harris' motion. The commissioner found that Harris had no legal or factual basis to bring the CR 60 motion because CR 60 provides for relief only from final judgments, orders, or proceedings, and Harris sought relief from an interlocutory order. The commissioner also found a lack of factual basis to overturn the order, partly because evidence presented in a de facto parentage action formerly advanced but later dismissed by Harris showed that Angela Lockridge had been enjoying overnight visitation with her children before issuance of the August 13 order. The commissioner refused to overturn the August 13 sanction.

Commissioner High-Edward wrote in the September 16 order:

> that Ms. Harris continues to file declarations well over the page limits established by local rule (LSPR 94.04(h)(6)) as well as continues to include extensive child hearsay despite recognizing that it is not admissible. She also continues to act in bad faith by secretly having the children present during the last hearing, refusing to give Ms. Lockridge the zoom information so [Lucy] could participate in her acting classes, refuses to acknowledge Ms. Lockridge as the children's mother, refusing to sign the GAL [guardian ad litem] order, filing a petition to change the children's last names to the father's last name in violation of joint decision making, and exposing the children to their father who is a convicted sex offender and who has no contact under the non-parental custody action.

CP at 480. While citing CR 11 and Harris' bad faith, the commissioner sanctioned Harris $750.

Linda Harris hired counsel. Harris, through counsel, moved a Superior Court judge to revise Commissioner High-Edward's September 16 order. She argued that the motion to vacate should have been reinterpreted as a motion to revise, asked to overturn sanctions and fee awards, and requested a finding that Angela Lockridge's petition to terminate nonparental custody was void. In separate orders, Superior Court Judge John Cooney denied the motion to revise and motion to dismiss. Judge Cooney deemed that the uniform guardianship, conservatorship, and other protective arrangements act (UGA) did not incorporate the adequate cause standard required before proceeding to trial on a modification petition.

On January 24, 2022, Linda Harris moved to revisit the appointment of the guardian ad litem. In the motion, Harris argued that the guardian ad litem had since

become involved in another case in which Harris' counsel represented an opposing party. Harris claimed the guardian ad litem possessed a conflict of interest in Harris' case. The motion also again requested attorneys for the children. In an April 12, 2022 order, Commissioner High-Edward found that Harris filed the motion in bad faith and with the intent to intimidate the GAL and delay the guardian's investigation. The commissioner further explained:

> The court finds Ms. Harris' and Mr. Mason's motion to revisit the GAL based on the fact that Ms. Paxton [the GAL] appeared on a case in which [counsel] Mr. Mason also appeared to be frivolous, intransigent and intended to delay and intimidate the GAL investigation. Ms. Harris filed this motion on January 21, 2022 and did not have it heard until March 30, 2022. During that time, no action on the investigation occurred. Further, Mr. Mason provided no authority that Ms. Paxton appearing on a completely unrelated case . . . caused any type of conflict or appearance of unfairness where there was no relationship between the parties. It befuddles the court's mind, and Mr. Mason provided no legal authority, on how such a situation would create a conflict or create an appearance of fairness issue for the GAL or Ms. Harris. The court finds that Ms. Harris' motion was intended to, and did, delay Ms. Paxton's investigation in the case.

CP at 953-54 (footnote omitted).

In the April 12, 2022 order, Commissioner High-Edward also faulted Linda Harris for rearguing the issue of attorneys for the children when the commissioner had previously ruled on that question. The commissioner found that Harris had most likely submitted, caused, or encouraged declarations by Kyle and Lucy in support of the motion, in violation of a local court rule. Commissioner High-Edward found that the last

sanction for $750 was insufficient to stop Harris' bad faith and intransigence. Thus, the commissioner sanctioned Harris $5,000 for her intransigence, bringing frivolous motions, and acting in bad faith.

Meanwhile, Angela Lockridge brought two motions for contempt against Linda Harris, the first filed on April 4, 2022 and the second on April 11, 2022. The motions asserted that Harris disobeyed the August 13, 2021 residential scheduling order. According to Lockridge, Harris prevented her from visiting Lucy or Kyle on the weekend. The motions asserted that Harris first precluded visitation with the children on the weekend of February 18, 2022. In response, Harris asserted that Lockridge possessed "unclean hands" because Lockridge posted a message on social media about Harris that violated a provision of the August 13 order. Commissioner High-Edward held that Harris had violated the August 13 order by denying Lockridge parenting time and ordered Harris to pay Lockridge a $500 money judgment.

In a petition for instructions, the children's GAL recommended the trial court appoint attorneys for Kyle and Lucy. Linda Harris filed a motion repeating the request for the children to be given attorneys. Court Commissioner Jeremy Schmidt denied appointment of counsel. Commissioner Schmidt concluded that appointment of counsel for the children was not in their best interests because it would unnecessarily draw them into the litigation between mother and grandmother.

The parties participated in a two-day bench trial before now-Judge Jacquelyn High-Edward. Following trial, the court terminated the minor guardianship. The court also entered a restraining order prohibiting Linda Harris from contacting the children outside of limited supervised contact.

LAW AND ANALYSIS

Linda Harris forwards thirty assignments of error, but fails to dedicate any legal argument to support most of these assignments of error. This court does not consider assignments of error unsupported by argument or authority. *In re Marriage of Angelo*, 142 Wn. App. 622, 628 n.3, 175 P.3d 1096 (2008). We respond to those arguments advanced in the body of Harris' brief.

Adequate Cause Hearing

Washington law previously permitted a nonparent to gain and retain custody over a child, whose parents could not properly care for the child, under a nonparental custody act. Because of concerns over the constitutionality of the nonparental act arrangement, particularly the act's standards to terminate nonparental custody, the Washington Legislature, in 2019, repealed the act and adopted the uniform guardianship, conservatorship, and other protective arrangements act. In this appeal, we must address the bridge between the two acts.

Linda Harris argues that the trial court followed an improper procedure when evaluating Angela Lockridge's petition to terminate the minor guardianship. Harris

asserts that, because the guardianship arose under a prior statutory scheme, the court should have adhered to that now-repealed scheme. Specifically, Harris claims the trial court should have required Lockridge to file a petition for "adequate cause" required under the nonparental custody act.

When Linda Harris obtained custody of Kyle and Lucy in 2013, former chapter 26.10 RCW, "Nonparental Actions for Child Custody," governed the relationship between Harris and the children. By the time Angela Lockridge filed her petition to terminate the custodial relationship, chapter 11.130 RCW, the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act," (UGA) controlled the relationship. *See also* LAWS OF 2019, ch. 437; LAWS OF 2020, ch. 312. Correspondingly, the legal term "nonparental custody" has been replaced with the term "guardianship."

The former act imposed an "adequate cause" requirement on any party seeking to modify a nonparental custody order. Two provisions created this adequate cause requirement. The first provision lay within the former act itself. Former RCW 26.10.200 (1987), *repealed by* LAWS OF 2019, ch. 437, § 801. The second provision directed courts to apply chapter 26.09 RCW when reviewing a petition to modify a child's residence, which chapter governs dissolution of marriage proceedings. Former RCW 26.10.190 (2000), *repealed by* LAWS OF 2019, ch. 437, § 801. The pertinent code sections under both chapters carried nearly identical language. *Compare* RCW 26.09.270 *with* former RCW 26.10.200 (1987). Under both code sections, a party seeking to modify a

nonparental custody decree needed to submit "an affidavit setting forth facts supporting the requested order or modification." The trial court needed to deny a motion to modify unless it found "adequate cause for hearing the motion . . . established by the affidavits." RCW 26.09.270; former RCW 26.10.200 (1987).

The UGA never mentions "adequate cause." The only relevant language in the UGA states that: "If a petition is filed under RCW 11.130.190 [as an initial petition for appointment of guardian for a minor], the court *shall* schedule a hearing." RCW 11.130.195(1) (emphasis added). This language facially eschews any threshold finding of adequate cause. The separate code section governing modifications and terminations of guardianship orders says nothing about a court scheduling a hearing for motions brought under that section. RCW 11.130.240. Nevertheless, RCW 26.09.270, a section of the marital dissolution chapter, requiring a finding of adequate cause when a party seeks to modify a custody decree or parenting plan, remains in effect. Thus, one might reasonably conclude that the "adequate cause" procedure remains in force whenever a guardianship order is accompanied by a custody decree or parenting plan and a petitioner seeks to modify the custody decree or parenting plan.

Linda Harris' assignment of error that complains about the trial court's failure to find adequate cause before allowing a full trial raises both a procedural and substantive question. Procedurally, does the UGA still require a petitioner to support a request for modification with an affidavit setting forth supporting facts? Substantively, must a

petitioner forward different facts under the UGA than he or she would have forwarded under the former act? We chose, however, to ignore the questions.

Even if we imposed a requirement on the trial court to find "adequate cause" before proceeding to a trial on a petition for modification or termination of a guardianship, Harris would not be entitled to relief. The trial court necessarily found adequate cause to terminate the guardianship when it terminated the guardianship after conducting a trial. Angela Lockridge could have appealed a denial of her petition based on lack of adequate cause, but Harris held no corresponding right to appeal an affirmative finding of adequate cause. A threshold finding of adequate cause would not constitute a final, appealable decision resolving the merits of the case under RAP 2.2(a)(1). Neither would a finding of adequate cause be prejudicial to the final termination decision under RAP 2.4(b) because the court held a full hearing on the question of termination and based the ruling on the outcome of that hearing. This case proceeded to a full trial, and the court made decisions following that trial.

Adequate Cause Substance

Linda Harris also posits a distinction between the UGA's and the repealed nonparental custody act's test for effecting a modification or termination of nonparental custody. We disagree because the UGA formally adopted nonstatutory requirements imposed onto the former act by this court, such that the test under either statute would be essentially the same.

In some of the final appellate decisions analyzing the former nonparental custody act, this court ruled that the constitutional right to parent necessitated changes to the statutory test for modification of a nonparental custody order. Under the repealed act, a parent seeking to modify a nonparental custody order needed to show "a substantial change . . . in *the circumstances of the child or the nonmoving party* and that the modification is in the best interest of the child and is necessary to serve the best interest of the child." RCW 26.09.260(1) (emphasis added). Addressing this deficiency in the twilight of the former act's life, this court held:

> Since RCW 26.10.190 clearly contemplates that a parent may seek to modify a nonparental custody order, due process requires that he or she be given a meaningful opportunity to do so. The factual basis for a nonparental custody order is a finding that the parent is unfit or a detriment to the child. A parent has no meaningful opportunity to regain custody of his or her child if that parent is precluded from showing there is no longer a factual basis for the order. We conclude that RCW 26.10.190, which applies the requirement of RCW 26.09.260(1) to modification of nonparental custody proceedings, violates due process insofar as it limits the change in circumstances to that of the child or the nonmoving party.
>
> Consistent with this conclusion, we also hold unconstitutional the requirement of RCW 26.10.190 that the modification be in the best interests of the child. The law presumes that a fit parent will act in the best interest of his or her child. *Troxel* [*v. Granville*], 530 U.S. [57,] 68-69, 120 S. Ct. 2054, 47 L. Ed. 2d 49 (2000)]. Thus, just as [*In re Custody of Shields*, 157 Wn.2d 126 (2006)] held that it is unconstitutional for a court to infringe on the parent-child relationship by making an initial custody determination based on a best interests analysis, it is similarly unconstitutional for a court to deny a modification on that basis.

In re Custody of S.M., 9 Wn. App. 2d 325, 337-38, 444 P.3d 637 (2019) (alterations added). Our decision in *Flaggard v. Hocking*, 13 Wn. App. 2d 252, 259-60, 463 P.3d 775 (2020) followed the ruling in *Custody of S.M.*

In adopting the UGA, Washington's legislature addressed the constitutional deficiency recognized in *S.M.* and *Flaggard*. Under the UGA:

> Guardianship under this chapter for a minor terminates:
> . . . .
> (b) When the court finds that the basis in RCW 11.130.185 for appointment of a guardian no longer exists, unless the court finds that:
> (i) Termination of the guardianship would be harmful to the minor; and
> (ii) The minor's interest in the continuation of the guardianship outweighs the interest of any parent of the minor in restoration of the parent's right to make decisions for the minor.

RCW 11.130.240(1)(b). A court may appoint a guardian for a minor on the basis that "[t]here is clear and convincing evidence that no parent of the minor is willing or able to exercise parenting functions." RCW 11.130.185(c). Thus, a parent seeking to terminate a guardianship order prevails under the UGA if the parent demonstrates an ability to exercise parenting functions. These requirements facially satisfy the constitutional test announced in *Custody of S.M.* and *Flaggard*. We detect no meaningful distinction between the test announced in *Custody of S.M.* from the test implanted in the UGA. Furthermore, Linda Harris' brief does not illuminate why the result of the trial would be different had the trial court applied the test under *Custody of S.M.*

The UGA recognizes the continuing validity of custody orders issued under the nonparental custody act, chapter 26.10 RCW, but requires orders issued under the former act to undergo modification "subject to the requirements" of the UGA:

> All orders issued under chapter 26.10 RCW [the former act] prior to the effective date of chapter 437, Laws of 2019 [the UGA] remain operative after the effective date of chapter 437, Laws of 2019. After the effective date of chapter 437, Laws of 2019, if an order issued under chapter 26.10 RCW is modified, the modification is subject to the requirements of this chapter.

RCW 11.130.245(2). Linda Harris argues that this statutory language should be interpreted to require application of the repealed nonparental custody act whenever a petitioner moves to modify or terminate a guardianship that initially arose under the former act. We disagree.

Linda Harris' reading of RCW 11.130.245 contradicts the plain reading of the statute, requiring "modification . . . subject to the requirements of *this* chapter." RCW 11.130.245(2) (emphasis added). Such language demands that courts apply the UGA when entertaining a motion to modify or terminate a guardianship that arose under the former act.

Linda Harris argues such a plain reading renders RCW 11.130.245(2) superfluous because the UGA already provides a modification process in the neighboring code section, RCW 11.130.240. Again, we disagree. Section 245(2) is not superfluous because the legislature could have reasonably seen the need to clarify the test a court

should apply when reviewing a guardianship that arose under the former act. Section 245 advances a distinct purpose from section 240's governance of modifications, even if section 245 directs courts to apply section 240.

Linda Harris also advances a strained reading of RCW 11.130.245(2)'s use of the term "subject to." Section 245 requires modification of guardianships that arose under the former act "*subject to* the requirements" of the UGA. (Emphasis added.). Harris argues that we should read "subject to" as requiring application of all UGA provisions *other than* the UGA's modification provisions. We disagree. Because the UGA says that modifications of preexisting guardianships are "subject to the requirements" of the UGA, the UGA governs all modification proceedings.

Linda Harris also asserts the "vested right" doctrine in the application of the nonparental custody act's "adequate cause" requirement. The general statement of the doctrine declares:

> A vested right, entitled to protection from legislation, must be something more than a mere expectation based upon an anticipated continuance of the existing law; it must have become a title, legal or equitable, to the present or future enjoyment of property, a demand, or a legal exemption from a demand by another.

Godfrey v. State, 84 Wn.2d 959, 963, 530 P.2d 630 (1975) (emphasis omitted).

We decline application of the vested rights doctrine on two grounds. First, expectation in the continuance of existing law does not equate to a vested property right. *In re Marriage of MacDonald*, 104 Wn.2d 745, 750, 709 P.2d 1196 (1985). Second, the

guardianship order conferred no property right to Harris, because children are not property. *Sheldon v. Sheldon*, 47 Wn.2d 699, 703, 289 P.2d 335 (1955).

Appointment of Attorney for Children

In her brief, Linda Harris repeatedly mentions court commissioner rulings denying appointment of an attorney for the two children. Thus, Harris may be arguing that the trial court erred in not appointing attorneys for Kyle and Lucy.

Linda Harris never assigns error to the several rulings denying the appointment. She also presents little, if any, argument in her brief on this subject. Therefore, we do not address the merits of the alleged mistake. Under RAP 10.3(a)(4), the appellant must place in her brief a "separate precise statement" of each error the appellant contends the trial court committed. Only issues raised in the assignments of error and argued to the appellate court are considered on appeal. *Weyerhaeuser Co. v. Commercial Union Insurance Co.*, 142 Wn.2d 654, 693, 15 P.3d 115 (2000).

Contempt Sanctions

Linda Harris argues that the trial court erred in imposing sanctions and in finding her in contempt. Nevertheless, Harris fails to identify a standard by which we should evaluate the challenged findings of contempt.

Linda Harris first faults the trial court for imposing sanctions in the September 16, 2021 order. Harris argues that the trial court should have converted her CR 60 motion into a motion to revise.

CR 11 sanctions are appropriate when a litigant files a claim for an improper purpose or if the claim is not grounded in fact or law and the signing litigant failed to conduct a reasonable inquiry. *Kilduff v. San Juan County*, 194 Wn.2d 859, 877, 453 P.3d 719 (2019). Harris' CR 60 motion was inappropriate procedurally because Harris sought to vacate a temporary order, and CR 60 provides relief only from final orders. CR 60(b).

Linda Harris fails to accompany, with a citation to authority, her contention that the superior court commissioner could have simply converted the CR 60 motion to a motion to revisit. If she wanted a revision under RCW 2.24.050, Harris should have sought relief before a superior court judge and not the commissioner who issued the original ruling. Finally, the commissioner listed voluminous reasons for finding that Harris acted in bad faith outside of her CR 60 argument.

Linda Harris also seeks to overturn the commissioner's September 16, 2021 sanction because the court commissioner purportedly improperly applied the doctrine of issue preclusion by referencing Harris' dismissed petition for de facto parentage. The commissioner did reference Harris' dismissed de facto parentage action, which action is not available in the record of this case, when holding that Harris lacked a factual basis to argue against Angela Lockridge's weekend parenting time. Harris' argument more closely implicates a trial court's authority to judicially notice facts under ER 201 rather than issue preclusion. But the record does not show that the trial court's sanction award was based, even partially, on judicial notice.

Linda Harris argues that the trial court improperly imposed sanctions when Harris sought the appointment of attorneys for the children. The commissioner's April 12, 2022 sanction found that Harris' request for attorneys was frivolous when the UGA did not provide for appointment of attorneys in termination proceedings. Harris advanced the attorney argument when the commissioner had previously ruled on the question. Having knowledge of the commissioner's position, Harris' reargument of the attorney appointment issue was frivolous. More importantly, the April 12 sanctions were also based on numerous other findings that Harris does not contest.

Linda Harris argues that the trial court improperly found her in contempt when she complied with the weekend residential schedule until February 18, 2022. Nevertheless, the order mandating Angela Lockridge enjoy weekend residential time with Kyle and Lucy did not specify an end date prior to February 18, 2022. The order remained in effect until superseded by another order or final decision. Harris' initial compliance with the order does not obviate a contempt finding based on later disobedience.

Finally, Linda Harris argues that Angela Lockridge brought "unclean hands" when she sought a contempt order against Harris. Harris fails to cite any law supporting an "unclean hands" argument. This court does not consider arguments unsupported by citation to legal authority. *Stewart v. State*, 92 Wn.2d 285, 300, 597 P.2d 101 (1979).

CONCLUSION

We affirm all superior court rulings.

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.

Fearing, J.
Fearing, C.J.

WE CONCUR:

Lawrence-Berrey, J.
Lawrence-Berrey, J.

Birk, J.
Birk, J.[1]

[1] The Honorable Ian S. Birk is a Court of Appeals, Division One, judge sitting in Division Three pursuant to CAR 21(a).

Tristen L. Worthen
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October 24, 2023

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CASE # 386805
In re the Custody of: K.P. and L.P.
SPOKANE COUNTY SUPERIOR COURT No. 2140113732

Counsel and Ms. Lockridge:

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 the motion electronically through the court's e-filing portal or, if in paper format, only the original motion need be filed. 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. 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,

Tristen Worthen
Clerk/Administrator

TLW/sh
Enc.
c: **E-mail** Honorable Jeremy T. Schmidt