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Supreme Court No. 98576-6
Court of Appeals No. 80165-1-I

SUPREME COURT
OF THE STATE OF WASHINGTON

In re:

CHRISTINE CRABTREE, Respondent,

v.

DONALD CLINTON CRABTREE, Appellant.

RESPONDENT'S ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

Christine Crabtree, Respondent on appeal, respectfully requests that this Court not accept review of the decision of the Court of Appeals in this matter. Appellant Donald Crabtree has not identified how the Court of Appeals decision is in conflict with a decision of the Supreme Court or a published decision of the Court of Appeals; has not identified how a significant question of law under the Constitution of the State of Washington or the United States is involved; and has not demonstrated that an issue of substantial public interest needs to be addressed by the Supreme Court. Ms. Crabtree is not seeking review of any aspect of the decision of the Court of Appeals.

II. CITATION TO COURT OF APPEALS DECISION

Mr. Crabtree is seeking review of the Unpublished Opinion of the Court of Appeals, Division I filed on April 20, 2020. There was no motion for reconsideration filed, and thus no order granting or denying a motion for reconsideration.

III. ISSUES PRESENTED FOR REVIEW

Ms. Crabtree is not presenting any issues for review.

Aside from Mr. Crabtree's allegation that the underlying South Carolina order violates the United States Constitution, his stated issues presented for review focus on his grievances against the Whatcom County Superior Court Commissioner specifically—both those raised below and a few now raised for the first time.

IV. STATEMENT OF THE CASE

Ms. Crabtree accepts the facts as detailed in the Facts section in the Court of Appeals opinion filed on April 20, 2020 in this matter, which is presented by Mr. Crabtree for review. In the interest of brevity and to avoid a superfluous restatement of facts and procedure that are already on the record, Ms. Crabtree would primarily rely that section as an accurate statement of the case.

In summary, however, Ms. Crabtree properly registered an out-of-state support order in Whatcom County, Washington.¹ She sought enforcement of that order due to Mr. Crabtree's failure to pay child support and spousal support as directed by the out-of-state order.² Mr. Crabtree never requested a hearing to contest the validity of the order. Ms. Crabtree presented evidence that Mr. Crabtree had not paid support as ordered. Mr. Crabtree himself admitted that he was not up to date on support.³ Mr. Crabtree argued that whether he was in contempt had to with willfulness versus ability and that he was not able to pay.⁴ Ms. Crabtree also demonstrated that in October, 2018 Mr. Crabtree had the means to pay support with the substantial proceeds he received from the sale of real estate.⁵ Ms. Crabtree noted that Mr. Crabtree had not made

¹ CP 53 – 55

² CP 64 – 66.

³ RP 12:25 – 13:1. *See also* CP 143:10 – 143:15; CP 154.

⁴ RP 13:2 – 14:10.

⁵ CP 149:9 – 149:15; CP 180 – 182

any meaningful attempts to find employment and did not otherwise conserve available assets.⁶ The Whatcom County Superior Court Commissioner ultimately found Mr. Crabtree in contempt of court for failing to pay his support obligations.⁷ The court entered a judgment for the amount of support in arrears and reasonable attorney fees.⁸ The court also ordered a daily fine of \$100.00 to be imposed if Mr. Crabtree had not paid his obligations in full within 30 days.⁹

After Mr. Crabtree appealed the Superior Court's ruling and order on the matter, the Court of Appeals affirmed the contempt order, indicating substantial evidence supported the ruling and that the Commissioner did not abuse her discretion.

V. ARGUMENT

A. CONSIDERATIONS GOVERNING ACCEPTANCE OF REVIEW

When a party seeks review of a Court of Appeals decision, the "petition for review will be accepted by the Supreme Court only:

- (1) If the decision is in conflict with a decision Supreme Court; or

⁶ RP 15:13 – 16:2.

⁷ CP 48 – 51.

⁸ CP 50, § 8.

⁹ CP 51, § 13.

- (2) If the decision of the Court of Appeals is in conflict with a published decision of Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington State or of the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.”

WA RAP 13.4.(b)

In this case, Mr. Crabtree has not presented any allegation, argument, or authority that the Court of Appeals decision in this matter is in conflict with any prior Washington decisions.

Mr. Crabtree has also not identified how a significant question of law under either the Washington or United States Constitutions is involved. He does provide a series of conclusory allegations that his first amendment rights have been violated, but without any clear reasoning or explanation as to how. His conclusory statements do not demonstrate that a significant question of law under the Constitution is involved. He states that the Court of Appeals ignores the first amendment to the United States Constitution, but does not explain how. He further states that the superior court’s contempt order displays contempt for the first amendment of the United States Constitution but similarly does not provide any authority or rational argument as to how. Simply

stating that his freedom of religion has been violated based on his own curious interpretation of the South Carolina order does not create a significant question of constitutional law.

As evidenced by the majority of Mr. Crabtree's Statement of the Case, his grievance primarily lies with the underlying South Carolina order. The entire record in this case demonstrates Mr. Crabtree's ongoing effort to relitigate that matter here in Washington. However, when the out-of-state order was registered in Washington, Mr. Crabtree never requested a hearing to contest the validity or enforceability of the order as required by RCW 26.21A.525. When a registered order is confirmed either by operation of law or after a hearing, then any further contest of the order with respect to any matter that could have been asserted at the time of registration is precluded. RCW 26.21A.535. Mr. Crabtree is clearly now attempting to contest the order when he previously had the opportunity to do so before the order was confirmed by operation of law. This is contrary to statute and Mr. Crabtree does not provide any argument or authority as to how those applicable statutes are unconstitutional.

Similarly, Mr. Crabtree has not otherwise presented any evidence, authority, or argument on how the underlying contempt statutes are unconstitutional, or how a finding of contempt for his failure to pay his support obligations otherwise raises a significant

question of law under the Washington or United States constitutions.

With respect to whether Mr. Crabtree's petition involves an issue of substantial public interest, his argument lacks on this point as well. His petition reads more like a manifesto about his dissatisfaction about having to follow court orders and his justification for his failure and refusal to follow those orders rather than a valid petition for the Supreme Court to review a legal decision.

The closest Mr. Crabtree comes to asserting a clearly identifiable allegation of error is on page 15 of his brief wherein he argues that the Court of Appeals' finding that there was substantial evidence was erroneous. He argues that the court commissioner did not adequately review the entirety of the South Carolina proceedings before making her ruling on contempt, and that the Court of Appeals erred in affirming that ruling. However, he conflates the evidence presented during the underlying South Carolina proceedings with the evidence necessary for a finding of contempt, which is whether he was in compliance with a valid court order on support obligations.

Despite Mr. Crabtree's efforts at obfuscation, this matter is relatively simple. He was ordered to pay a certain amount of support. He did not pay support as ordered. The order became enforceable in Washington. He did not contest the enforceability as

required by Washington law. Upon a properly brought motion for contempt, he did not adequately demonstrate that he lacked the means to pay as required by RCW 26.18.050(4). He was subsequently found in contempt for not paying the support he was ordered to pay.

The Court of Appeals finding that there was substantial evidence of the above does not create an issue of substantial public interest. And Mr. Crabtree's petition does not otherwise identify how any such issue needs to be addressed by the Supreme Court. In his conclusion, he invokes the Supreme Court's opportunity to "police its maverick judges," but does not adequately explain how the judges are "maverick." Simply being unhappy with a decision, ruling or order does not render the judicial officer(s) who rendered it "maverick." There is no issue of substantial public interest in this matter that should be determined by the Supreme Court.

B. ATTORNEY FEES

If the non-prevailing party in the Court of Appeals files a petition for review to the Supreme Court that is subsequently denied, then reasonable attorney fees may be awarded to the party who prevailed in the Court of Appeals and timely filed and answer to the petition for review. RAP 18.1(j). Ms. Crabtree was awarded attorney fees below, and respectfully requests that she be awarded her attorney fees for the preparation and filing of this answer to the petition for review.

VI. CONCLUSION

Mr. Crabtree has not provided any valid basis for the Supreme Court to review the Court of Appeals decision in this matter. He devotes the majority of briefing to airing his grievances with the South Carolina order and the Whatcom County Superior Court's enforcement of that order and attempts to justify his failure to abide by court ordered support obligations with his perceived moral authority. However, he otherwise provides no authority or argument on how any of the factors in RAP 13.4(b) have been satisfied. There are no prior decisions of the Supreme Court or Court of Appeals that have been identified to be in conflict with the Court of Appeals decision in this matter. There is also no identifiable significant question of law under the United States or Washington Constitutions. Finally, Mr. Crabtree's petition does not involve a substantial public interest that should be decided by the Supreme Court. Accordingly, Mr. Crabtree's petition for review should be denied.

Dated this 22nd day of July, 2020

Respectfully submitted,



Todd J. Allen, WSBA #37839
Attorney for Respondent

VI. APPENDIX

A. RCW 26.18.050

Failure to comply with support or maintenance order—Contempt action—Order to show cause—Bench warrant—Continuing jurisdiction.

- (1) If an obligor fails to comply with a support or maintenance order, a petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action as provided in chapter 7.21 RCW. If the court finds there is reasonable cause to believe the obligor has failed to comply with a support or maintenance order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.
- (2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.
- (3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.
- (4) If the obligor contends at the hearing that he or she lacked the means to comply with the support or maintenance order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order.
- (5) As provided in RCW 26.18.040, the court retains continuing jurisdiction under this chapter and may use a contempt action to enforce a support or maintenance order until the obligor satisfies all duties of support, including arrearages, that accrued pursuant to the support or maintenance order.

[2008 c 6 § 1030; 1993 c 426 § 5; 1989 c 373 § 22; 1984 c 260 § 5.]

B. RCW 26.21A.525

Procedure to contest validity or enforcement of registered support order.

(1) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by RCW 26.21A.520. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to RCW 26.21A.530.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

[2015 c 214 § 34; 2002 c 198 § 606.]

C. RCW 26.21A.535

Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

[2015 c 214 § 36; 2002 c 198 § 608.]

D. RAP 13.4

DISCRETIONARY REVIEW OF DECISION TERMINATING REVIEW

(a) How to Seek Review. A party seeking discretionary review by the Supreme Court of a Court of Appeals decision terminating review must serve on all other parties and file a petition for review or an answer to the petition that raises new issues. A petition for

review should be filed in the Court of Appeals. If no motion to publish or motion to reconsider all or part of the Court of Appeals decision is timely made, a petition for review must be filed within 30 days after the decision is filed. If such a motion is made, the petition for review must be filed within 30 days after an order is filed denying a timely motion for reconsideration or determining a timely motion to publish. If the petition for review is filed prior to the Court of Appeals determination on the motion to reconsider or on a motion to publish, the petition will not be forwarded to the Supreme Court until the Court of Appeals files an order on all such motions. The first party to file a petition for review must, at the time the petition is filed, pay the statutory filing fee to the clerk of the Court of Appeals in which the petition is filed. Failure to serve a party with the petition for review or file proof of service does not prejudice the rights of the party seeking review, but may subject the party to a motion by the Clerk of the Supreme Court to dismiss the petition for review if not cured in a timely manner. A party prejudiced by the failure to serve the petition for review or to file proof of service may move in the Supreme Court for appropriate relief.

(b) Considerations Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court only:

(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or

(2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or

(3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or

(4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

(c) **Content and Style of Petition.** The petition for review should contain under appropriate headings and in the order here indicated:

(1) **Cover.** A title page, which is the cover.

(2) **Tables.** A table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with reference to the pages of the brief where cited.

(3) **Identity of Petitioner.** A statement of the name and designation of the person filing the petition.

(4) **Citation to Court of Appeals Decision.** A reference to the Court of Appeals decision which petitioner wants reviewed, the date of filing the decision, and the date of any order granting or denying a motion for reconsideration.

(5) **Issues Presented for Review.** A concise statement of the issues presented for review.

(6) **Statement of the Case.** A statement of the facts and procedures relevant to the issues presented for review, with appropriate references to the record.

(7) **Argument.** A direct and concise statement of the reason why review should be accepted under one or more of the tests established in section (b), with argument.

(8) **Conclusion.** A short conclusion stating the precise relief sought.

(9) **Appendix.** An appendix containing a copy of the Court of Appeals decision, any order granting or denying a motion for reconsideration of the decision, and copies of statutes and constitutional provisions relevant to the issues presented for review.

(d) **Answer and Reply.** A party may file an answer to a petition for review. A party filing an answer to a petition for review must serve the answer on all other parties. If the party wants to seek review of any issue that is not raised in the petition for review, including any issues that were raised but not decided in the Court

of Appeals, the party must raise those new issues in an answer. Any answer should be filed within 30 days after the service on the party of the petition. A party may file a reply to an answer only if the answering party seeks review of issues not raised in the petition for review. A reply to an answer should be limited to addressing only the new issues raised in the answer. A party filing any reply to an answer must serve the reply to the answer on all other parties. A reply to an answer should be filed within 15 days after the service on the party of the answer. An answer or reply should be filed in the Supreme Court. The Supreme Court may call for an answer or a reply to an answer.

(e) Form of Petition, Answer, and Reply. The petition, answer, and reply should comply with the requirements as to form for a brief as provided in rules 10.3 and 10.4, except as otherwise provided in this rule.

(f) Length. The petition for review, answer, or reply should not exceed 20 pages double spaced, excluding appendices, title sheet, table of contents, and table of authorities.

(g) Reproduction of Petition, Answer, and Reply. The clerk will arrange for the reproduction of copies of a petition for review, an answer, or a reply, and bill the appropriate party for the copies as provided in rule 10.5.

(h) Amicus Curiae Memoranda. The Supreme Court may grant permission to file an amicus curiae memorandum in support of or opposition to a pending petition for review. Absent a showing of particular justification, an amicus curiae memorandum should be received by the court and counsel of record for the parties and other amicus curiae not later than 60 days from the date the petition for review is filed. Rules 10.4 and 10.6 should govern generally disposition of a motion to file an amicus curiae memorandum.

An amicus curiae memorandum or answer thereto should not exceed 10 pages.

(i) No Oral Argument. The Supreme Court will decide the petition without oral argument.

**E. RAP 18.1
ATTORNEY FEES AND EXPENSES**

(a) Generally. If applicable law grants to a party the right to recover reasonable attorney fees or expenses on review before either the Court of Appeals or Supreme Court, the party must request the fees or expenses as provided in this rule, unless a statute specifies that the request is to be directed to the trial court.

(b) Argument in Brief. The party must devote a section of its opening brief to the request for the fees or expenses. Requests made at the Court of Appeals will be considered as continuing requests at the Supreme Court, except as stated in section (j). The request should not be made in the cost bill. In a motion on the merits pursuant to rule 18.14, the request and supporting argument must be included in the motion or response if the requesting party has not yet filed a brief.

(c) Affidavit of Financial Need. In any action where applicable law mandates consideration of the financial resources of one or more parties regarding an award of attorney fees and expenses, each party must serve upon the other and file a financial affidavit no later than 10 days prior to the date the case is set for oral argument or consideration on the merits; however, in a motion on the merits pursuant to rule 18.14, each party must serve and file a financial affidavit along with its motion or response. Any answer to an affidavit of financial need must be filed and served within 7 days after service of the affidavit.

(d) Affidavit of Fees and Expenses. Within 10 days after the filing of a decision awarding a party the right to reasonable attorney fees and expenses, the party must serve and file in the appellate court an affidavit detailing the expenses incurred and the services performed by counsel.

(e) Objection to Affidavit of Fees and Expenses; Reply. A party may object to a request for fees and expenses filed pursuant to section (d) by serving and filing an answer with appropriate documentation containing specific objections to the requested fee. The answer must be served and filed within 10 days after service of the affidavit of fees and expenses upon the party. A party may reply to an answer by serving and filing the reply documents within 5 days after the service of the answer upon that party.

(f) Commissioner or Clerk Awards Fees and Expenses. A commissioner or clerk will determine the amount of the award, and will notify the parties. The determination will be made without a hearing, unless one is requested by the commissioner or clerk.

(g) Objection to Award. A party may object to the commissioner's or clerk's award only by motion to the appellate court in the same manner and within the same time as provided in rule 17.7 for objections to any other rulings of a commissioner or clerk.

(h) Transmitting Judgment on Award. The clerk will include the award of attorney fees and expenses in the mandate, or the certificate of finality, or in a supplemental judgment. The award of fees and expenses, including interest from the date of the award by the appellate court, may be enforced in the trial court.

(i) Fees and Expenses Determined After Remand. The appellate court may direct that the amount of fees and expenses be determined by the trial court after remand.

(j) Fees for Answering Petition for Review. If attorney fees and expenses are awarded to the party who prevailed in the Court of Appeals, and if a petition for review to the Supreme Court is subsequently denied, reasonable attorney fees and expenses may be awarded for the prevailing party's preparation and filing of the timely answer to the petition for review. A party seeking attorney fees and expenses should request them in the answer to the petition for review. The Supreme Court will decide whether fees are to be awarded at the time the Supreme Court denies the petition for review. If fees are awarded, the party to whom fees are awarded should submit an affidavit of fees and expenses within the time and in the manner provided in section (d). An answer to the request or a reply to an answer may be filed within the time and in the manner provided in section (e). The commissioner or clerk of the Supreme Court will determine the amount of fees without oral argument, unless oral argument is requested by the commissioner or clerk. Section (g) applies to objections to the award of fees and expenses by the commissioner or clerk.

THE LAW OFFICE OF TODD J. ALLEN

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Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98576-6
Appellate Court Case Title: In the Matter of the Marriage of Christine Crabtree and Donald Clinton Crabtree
Superior Court Case Number: 19-3-00167-4

The following documents have been uploaded:

- 985766_Answer_Reply_20200722151704SC733951_1849.pdf
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Answer/Reply - Answer to Petition for Review
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