

62808-9

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Rule 10.3

Court of appeals # 628089

**IN THE SUPERIOR COURT APPEALS DIVISION 1 OF THE STATE OF
WASHINGTON
IN AND FOR THE COUNTY OF KING**

Mr. Monty Richardson, appellant

v.

Washington State DSHS, respondent

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
~~2009~~ SEP 25 AM 10:35

BRIEF OF APPELLANT

Submitted by Mr. Monty Richardson pro-se legal aid wife Janet Blessing, (206) 784-2519

Introduction

"Investigate" 1. To examine, study or inquire into systematically; seek or examine into the particulars; examine in detail. 2. To seek out and examine the particulars- in attempt to learn the facts about something hidden unique or complex. (Random House Dictionary)

Mr. Monty Richardson is here before this court because this investigative thing didn't really happen; CPS really really didn't do this, especially at the critical initial/get-go stage of his cps neglect "investigation". Instead a ready default to surface first impressions. ...and ~~WO the fangs of the guards whom stand guard over the precious trunk of instantly carbonized cps findings.~~

Mr. Richardson (Mr. R) is here because the corrected and true facts in light of the whole record re his actions of august 29th no longer meet the strict requirements to have "founded" with a cps charge of child neglect. Mr. R is now all the way up here because he did (nor does) **not** have current capacity or access to needed(professional else-at least adept novice) legal aid (despite clerk brochures suggesting otherwise) to effectively present the case ; Mr. R is here because unfortunately his (formerly accused) wife frontrow-witnessed the erroneous particulars of the complex case (including unfortunately solid confirmation re the veracity of Mr. R and the corrected Ms T's Testimonies...

moreover she is as dogged/driven against injustice as she has been dogged/vicious against addiction in the family); **Mr. R is here because he did not commit the specific addiction connected behaviors which were later retracted by the accuser - as well as countered with substantial evidence** (however not all timely nor procedurally allowed evidence) to the contrary.... but nevertheless remained/s as the basis for the continuance of a cps charge of neglect. Mr. Richardson is here because currently the appeals court is the **only route** to correct an erroneous finding. Mr. Richardson is here once again to request that this case of ‘ failure to meet investigation standards and faulty first impressions(of case) be remedied via a cps agency remand inclusive both of all willing key case-players and corrected evidence/accurate facts , again, to be accurately applied to the strict requirements of a neglect charge ...else vacated here.

Mr. Richardson (*nor legal-aid wife*) is(are) **not here** to badger or annoy, the agencies, or courts; Mr. R is **not here** because this is the logical reasonable place to resolve this error; he/they are **not here** because of legal talent, current capacity to legally fight/compete, temperament/patience for the legal details/, adequate time or finances to do this process...nor love of attempting to do a brief prep; Mr. R is **not here** to excuse or deny

his battles with addiction nor downplay how in a broader, indirect sense his usage how neglected his family and self; and finally

Mr. Richardson is **not even here to make a significantly large or difficult request.**

ASSIGNMENT OF ERRORS

No.1. The trial court erred in its denying the defendant's appeal to vacate the judgment entered December 5th 2008 to allow a remand of a cps judgment made on September 1st, 2005 and subsequent BOA judgment march 2007.... According to the current record that Mr. Richardson "neglected his daughter KMR"; specifically as per the cps agency definition that he "showed a serious disregard of the consequences to the child of such magnitude that it creates a clear and present danger to the child's health, welfare, and safety" August 29th, 2005. CP

ISSUES PERTAINING TO ASSIGNMENT OF ERROR (includes some argument?)

1. Should a charge which was predominantly-if not solely founded on the one and only accuser's original mistruths whom later under oath admittedly lied and gave specific and credible remorseful physical/mental/emotional reasons why she lied (cp)(including use

of a paranoia side-effect inducing med); has a family-members confirmed long-time personal family history of similar episodes of angry mistruths,(cp); furthermore most of the co-existing false allegations during that private talk with the “investigator” were indeed as Ms T later tried to correct (in person and further in a response letter to that hearing) blatantly/readily disproved/able and far-fetched;(cp)......Would a person of reasonable mind maintain that Ms T’s recants/corrections of her testimony rightfully/legitimately be denied ^{By the AIG} and remain (as is argued by the appellant arbitrarily and falsely) judged as “downplaying... when visited in the “light of the whole record” (rcw), the “preponderance of evidence” or pass the “more likely than not” requirement

2. In addition to the above, maybe does some of the specific (objections and corrections to the record (cp) stuff that Ms Blessing submitted to the record re a bunch of really non-correct, some really not nice, pre-investigation case mis-recordings kinda set up a weird and not so fair stage/Bias? As per rcw . Mistruths which established and persist as the predominant foundation which maybe possibly could ^{did} unfairly bias anyone reading it , including a cps “ investigator.?”

3. Had Ms Vigessa's actions as attested by Ms Blessing and discussed in the BOA transcripts (re denying/avoiding Ms. Blessing's equal investigative testimonial time); ^{her} remission of attempting to research the accuracy of at least some of Ms Terrone's erroneous more readily disprovable facts/allegations when denied by Ms. B , nor attempt to research Ms Blessing's early-provided information/claim re Ms Terrone's background false-lash-outs history , etc, Did the investigative social worker fail to examine, study the particulars, not attempt to adequately learn the facts etc as is expounded on in the argument so as to not meet the procedural standards of the rcw.?

4. Should Ms Townes supportive letter evidence (cp) denied by the trial court judge) instead be allowed to be included in the whole record despite timing delay because due to excessively strained family relationships stemming from the cps calls and particularly Deana's mistruths, it was not until that later date that Janet could get in contact with and confirm Shyla's ability to and desire to justly support her uncle request and disclose her statement? 4b. Secondly would not this letter broadening testimony base and content significantly further the administration of justice?.

5. For the purpose of justice should the vast discrepancy (of legal knowledge, resources, aptitudes and presentations skills, ...) between legal parties (especially when attainable legal help was not rightly achievable)() be taken into consideration when weighing decisions or taking an extra moment to inquire about a detail that the legal novice would not know to offer or be savvy in presenting ?

6. Does indeed a careful examination of ~~the~~ Mr. Richardson's submitted briefs and documents, in light of the whole record provide sufficient burden of establishing some of the legal bases for overturning the decision of the administrative law judge and sending it back for a new hearing?

7. In light of the whole record did Mr.

Richardson's time with KMR pose a "risk or potential significant risk to the welfare of a vulnerable person as" as necessitated by the cps agency to confirm a neglect (CP. 274-294 Brief of Response) charge?

8. In light of Mr. Richardson's "novice without a reputation" against the legal professionals, would it not be highly possible and probable that because the original context of the word "witness" was in fact in reference to an active eye witness (as opposed to a non-eyewitness to a limited aspect of the charge) that the ALJ's later communications (later reference to/questioning regarding

witness,) could have readily over focused the scope/legal expectation of the word witness thus misleading a legal novice such as Mr. Richardson to unwittingly and unfairly disqualify and discard his potentially key supportive witness Ms Blessing ? 8b. Even if it were a mere "for WHATEVER (CP 274-214) (!)the reason" that Mr. R did not call Ms Blessing, was this remission not furthermore a justice obstruction / serious remission for a reasonable non-biased ALJ/(a leader of the investigation) , to have not encouraged more testimony , especially of an eager, available and promised -to legitimate and key witness, but also legitimate and key witness, not just to honor her direct promise to Ms Blessing but also to help build a more whole record -of-findings as a basis for making a more knowledgeable and fair conclusions/decision?.....9. and (CP 190-273) especially when the ALJ chooses to write-off/dismiss sister Terrone's (in actuality legitimately)-corrected testimony ((falsely assuming Ms T changed it due to her "love for her brother" and reward for his doing better) (CP 190-273) 9b.in addition to discounting prejudicing against) Mr. Richardson's testimony due to legitimate minor ancillary detail assumption/confusion while trying to gather up his memory of greeting his daughter. (Not fair/ignorant to accuse Mr. R of this when the time since the original

event was 2 years later, complicated by the fact that 2 of the other children with Ms. T and Kally that day were walking around , and the 'Kally walking over to Mr. R statement' was arguable legitimately in the context/meaning/bigger purpose is that when baby saw dad she responded positively and simply moved to dad) see discussion (cp?)

STATEMENT OF CASE

More detailed account of the specific august 29th,2005 event (copied from trial court brief /cp)On August 29, 2005, Mr. Richardson admittedly came home more than an hour after a minimal \$10 (see boahearing transcripts) sample of use of crack cocaine, a fast acting, fast-finish drug, particularly at the early-day usage-amount; watched TV for some time, then greeted and spent either "10 to15 minutes" (boatranscripts) minutes with his daughter KMR in the living room of the house , where his sister Ms. Deana Terrone was nearby in the same small house as the babysitter of the day. As per Ms Terrone..."he did not seem high but he may have been"(transcripts pg 64) and ."He did not seem high at any time he was with Kally" (pg 65). When asked "what Mr. Richardson is like when he is high?" Ms. Terrone replied "he is very sweet". Transcripts pg 61) and "he would never hurt Kally" (.pg 62). Ms

Terrone (post her "said wrong things"(62.) "lashed-out"(62.) mode,) admitted her (evidence- substantiated) concerns as follows: "The thing of them being called.. It wasn't because really of Kally's safety. I'm being honest. It was to save my brother's life" (pg 71). In response to the boas questioning as to" how did you (petitioner)feel when you were high on cocaine?' Mr. Richardson's explains how he's normally a hyper person and not unlike giving Ritalin/speed to a hyper person "it calms me down, it softens my nerves... it was a pain management" (pg 41); (this concurs with witness's/any observers' testimonies.)

Defense argues that Mr. Richardson's time with KMR did not pose "risk or potential significant risk to the welfare of a vulnerable person" or Neglect as per the CPS definition; As described in the submitted court record "...the legal actual neglect issue here is how much and if at all he was potentially impacted by his brief -earlier day inhalation. The reality is that minor belated maintenance" traces used to calm and sorta normalize him, in all appearances even to the most skilled behavior experts; it would not be probable to discern difference or impairments. Monty previously had consistently demonstrated repeated sober- while-babysitting trustworthiness....Monty's childcare capacity/intelligence/child-safety history with Kally was stellar/ over the top...9page ?)." Deanna was indeed the assigned babysitter and nearby in the house...within this scenario it is not rightfully valid to assume verifiable impairment of neglect-risk warranting a full-founded, life-long child neglect charge. (Page 64 of case file) " "the honest legal actual neglect issue here is how significantly and if-at-all he was potentially impacted by his brief earlier-day inhalation " (pg 64 case file) (Which by nature of this specific drug at minimal usage, and in the family-nearby scenario in place that day, the risk was likely nil)

Statement of case

1.Complicated and difficult extended family dynamics and numerous inaccuracies in wife's case files precede and influence/bias and impact cps-involved august 29th 05

event/charge. 2;Mr. R , a new father to KMR, had relapsed to active cocaine addiction. and although maintains firm smoking and purchasing boundaries away from.KMR 3.exasperated sister Deana Terrone and wife Janet Blessing despair over failed drug intervention attempts.4, KMR is a much loved, protected and watched 6 mo old girl 5;Mr R, non-noticeably high but with having used a minor amount of a fast-finishing drug cocaine. comes home August 29th 05 post earlier day minor cocaine usage, and spends 10 -15 or 30-45 minutes with KMR in the doorless/blanket -hung living room -with assigned babysitter of the day Deana nearby in the small shared house, gives KMR back to sister Deana and says is returning to work. 6.Deana and KMR go to upstairs room while Monty later goes to use a greater amount of cocaine. ^{in bedroom} 5;Later yet in evening Monty uses cocaine in upstairs shower while Deana and daughter/niece Shyla are down hall in a closed bedroom with KMR and other babies. ^{bedroom and} 6. Deana confronts him in bathroom Mr. R is sorry, drug-sweet, very high and leaves house as was usage pattern.;7. Deana scared for brother, grieving, very angry and ill. Shyla, egged on by mom Deanna (and earlier, perhaps indirectly by aunt Janet) calls cps saying uncle Monty is using cocaine etc . 8. Janet returns home from work to calm normal-appearing KMR and agitated and escalatingly angry Deana whom updates Janet on Mr. R.'s addiction and reports on KMR as "fussy earlier but "fine" 9.

1 Next day CPS visits in response to Shyla's call and Janet's pre-
2 KMR social services search and elucidation of Mr. R's usage to
3 PHN. 10. See earlier brief for fuller details. Deana walks into room
4 (with award-winning, high-drama preface) and mistruths (lies) huge
5 re: both Monty and curiously (anti-drug warrior team-mate/friend)
6 Janet too! 11. Janet is fully dumbfounded and appropriately
7 furious with Deana due to the severity of not only what she has
8 (only started) to say (and continues on extended phone call next day
9) but ^{due to} whom she is actually speaking with- CPS! Janet is also
10 insulted and angry re: cps assistant's calling her an enabler; excited
11 about /for some possible effective addiction intervention and family
12 services; agitated (due mainly because she can't reach a newly
13 met couple (resource whom offered to share about their drug
14 recovery and are) waiting (phoneless) for Ms B and Mr. R in a
15 nearby restaurant)and Ms B is minimally if at all provided any
16 relevant questioning or question answering by Ms Vigessa at this
17 brief and chaotic time 12. Deana was invited to speak to the
18 investigating social worker on the phone the next day... 13. Janet
19 assumed that Deana would have calmed down and provided
20 truthful information the next day and did not discover until much
21 later that Deana had provided even bigger attacking mistruths 14.
22 Ms B expresses that she had repeatedly tried/asked for an
23 opportunity to speak to the allegation, provide info and damage

ms B argues

1 control 15. Ms Vigessa was remiss in allowing Ms Blessing to
2 speak with her (see earlier draft and transcripts of Ms Vigessa
3 being questioned about this). 16. Ms B attempted to contact any
4 relevant cps legal staff and regularly reached only highly protective
5 secretarial staff members; ^{whom} she claims to have experienced a
6 curious full-all-out stonewalling ^{to} inability speak with pertinent CPS
7 "investigators" re what turned to be very wild and serious
8 accusations/talltale-twisting and assumptions/misnomers

9 such as was the ^{charge} ~~fact~~ received below

10 As per Ms Karen Jackson letter cps supervisor "Based on that
11 review, I have concluded that the finding of abuse or neglect is
12 correct. No changes to that finding will be made. the standard of
13 proof within an investigation for abuse and neglect is that of the
14 event being "more likely than not" to have occurred. In review of
15 the case record and by interview of the investigative social worker
16 and supervisor it is my conclusion that you actions have risen to the
17 level of being founded for negligent treatment of your child. My
18 reasoning is as follows. you were witnessed to have used "crack"
19 cocaine while you observed to be under the influence of a narcotic
20 and as such unable to properly care for your daughter. ^(no) Your
21 daughter was observed to have reacted to the smoke from the
22 cocaine by shaking uncontrollably and screaming. ^(no) You are ^(not not this)
23 reported to have apologized for your behavior to the referent. In
24 addition when your daughter had a severe reaction to inhaling ^(no)
25 fumes from your cocaine you failed to insure that Kali was
26 medically evaluated. With these facts (?!!!) in mind it is my
27 conclusion that it is "more likely than not" true that you
28 demonstrated a blatant disregard for your daughter's well-being and
29 as such demonstrated negligent behavior."

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1 "17. Ms Blessing expresses that this severely
2 compromises/prejudices Mr. R and her own capacity to

3

4

5

6 18, Many other factors including severely inaccurate deleterious
7 case-reporting further compromises/thwarts a true light and whole
8 accurate record and ushers in this shock and awe false accusation,

9 As per Ms Karen Jackson letter cps supervisor "Based on that
10 review, I have concluded that the finding of abuse or neglect is
11 correct. No changes to that finding will be made. the standard of
12 proof within an investigation for abuse and neglect is that of the
13 event being "more likely than not" to have occurred. In review of
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18 cocaine while you observed to be under the influence of a narcotic
19 and as such unable to properly care for your daughter. Your
20 daughter was observed to have reacted to the smoke from the
21 cocaine by shaking uncontrollably and screaming. You are
22 reported to have apologized for your behavior to the referent. In
23 addition , when your daughter had a severe reaction to inhaling
24 fumes from your cocaine you failed to insure that Kali was
25 medically ex=valuated. With these facts in mind it is my conclusion
26 that it is "more likely than not" true that you demonstrated a blatant
27 disregard for your daughter's wellbeing and as such demonstrated
28 negligent behavior."

29

30

31 19/. Please read submitted documents . 20. Monty is very
32 embarrassed and apologetic about his addictions.....curiously
33 misquoted/misunderstood re his usage. 20b He did admit to his
34 previous day use as described above but Never did wife hear ,nor

1 Monty confess that he had or ever had used or purchased
2 cocaine in front of daughter . 21. Please read submitted briefs. 22.
3 Yeah cps steps in, social worker keeps tabs accountability on R, J
4 gets needed Childcare services to keep working to pay debts, KMR
5 ultimately gets a very positive, nurturing, stellar Childhaven and
6 less-stressed Mom and healthier, live dad. New CPS social worker
7 is out of our legal cps loop; "investigative"/legal cps hides; (Ms B
8 encounters a cps experienced lawyer at a job-class whom offers
9 pro-bono defense for her (joint case unfortunately separated) and
10 successful with a brief statement from now apologetic and honest
11 Deana.) Deana's mistruths persist sans Lawyer for Monty; dazed
12 and legally confused R is prematurely booted to BOA (see above
13 and other documents re statements and arguments for case. ,
14 Janet eager and present as key support/consult and witness,
15 restlessly awaits this opportunity to finally speak as is promised by
16 Judge but promise broken. ^{Richardson defense argues that} "For whatever reason" is not for
17 whatever reason- but a specific and a not fair reason? AIJ Judge
18 speaks in eye -witness context precluding an eyewitness
19 witnessed (to the event) Monty clueless and maybe accidentally
20 tricked, (see transcripts) ~~Smithereens. Justice smithereens! not~~
21 ~~whole record.~~

1 (Later trial court turns out to be same judge as previously scheduled
2 week apart other trial (on behalf of dog) and already had a bad
3 experience with and likely prejudiced some, some similar themes.)
4 Argument (
5 "Investigate" to examine, study the particulars, attempt to learn
6 the hidden, complex facts etc. This was/is the first vital part of
7 procedure which cps needs to fulfill to determine if a person's
8 actions meet the criteria for a charge including Neglect. (as per
9 rcw) Investigation for the purpose of accurate facts and
10 evidence in light of the whole record. Accurate facts and evidence
11 as per (rcw) so that other persons within the agency and
12 outside the agency can perform their responsibilities make
13 accurate, legitimate judgments re the application and preservation
14 of the charge. Complicating the investigative procedure are the
15 many hidden complexities which admittedly were numerous in this
16 case, thus a deeper broader investigation of motives, history,
17 other relevant testimonies as well as confirming or disconfirming
18 testimonies of the original witness was needed but denied.
19 Despite a key testimonial witness's highly proactive/assertive
20 efforts to provide much needed information (via non-responded
21 phone messages and on site in person attempts to speak with the
22 investigative social worker, and perhaps due to the immense
23 caseload and other work responsibility?) and the subsequent BOA ^{as defense argues}

1 error of the judge ~~MS B~~ and assuring Ms B of her opportunity to
2 witness after validating her inclusion in the a banished key testifier
3 to the waiting room guise

4 Arguments copied from earlier brief (RPCD 173-189)
5 The reason Mr. Richardson need return to this court is that
6 the initial judgment-determining procedures defaulted to surface-
7 level first-impressions and arbitrarily (rcw) reliance on the (later
8 remorseful retracted and explained) angry words of an emotionally
9 unwell-at-the-time sister to an "investigative" social worker whom for
10 whatever reason was unable to carefully investigate(including
11 disallowing eager key person testimony)the neglect suspicion and
12 later persisting charge. - failed to meet the complexities of this
13 case.weredid not reasonable if not lawful invest (A reasonable
14 person of common intelligence would give this court a reasonable
15 common-sense-legal basis to correct/overturn the Review
16 Decision and Final Order issued by the DSHS Board of Appeals on
17 March 19, 2007 or the Decision on Reconsideration issued April 20,
18 2007.

19 Mr. Richardson admitted that he greeted and spent 10-
20 maybe 20 minutes of time in the living room KMR on August 29,
21 2005 later in the afternoon after any He did not ever admit or was
22 there any solid testimony by others of a significant safety-risk level
23 of "high" drug influence with KMR during his brief afternoon visit;
24 He only did admit to later to and Deana only referred later to his
25 later evening post babysitting/off-duty substantial ly high level of
26 cocaine influence.etc (please see above, redundant and out of time
27 too)
28

29 Arguments based on/derived from RP 221-223
30 Cps investigator Susie Vigessa "investigation" was
31 substantially founded on her calling up Deana (naive of Ms.
32 Terrenes motives moreover compromised state or history)
33 and "mainly, um, listened (extensively)to whatever she
34 wanted to her share with me" (transcripts pg 31). When
35 asked at the boa hearing "if she had followed up with Kally's
36 mother..did you talk to her? Ms Vigessa hedges with "I
37 spoke with her at that first date" (a good half minute?) "and
38 then, um..subsequently yes" (maybe2 minutes?) When
39 probed "okay's..Do you recall when you (actually) spoke with
40 her again." Ms Vigessa's shirking accountability to legitimate
41 cps "investigation"carefully hedges "Um -...she called the
42 department a number of times when I wasn't there" (and it
doesn't count that I never return even one call.... or perhaps

1 tell my receptionist not to take any of Kally's mom's calls)
2 "and did , um and I was saying . She was--if I wasn't there
3 immediately (ever at all?) she would call the next person, the
4 backup social worker, the super--(Scott Stueby was an even
5 more remiss charge-non-investigator) had the -she woud just
6 call everybody in the department. (testimonial confirmation
7 that respondent's did indeed try in vain, making more than
8 reasonable effort to solicit a review of mis-findings at the cps
9 agency level) And there was a baseline of anxiety (fury?)
10 that was extremely high in her dealings--always with her
11 dealings with the department" (pg 32

(CP 223)

12 CPS investigator Susie Vigesa was savvy to know
13 that cps social services intervention services to support and
14 stabilize the family would be very helpful and assumed with
15 the limited information she had at the time that a Neglect
16 charge was warranted. Her primary failing as an investigator
17 of this case was that although she had allowed and
18 encouraged extensive accusatory conversation from Ms. T,
19 (as is broached in the transcripts) she repeatedly refused to
20 respond to repeated Ms B's persistent requests to allow Ms
21 B to speak up to the accusations and provide critical
22 information needed for making a true and legitimate
23 judgment/finding. ~~vital~~ Ms . B's testimony/response to specific
24 false allegations/ ~~vital~~ information ^{was vitally} needed to included to
25 provide for a fair legitimate educated legal judgment.,

26 Then history-themes repeat in a similar scenario

1 where the ^{ALJ} excluded Ms B's inclusion at the BOA hearing
2 After Judge Wagner confirms that Mr. Richardson's wife can
3 indeed stay and is named as witness.

4 ^{From RP} "uh is here as a witness "(pg 6) ,and prosecutor Miss Bartlett
5 insists that "I would just ask that she, um wait outside until
6 after she has testified just in that her testimony is um pure
7 and not influenced by anybody's else's inaudible" so then
8 Judge Wagner says "so Ms Richardson if you wouldn't mind
9 waiting. and I'm not sure.--I'm guessing that your
10 attendance probably wouldn't be needed for a few hours ... if
11 you want to wait in the waiting room if it's easier for you to go
12 you know walk around or do something and come back for
13 your testimony.....

14 It is argued that the Petitioner the evidence has
15 exceeded the reasonable burden to prove/substantiate that the
16 agency's action was invalid and that he was substantially
17 prejudiced by the agency failings as per most all the letters of the
18 RCW 34.05.570 violations a,b,c,d,e,g,h,i, Accordingly, his petition
19 for judicial reversal or remand/review should be upheld..

20

1

2 MS BLESSING SHOULD HAVE BEEN NOTIFIED
3 OF THE POTENTIAL CHANGE OF HER PLAN TO
4 WITNESS WHEN IT WAS MADE VERY VERY CLEAR
5 UPON JANET'S INITIAL TIME IN THE ROOM THAT IT
6 WAS VERY IMPORTANT FOR HER TO SPEAK AND THAT
7 MS BLESSING WAS PROMISED AND ONLY LEFT THE
8 ROOM WITHOUT OBJECTION ON A TEMPORARY BASIS
9 AND EAGER EXPECTATION TO ULTIMATELY BE
10 ALLOWED TO TESTIFY. SHE RIGHTFULLY SHOULD
11 HAVE HAD THE OPPORTUNITY TO SPEAK WITH HER
12 LEGAL VULNERABLE/ CONFUSED HUSBAND WHOM
13 HAD MISTAKENLY MISUNDERSTOOD THE CONTEXT OF
14 THE WORD "WITNESS" AND WRONGFULLY ASSUMED
15 THAT HIS WIFE DID NOT QUALIFY UNDER THE BOA'S
16 EXPECTATIONS OF A LEGITIMATE WITNESS. (SEE
17 OTHER DISCUSSION/ARGUMENT (SORRY CAN'T GET
18 FIGURE HOW TO UNDO THIS EXTRA-LARE
19 CAPITALIZATION)

20 A. Response to General Principles Governing Judicial Review

21 RCW 34.05.570(1) provides:

22 (a) The burden of demonstrating the invalidity of
23 agency action is on the party asserting
24 invalidity; We present that upon review of
25 the extensive detailed submissions, we have
26 have well exceeded this burden

27 (b) The validity of agency action shall be
28 determined in accordance with the standards
29 of review provided in this section, as applied to
30 the agency action at the time it was taken;

1 We present that investigational integrity is not a
2 time limited standard; UW social science
3 research re professional investigation
4 procedures and common sense further
5 confirm the compromised legal integrity both
6 pre and post investigation.

7 (d) The court shall grant relief only if it determines that a person
8 seeking judicial relief has been substantially prejudiced by the
9 action complained of. We argue that false recording and faulty
10 investigation as confirmed by a preponderance of the evidence,
11 substantially prejudiced the investigative social worker to arbitrarily
12 preclude testimony which lead to the faulty conviction of Neglect

13
14

15 We ask for relief on behalf of

16 Rcw 34.05.570 (3)

17 a) Yes as has been addressed here and previously,

18 The order, or the statute or rule on
19 which the order is based, is in violation of
20 constitutional provisions on its face or as
21 applied; 1)the neglect if any allegations
22 need to be applied according to the accurate
23 evidence and 2.) constitutional provision of a

1 "fair trial" fair and just access to respond to
2 yoincrminating allegations

3

4 b)? The order is outside the statutory authority or
5 jurisdiction of the agency conferred by any provision of law;

6 Yes but only in the aspect that when Ms Blessing's written
7 appeal to the BOA the boa emphasized Critical-justice
8 scrutiny of cps was apparently outside their authority (as
9 written in the boa as per response letter from boa appeal) .

10 Additionally trial court jurisdiction emphasized that it was
11 outside the jurisdiction of their court (end of trial court RP
12) However No, not in the sense/case that the cps agency
13 was out of authority/jurisdiction because obviously yes
14 determining neglect findings is a key part of their their
15 work/responsibility/ authority.

16 (c) yes . The agency has engaged in unlawful
17 procedure or decision-making process, or has
18 failed to follow a prescribed procedure;
19 Although in many procedural details both
20 agencies and courts strictly adhered to the
21 various codes etc. but Not as has been a
22 consistent theme, not in the vital investigative
23 procedures which by definition of the word

1 Investigation "would necessitate thus
2 negatively biasing the evidence see e below
3
4 (d) half yes. The agency has erroneously
5 interpreted or applied the law; No cps did not
6 erroneously interpret the law and no did not
7 erroneously apply the law to the first impression,
8 but with the argued failed investigative
9 procedures and "in light of the whole" record
10 e) YES! as we have tried to speak up on in all
11 submitted documents. The order is not
12 supported by evidence that is substantial when
13 viewed in light of the whole record before the
14 court, which includes the agency record for
15 judicial review, supplemented by any additional
16 evidence received by the court under this
17 chapter;
18
19
20 (g) YES A motion for disqualification under RCW
21 34.05.425 or 34.12.050 was made and was
22 improperly denied or, if no motion was made,
23 facts are shown to support the grant of such a

1 motion that were not known and were not
2 reasonably discoverable by the challenging
3 party at the appropriate time for making such a
4 motion; The challenging party did not not
5 only have inadequate early cps file facts in the
6 early days, the investigative response and info
7 process was early, we did more than what was
8 reasonable within our limited vantage and
9 capabilities to try to speak up early and
10 effectively. including mr Richardson sincere
11 inabilities re his limited understanding of
12 lost/denied witness viability within the eye
13 witness meaning context and solo pro-se and
14 his limited experience with legal right

15 i. yes (arbitrary) relevance on Ms T's pre-retraction
16 on Ms. V's Arbitrary exclusion of Ms B's testimony
17 asse
18

19 A. Shyla and Deana's letters are the very witnesses from which
20 the cps built their case. This kind of critical
21 inquiry/background info (as provided in these letters as to
22 both Deana's lash-out history) should have been conducted
23 by a competent investigator prior determining guilt. As per

1 Ms Terrone's Boa-response-letter, logically it would post the
2 hearing and seems reasonable that she be allowed to
3 respond. Both letter writers were eager/passionate re their
4 submission and though legally inept , their inclusion seems
5 nevertheless reasonable.,

6

7 the Office of Administrative Hearings.

8 B. This Case Should Be reversed and or in the least
9 Remanded to the Office of Administrative Hearings.

10

11

12 As the CPS and ALJ, as supported by the preponderance of
13 substantiated evidence, is inaccurate on numerous accounts
14 including the allegation of smoking (or drug buying) or being
15 actively cocaine-compromised to the degree of negligence, in the
16 presence KMR his actions based on the comprised creation of the
17 evidence as supported above and in the pages submitted Mr.
18 Richardson did not indeed show the serious disregard for the
19 consequences to KMR of any true and legitimate magnitude as to
20 present a clear and present danger to KMRs health, welfare and
21 safety.

22 Although "When considering whether a clear and present
23 danger exists, evidence of a parent's substance abuse as a

1 contributing factor to negligent treatment or maltreatment shall be
2 given great weight." their was no actual substantiate persisting
3 evidence of clear and present danger towards KMRas per
4 corrected testimony moreover in the protective environment.

5

6

7 3. BOA leaders' mis/mal-action to mislead/trick
8 Petitioner out of essential testimony (to extensive pre-
9 post incident evidence) indeed does constitute error.
10 The context of the boa's inquiry as to whether or not
11 another witnessed to the brief event itself into was
12 the context in which the legally-vulnerable petition
13 admitted that Ms Blessing was not witness to.
14 Because of this misleading Mr. Richardson, it
15 followed that Ms. Blessing was not eligible to be a
16 hearing witness when it fact Ms Blessing was critical
17 for background, character witness,pre-post event
18 evidence etc,. Furthermore Ms Blessings was
19 assured her witness time by the court and was
20 notified by the court or anyone if that had been
21 retracted.d

22

23

1

2 This case involves an issue of first impression, specifically a cps
3 judgment founded on an "investigative" social worker's "findings" on
4 an initial conversation from a highly volatile, sister Ms. Deana
5 Terrone, to an investigative social worker Ms. Suzy Vega. This
6 case also involves an issue of miscommunication: one (of many
7 examples) being that when procedurally allowed a review the
8 Richardson family emphatic and confused responded on the form in
9 writing that yes they wanted to meet for a review with the
10 supervisors with the case. The case file was belated and horrifically
11 shocking to learn of and respond to, and the small page to write on
12 was

13 As per Ms Karen Jackson letter cps supervisor "Based on that
14 review, I have concluded that the finding of abuse or neglect is
15 correct. No changes to that finding will be made. the standard of
16 proof within an investigation for abuse and neglect is that of the
17 event being "more likely than not" to have occurred. In review of
18 the case record and by interview of the investigating social worker
19 and supervisor it is my conclusion that you actions have risen to the
20 level of being founded for negligent treatment of your child. My
21 reasoning is as follows: you were witnessed to have used "crack"
22 cocaine while you observed to be under the influence of a narcotic
23 and as such unable to properly care for your daughter. Your

1 daughter was observed to have reacted to the smoke from the
2 cocaine by shaking uncontrollably and screaming. You are
3 reported to have apologized for your behavior to the referent. In
4 addition , when your daughter had a severe reaction to inhaling
5 fumes from your cocaine you failed to insure that Kali was
6 medically ex=valuated. With these facts in mind it is my conclusion
7 that it is "more likely than not" true that you demonstrated a blatant
8 disregard for your daughter's wellbeing and as such demonstrated
9 negligent behavior."

10 As Ms Jackson as per RCW 34.05.570(3) has indeed the
11 legal responsibility, the legitimate jurisdiction of the cps agency (b),
12 has very reasonably interpreted and applied the law to the alleged
13 facts (d), The curious, unique, hidden complex problem re Ms
14 Jacksons conclusions is that they were based on an unwell This
15 increasingly more complex case involves admission-retraction-
16 correction by the accusing witness herself that her (not under oath)
17 original words to the social work investigator were indeed not
18 factual.

19 The petition for relief is predominately and firstmost founded on
20 (e) that the order is not supported by evidence that is substantial
21 when viewed in light of the whole record before the court. As the
22 initial accuser stepped forth at the BOA (and later follow up in letter)
23 to apologize and provide substantial testimonial evidence as to why

1 and how she lied about each and every misfact which she was the
2 sole provider of; "these facts in mind" which "it is my (ms Jackson's)
3 conclusion that mad it "more likely than not true "that Mr. R
4 demonstrated negligent behavior. Would not this retracted
5 testimony not lead us back again to c)
6
7 The compiling whole record also includes the facts regarding ms
8 Blessing's attempts to submitted (though not meeting with the strict
9 compliance rules of the court and) and rejected
10 Judge Wagner confirms that Mr. Richardson's wife "uh is here as a
11 witness "(pg 6) , prosecutor Miss Bartlett insists that "I
12 would just ask that she,k um wait outside until after she has
13 testified just in that her testimony is um pier and not
14 influenced by anybody's else's inaudible" so miJudge
15 wagner says "so Ms Richardson if you wouldn't mind
16 waitin. and Im not sure. -- I cant tell yuou--you only saidd
17 younly said this is a half day hearing and on the department
18 is goint o ---I'm guessing that you attendance probably
19 woulwaint i the waiting roomif its easier for you to go you
20 know walk around or somethin and come backtestimonywas
21 INDEED present at tIII. MORE SPECIFIC RESPONSE
22 TO SUMMARY OF ARGUMENT
23 A reasonable person of common intelligence would give this

1 court a reasonable common-sense-legal basis to correct/overturn
2 the Review Decision and Final Order issued by the DSHS Board
3 of Appeals on March 19, 2007 or the Decision on Reconsideration
4 issued April 20, 2007. Mr. Richardson admitted that he greeted
5 and spent 10-maybe 20 minutes of time in the living room KMR on
6 August 29, 2005 later in the afternoon after any He did not ever
7 admit or was there any solid testimony by others of a significant
8 level of influence with KMR; He did admit to later- evening post
9 babysitting/off-duty substantial level of cocaine influence.etc
10 (please see above, redundant and out of time too)

11 **V. RESPONSE TO STANDARDS OF JUDICIAL REVIEW**

12 **A. Response to General Principles Governing Judicial Review**

13 RCW 34.05.570(1) provides that the following four principles
14 govern review of all forms of agency action:

15 (a) The burden of demonstrating the invalidity of
16 agency action is on the party asserting
17 invalidity; We present that we have
18 exceeded this burden

19 (b) The validity of agency action shall be
20 determined in accordance with the standards
21 of review provided in this section, as applied to
22 the agency action at the time it was taken;

1 We present that investigational integrity is not a
2 time limited standard; UW social science
3 research re professional investigation
4 procedures and common sense confirm the
5 compromised legal integrity both pre and post
6 investigation.

7 (d) The court shall grant relief only if it determines
8 that a person seeking judicial relief has been
9 substantially prejudiced by the action
10 complained of. False recording and faulty
11 investigation as confirmed by a preponderance
12 of the evident substantially prejudiced the
13 faulty conviction of Neglect.

14
15
16 A reversal/remand is requested as a REASONABLE
17 person reviewing the WHOLE record would be able to
18 see the violations below

19 The the Petitioner, Monty Richardson, and the
20 evidence has exceeded the reasonable burden to
21 prove/substantiate that the agency's action was invalid and that he
22 was substantially prejudiced by the agency failings as per most all

1 the letters of the RCW 34.05.570 violations, Accordingly, his
2 petition for judicial reversal or remand/review should be upheld..

3 A. Shyla and Deanas letters are the very witnesses from which
4 the cps built their case. This kind of critical
5 inquiry/background info (as provided in these letters as to
6 both Deana's lash-out histor) should have been conducted
7 and illucidated by a competent investigater prior determining
8 guilt. As per Ms Terrones Boa-response-letter, logically it
9 was written -post the hearing and seems reasonable that
10 she be allowed to respond to her dismissal of legitimate.
11 Both letter writers were eager/passionate re their submission
12 and though legally enept , the re fortified-testimonial
13 inclusion though ancillary seems nevertheless reasonable.,
14
15 the Office of Administrative Hearings.

16 B. This Case Should Be reversed and or in the least
17 Remanded to the actual cps agency not merely/only the
18 Office of Administrative Hearings.

19
20 incounts including the allegation of smoking (or drug buying) or
21 being actively cocaine-compromisedto the degree of neglegence, in
22 the presence KMR his actions based on the comprised creation

1 (See above)As the CPS and ALJ, as supported by the
2 preponderance of substantiated evidence, is inaccurate on
3 numerous of the evidence as supported above and in the pages
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5 disregard for the consequences to KMR of any true and legitimate
6 magnitude as to present a clear and present danger to KMRs
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8 Although "When considering whether a clear and present danger
9 exists, evidence of a parent's substance abuse as a contributing
10 factor to negligent treatment or maltreatment shall be given great
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13 and submitted case evidence moreover in the protective
14 environment.

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17 out of essential testimony (to extensive pre-post
18 incident evidence) indeed does constitute error.

19 The context of the BOA inquiry as to whether or not
20 another witness existed to the brief event itself into
21 was the context in which the legally-vulnerable
22 petitioner admitted that Ms Blessing was not witness to.
23 Because of this misleading Mr. Richardson, it

1 followed in Mr. Richardson's mind that Ms. Blessing
2 was not eligible to be a hearing witness when it fact
3 Ms Blessing was critical for background, character
4 witness, pre-post event evidence etc,. Furthermore
5 Ms Blessings was assured her witness time by the
6 court and not notified by the court or anyone if that
7 had been retracted.

8

9 4.

10 For the above stated more detailed reasons
11 included in these and the other submissions and for the
12 reason That the Cps agency did not protect a a full and fair
13 investigation on the charges arbitrarily founded on an
14 verifiable and admitted later re-tracted false testifier, further
15 biased by proven verifiable previous and on-going agency
16 case notes, cps investigators refusal to respond to , cps
17 misleading offer of investigative onesided-limited and false
18 evidence review, cps false generalizations/assumptions of
19 Mr. Richardson's apology of drug usage to falsely apply to
20 admissions of guilt of purchase and usage and active
21 influence risk to KMR, inappropriately/prematurely shuffled
22 off to limited jurisdiction boa hearing with false and
23 incomplete investigational evidence whom then

1 exasperated/magnified the investigation failings by
2 misleading/denying key witness testimony of Ms Blessing by
3 tricking Ms. Blessing to wait outside all day which was not
4 objected to as Ms blessing was confirmed/slated before
5 she left a chance to speak later and later mislead/denied
6 her crucial case-investigation testimon via confusing a
7 legally vulnerable Mr. Richardson. Mr. Richardson whom
8 did not know he had the opportunity to any witnesses other
9 than Ms Terrone as he had been mislead by the boa
10 .hearing judge

11

12

13 No. a. The one and only accuser admittedly lied and gave specific
14 and credible reasons why she lied, has a long-time personal family
15 history of similar episodes of angry mistruths (referred to in
16 submitted earlier statements and including a legal statement
17 submitted by daughter Shyla which was procedurely objected
18 to),had given the original correct account of the incident to Ms. B/
19 Mr. R's wife the eve of the incident before the following day CPS
20 visit, had corrected her original not-under oath falsehood with
21 under-oath true correction even later tried to have submitted a
22 further statement contesting the boa's interpretation of her
23 testimony. The wife Ms B. knowing that the agency lacked key

1 substantial information to make a viable accurate statement went to
2 great extent to contact and provide her testimony both at the time of
3 the original investigation and the later Boa Hearing and at both
4 times was denied access to provide key testimony. As detailed in
5 earlier submissions both the agency

6 bThe agency arbitrarily based their "findings on the original.
7 There is no credible accurate reason to disbelieve that the
8 correction of her lies should not be upheld.

9 1. Ms. Terrone did not need to "allegedly downplay her
10 original testimony because she loves her brother and is happy that
11 he got needed help etc...." She emphatically continues to testify
12 that she indeed originally "lost it and said mean things that were not
13 true etc." not "downplay her earlier testimony and when learned of
14 the BOAs unwillingness to believe her
15 Intentions she was grieved, wrote a response statement (submitted
16 but legally opposed see)

17 1. the reasons ms terrene "lost it and said mean things
18 that were not true etc) were highly credible a

19

20 c. Extensive, severe often blazing misfacts documentedly or
21 are an enormous portion of that the cps "records be a red flag that
22 this case be re-investigated/remanded or re

23

1 d. when the cps system legal response system at least by the date
2 of august 29th had apparently been in recent re-evaluation/transitio
3 and had not provided at that time smooth, clear, legitimate access
4 to legal response. That unless the cps-accused has had their child
5 removed (as not the Richardson case) that free or affordable
6 counsel is not available to the accused and furthermore that due to
7 the in-recovery nature and often coexisting factors that this
8 population at large is particularly legally vulnerable to injustice. Is it
9 not vital that when the rare individual who continues to maintain
10 innocence, has blazoning demonstrated also that her

11

12 e. in that the cps legal response does not have an avenue to
13 appeal to them directly, (attempts have been made-and deferred
14 throughout this legal process) yet at each legal response level there
15 has been curious/confusing/convoluting deferring to significant
16 aspects of this (request to vacate) to "that is not within our
17 jurisdiction to decide" which presents to the accused as a

18

19

20 verbatim -recording evidence (inquiry of Ms Vigessa) provide
21 substantial evidence that Ms Vigessa failed to provide adequate
22 investigation of the complex case..

23 As per the very definition of term "investigation" To examine in

1 detail, study or inquire into, systematically, seek or examine in to
2 the particulars of in an attempt to learn the facts about something
3 hidden, unique or complex" (Random House Dictionary), would it
4 not follow that the agency lawfully prescribed
5 procedure/expectation be that the "investigative" social worker
6 "investigate" , study or inquire, seek, examine into the particulars of
7 the child protective case investigative all key persons let alone
8 respond to their persistent attempts to provide key decision-making
9 information?

10

11

12 Conclusion

13

14 An erroneous charge may have proved a useful tool in the
15 preservation and of KMR's family and the fight for Mr. R's life. It is
16 understandable and perhaps even ethical for cps to fudge as
17 needed to get addiction intervention but is argued that it is
18 unnecessary and ultimately counterproductive for the agency (and
19 experience as "dirty pool" to we appellants) to silence key case-
20 witness, ignore or arbitrary refuse legitimate facts etc, disallow fair
21 and ready access to correct a mis "finding". As the neglect charge
22 became suspiciously more-erroneous and much more
23 possible/even probable that the surfaced "in light of the whole

1 "preponderance of evidence" no longer in actuality weighs toward
2 the founded verdict. please allow the problem to be evaluated
3 directly by the actual legitimate decision making persons and
4 solved in a neutral, fair, natural democratic arena where the
5 judgment scales are not so viciously weighted by the party more
6 girded with regulatory expertise, legal-ese etc. Please allow the
7 request on behalf of Mr. Richardson for a motion to vacate or
8 remand the neglect mis-finding.

9 It is argued that the Petitioner the evidence has
10 exceeded the reasonable burden to prove/substantiate that the
11 agency's action was invalid and that he was substantially
12 prejudiced by the agency failings as per most all the letters of the
13 RCW 34.05.570 violations a,b,c,d,e,g,h,i. Accordingly, this petition
14 for judicial reversal or remand/review should be upheld.

15 Thanks, Mr. Richardson's brief writing support Janet Blessing

