FILED
Court of Appeals
Division II
State of Washington
2/15/2018 4:47 PM

NO. 50159-7-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

ANGELA K. SCOUTTEN nka SCHREINER,

Appellant,

v.

MICHAEL J. SCOUTTEN,

Respondent.

RESPONDENT'S BRIEF

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A. Introduction

This is the appeal of a contempt order entered on February 28, 2017 by Commissioner Diana Kiesel. Ms. Schreiner was present and represented by counsel Attorney Kevin Rundle at the hearing. Ms. Schreiner alleges Commissioner Kiesel abused her discretion in finding contempt and bad faith.

Ms. Schreiner is also asking this Court to rule on the validity of a Power of Attorney give to Mr. Scoutten's wife pursuant to RCW 26.09.260(12) delegating parental authority. This matter was decided by Judge Brian Tollefson on April 8, 2016 and never appealed by Ms. Schreiner. It is bad faith for her to attempt to circumvent her failure to appeal by raising this issue within the framework of her appeal regarding the contempt matter.

Angela Schreiner was found in contempt for her failure to comply with the Parenting Plan filed in Pierce County Superior Court on July 24, 2015 as a result of her actions or inactions as follows:

(1) failing to return the child at the conclusion of her residential time as specified;

(2) by taking the child to the emergency room for non-emergency medical issues;

(3) by providing false information to the court regarding individuals who might have spent extensive and perhaps even overnight residential time with the parties' minor child;

(4) continuing her pattern of abusive use of conflict; and

(5) supplying CPS records that do not support her allegations.

B. Assignment of Error

1. Appellants issues pertaining to assignments of errors 1-12 accuse the court of abusing its discretion with regard to the finding of contempt and bad faith and should be dismissed.

2. Appellants assignment of error No. 13 lacks foundation and misconstrues the case law cited.

C. Statement of the Case

This case is an ongoing misuse of our judicial process. Ms. Schreiner is attempting to resurrect issues that were raised and ruled upon and never appealed prior to the court finding her in contempt. She continues the behaviors outlined in the Parenting Plan, (attached as Exhibit A), which are harmful to the parties' daughter and which resulted in her being found in contempt.

Ms. Schreiner was held in contempt of the Parenting Plan simply because she refuses to acknowledge that the Plan signed by Judge Arend, which was appealed and upheld, is controlling for both parties.

D. Argument

This situation is unfortunate in so many ways. The lower courts have attempted to help Ms. Schreiner understanding that her actions are hurting her daughter as well as herself. She refuses to understand and continues to make life uncomfortable for Mr. Scoutten and their daughter.

Angela Schreiner continues to make false allegations of misconduct, especially against Monica Scoutten, which allegations have been shown to be untruthful. She takes actions that she knows violate the Parenting Plan [Exhibit A].

The actions of Ms. Schreiner that led to the finding of contempt are similar to the behaviors which prompted the change of custody from Ms. Schreiner to Mr. Scoutten. Ms. Schreiner appealed that decision but this Court upheld Judge Arend's findings in an unpublished opinion filed October 25, 2016.

The weighing of evidence and the determination of credibility is left to the trier of facts. *In re Welfare of A.W.*, 182 Wn.2d 689, 711, 344 P.3d 1186 (2015).

Ms. Schreiner alleges that Commissioner Kiesel abused her discretion. A court abuses its discretion by exercising it on untenable grounds or for untenable reasons. *In re Marriage of Williams*, 156 Wn. App.22, 27; 232 P.3d 573 (2010).

Commissioner Kiesel had ample evidence to make findings. Ms. Schreiner's failure to return the child; her stated falsehoods to the court regarding a person identified as "future stepfather" yet previously denying any male friend would be around the child; Ms. Schreiner undermining the bond between the step-mother and child; and her continued litigation without just cause creating a financial hardship on Mr. Scoutten. These reasons and findings are not based on untenable grounds nor for untenable reasons. *In re Marriage of Van Camp* 82 Wn. App. 339, 918 P.2d 509 (1996). They are simply based on her continued actions creating conflict.

In reviewing Commissioner Kiesel's Order of February 28, 2017 [Ex. A]. This Court can see that the Commissioner took great pains in identifying not only the wrongful conduct but explaining some of the problems with Ms. Schreiner's conduct.

In re: Marriage of Van Camp the court found that the primary consideration for an award of fees is equitable. The court considered that the contempt action was essentially started in November 2016 and ended February 28, 2017. During that time hundreds of documents were filed and reviewed by the court and throughout that time Ms. Schreiner continued to be untruthful in her allegations. Ms. Schreiner's bad faith and untruthfulness created a financial hardship on Mr. Scoutten. For that reason, Commissioner Kiesel awarded attorney's fees and costs to Mr. Scoutten.

Ms. Schreiner does not deny the reasons she was found in contempt but instead attempts to say she is not in contempt because the events and actions she performed were not against Mr. Scoutten. Ms. Schreiner full well that Monica Scoutten had delegated authority pursuant to RCW 26.09.260(12). The issue of the Power of Attorney was argued and found to be consistent with the statute and was not appealed by Ms. Schreiner [Exhibit B-Order by Judge Tollefson filed 4/8/16]. It is bad faith by Ms. Schreiner to now attempt to circumvent her failure to appeal by raising that issue.

Contrary to Ms. Schreiner's argument she was represented well by Mr. Rundle, her attorney for the contempt hearing. She was afforded due process by having an opportunity to review and present

all of her evidence as to why she should not be found in contempt but failed to present an adequate showing that she did not deliberately violate the Parenting Plan.

E. Conclusion

Mr. Scoutten is requesting the appeal filed by Ms. Schreiner be dismissed in its entirety and that he be awarded attorney's fees pursuant to RAP 18.1(b). Mr. Scoutten should be provided with some relief from all the attorney's fees and costs he has been forced to incur as a result of not only the contemptuous behavior by Ms. Schreiner, but her continued abuse of the judicial process as well.

Respectfully Submitted
this 15 Day of February, 2018

John A. Miller
Attorney for Respondent
WSBA 5741

DECLARATION OF SERVICE

I, Lennette Natucci, make the following declaration:

I am over the age of 18, a resident of Pierce County, and not a party to the above action. On FEBRUARY ___, 2018, I caused to be filed/served a true and correct copy of the foregoing: COA No. 48027-1-II Respondent Michael J. Scoutten's Appeal Brief by e-mail as follows:

Original e-filed with: Court of Appeals, Division II Clerk's Office 950 Broadway, Suite 300 Tacoma, WA. 98402 coa2filings@courts.wa.gov	Copy e-served: Angela Schreiner angieschreiner@gmail.com
Copy e-served:	Angela Schreiner 5105 Grand Loop Way #602 Tacoma, WA 98407

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 15 day of FEBRUARY, 2018 at Fircrest, WA.

Lennette Natucci

Lennette Natucci, Paralegal

LAW OFFICE OF JOHN A MILLER

February 15, 2018 - 4:47 PM

Transmittal Information

Filed with Court:	Court of Appeals Division II
Appellate Court Case Number:	50159-7
Appellate Court Case Title:	Angela K. Scoutten, Appellant v Michael JE Scoutten, Respondent
Superior Court Case Number:	11-3-03452-5

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