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DIVISION II

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No 50889-3-II

STATE OF WASHINGTON

BY _____



DEPUTY

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

Yonathan Hutagalung,

Respondent,

vs.

Jennifer Barnett,

Appellant.

Pierce County Superior Court

Cause No. 16-3-03609-0

The Honorable Judge Kitty Ann van Doorninck

Appellant's Opening Brief

Jennifer Barnett

Pro Se Appellant

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ASSIGNMENT OF ERROR

1. The trial court erred when it ordered Jennifer to deliver the children to the law library for a visit when there was an existing valid foreign protection order in place which prohibited all contact between Yonathan, the restrained individual, and Jennifer and the children, the protected people.
2. The trial court erred by allowing this litigation to go forward after Yonathan admitted on the record, under oath to violating a valid foreign the protection order which completely restrained him from contact with

Jennifer and only allowed him phone contact with the children at 9 am on Saturdays.

3. The trial court erred when it did not exclude the GAL Report from evidence. The Gal Report was due by February 19, 2017 but was not filed until May 17, 2017. Department 20 sent out a letter to the parties but the GAL was not listed in that mailing, even though she was a party.
4. Trial was scheduled for May 30, 2017. Jennifer raised objections to the GAL report on May 22 in her Motion and Declaration for Continuance CP 244-250.
5. The trial court did not have the proof required to remove the children from Jennifer's care.
6. The trial court erred when it allowed pleadings to be proof.
7. The trial court erred when it changed custody on December 2, 2016 absent any proof that the children were in danger of abuse or neglect with their mother.

8. The trial court erred when it made it's Final Order and Findings on August 25, 2018 based on Yonathan's Petition which was not made in good faith and his unlawful actions after the November 29, 2016 hearing.
9. The trial court erred when it compared this case to *In re Marriage of Velickoff*, 95 Wn. App. 346, 968 P.2d 20 (1998)
10. The outrageous course of conduct by the judiciary, and Yonathan Hutagalung have created enormous psychological and emotional turmoil for Jennifer and her relationship with her children, Jennifer has been their
11. The requirements for modification required under RCW 26.09.181 have not been met.

ISSUES PERTANING TO ASSIGNMENTS OF ERROR

1. Under the de novo standard of review, did the court's November 29 Order violate The Full Faith and Credit

clause under Article IV, Section 1 of the United States Constitution?

2. Under the de novo review standard, would the outcome of the case have been different if the trial court had enforced the Valid Foreign Protection Order as statute requires?
3. Did the court err when it allowed for Pleadings to be proof, contrary to RCW 5.40.010?
4. Was the law correctly applied when the Temporary and Permanent Parenting Plans were put into place which limited the mother's contact with the children?
5. Did the commissioner's failure to correctly apply the law have an impact the adverse rulings and judgments presented by Judge van Doorninck on August 25, 2016?
6. Did the trial court abuse it's discretion when it applied RCW 26.09.191 to Jennifer, rather than Yonathan?

STATEMENT OF THE FACTS AND PRIOR PROCEEDINGS

This case started as a Modification of a Parenting Plan issued in Washington County Oregon in May of 2008 Jennifer Barnett, Yonathan Hutagalung who were 9 and 11 years old. The Parenting Plan was entered in Oregon upon the dissolution of their 3.5 year marriage **RP 146-148**.

On September 20, 2016 Yonathan motioned for an Ex Parte Order for Immediate Restraining Order and Hearing Notice **CP 55-67**; as well as a Petition to Change a Parenting Plan **CP 45-54**. This case was heard ex parte on September 20, 2016 in Pierce County Superior Court and Jennifer appeared by phone. There was a hearing scheduled for October 25, 2016 **CP 86-89** and an order entered for neither party to disturb the peace of the other. There were no findings, and it ordered for the parties to

continue to follow the Oregon Parenting Plan. Jennifer attended this hearing telephonically as well.

Jennifer showed the New Mexico court Yonathan's threats to press charges (which would have been false charges) on Jennifer and accusations that Jennifer had stolen from him **CP 79** which he denies **CP 171; CP 175** as well as threats of violence against himself and other members of Jennifer's family **CP 215-219**, many of the text messages in **CP 215-219** contain communications delivered after the Pierce County Superior Court, on Yonathan's, motion entered an order restraining both parties from harassing or disturbing the peace of the other on September 20, 2016 **CP 92-98**.

On October 6, 2016 Yonathan filed a Motion in Pierce County for Contempt against Jennifer, stating that she had not allowed any contact with the children **CP 68-71**.

From September 20, 2016 to October 11, 2016

Since Jennifer and the children were in New Mexico she was not able to provide every other weekend residential time to Yonathan so she provided a schedule for phone contact at ten o'clock am every Saturday and Sunday pending proceedings **CP 114, 115, 116, 118, 119,127,129 RP 173.**

On October 11, 2016 in Bernalillo County New Mexico, Jennifer obtained an Ex Parte Order of Protection against Yonathan **CP 80-85 CP 99-102, CP 298-300.** On November 7, 2016 the case was heard in Bernalillo County District Court with Jennifer present in person and Yonathan present over the phone and his counsel present in the courtroom. Jurisdiction and “probable cause that an act of domestic violence had been committed” were found in court in front of a judge with both parties and their counsel present November 7th,

2016 **CP 298-300** and the Order of Protection was extended for good cause shown.

On November 16, 2016, their daughter's birthday, Yonathan filed an Amended Petition to Change a Parenting Plan **CP 92-98**. He also filed two of the three pages of my protection order on that day.

After taking the children out of school and driving back to Washington to personally appear for the Contempt Hearing, Jennifer filed her Response on November 28, 2016 **CP 138-172.**, and this is where she told Pierce County Court about her protection order **CP 140** and also where she made the mistake of allowing the children to address the court. **CP 147-148, CP 150-153.**

The hearing for contempt and adequate cause was held on November 29, 2016 and was continued to December 2, 2016 **CP 439-440.**

On December 1, 2016 Jennifer, through her court appointed counsel in New Mexico, asked the New Mexico court to dismiss without prejudice her protection order due to the fact that she planned on staying here for this legal battle and until the end of the school year **CP 447**.

At the hearing on December 2, 2016 the commissioner found Jennifer in contempt, found Adequate Cause, issued a Temporary Parenting Plan changing the custodial parent to Yonathan effective immediately and put into place Temporary Orders restricting Jennifer's visitation **CP 176-196**.

After the children's residential placement was changed Jennifer sought help from the court on numerous occasions, in good faith, but was denied relief each time.

The Gal Report was due by February 19, 2017 but was not filed until May 17, 2017. The trial court sent out a letter to the parties but the GAL was not listed in that mailing, even though she was a party **CP 214**.

Trial was scheduled for May 30, 2017. Jennifer raised objections to the GAL report on May 22 in her Motion and Declaration for Continuance **CP 244-250**. Trial took place on August 3 and August 7, 2016. The trial court ruled on August 11, 2016 and the presentation of the rulings was on August 25, 2016

All of the motions brought by Jennifer during this litigation have been good faith attempts at protecting her children and preserving their parent child relationship. This petition painted Jennifer a domestic abuser which is not the case.

Yonathan was aware of the Protection Order **CP 73** and was served with the Protection Order and Notice to Appear by the Puyallup Police **RP 122 RP 175**.

ARGUMENT

The court has a duty to correctly apply the law. In cases where there is a question about the law, cases are generally reviewed using the de novo standard, some issues contained in this brief and in the record may rise to the standard of clearly erroneous.

Based the court's failure to apply the law intended to protect victims of abuse RCW 26.52, along with the courts statement that what Jennifer had described was not domestic violence **CP 491**, it appears as though the trial court in this situation lacks insight as to what domestic violence actually looks like if physical abuse is not presently being perpetrated. I speculate this is because the court does not have enough time or personal understanding to really investigate this wildly complex and baffling social phenomena. It is my hope that

someday, all family courts will have an expert on domestic violence who has a specialized psychological degree so it may assist judicial officials and families in this tiresome process of having to fight for their families while being mentally, emotionally, psychologically, financially, spiritually, and sometimes physically abused by a more aggressive member or previous member of their household, such as a coparent.

One invaluable resource I have found is the Domestic Violence Power and Control Wheel.

This is language taken from **EX 21, RP 221: *The Power and Control Wheel, a publication by The National Center on Domestic and Sexual Violence.***

“Physical and sexual assaults, or threats to commit them, are the most apparent forms of domestic violence and are usually the actions that allow others to become aware of the problem. However, regular use of other abusive

behaviors by the batterer, when reinforced by one or more acts of physical violence, make up a larger system of abuse. Although physical assaults may occur only once or occasionally, they instill threat of future violent attacks and allow the abuser to take control of the woman's life and circumstances.

The Power & Control diagram is a particularly helpful tool in understanding the overall pattern of abusive and violent behaviors, which are used by a batterer to establish and maintain control over his partner. Very often, one or more violent incidents are accompanied by an array of these other types of abuse. They are less easily identified, yet firmly establish a pattern of intimidation and control in the relationship.”

When Jennifer was introduced to this publication in New Mexico while working with a counselor she had to quickly come to terms with the fact that Yonathan had

used all of the tactics listed in the Power and Control Wheel for as long as she had known him, with the exception of the intimidation tactic of displaying weapons, which he did do, but only once on the day Jennifer and the children arrived back from Colorado after their very stressful trip with the broken motor mount **RP 214-216**.

Jennifer then started working with the Albuquerque Domestic Violence Resource Center, and after Yonathan's barrage of threats and other inflammatory and abusive statements sent by Yonathan to Jennifer when she resided in New Mexico from August 23- November 19, 2016, **CP 282**, she filed for a domestic violence protection order, **CP 80-85**. Jennifer was granted an Ex Parte Temporary Order of Protection on October 11 and after Yonathan was served with the protection order **RP 122, RP 175**, the court in New Mexico held a hearing which took place in New Mexico

on November 7, 2016 with Jennifer present in person and Yonathan present on the telephone along with Yonathan's attorney who was physically present in court. At that hearing the judge found Jurisdiction and Probable Cause to extend the Temporary Order of Protection and Order to Appear **CP 298-300**. This order was still valid on November 29, 2016 when Yonathan violated the protection order sections 1,2,4,5 and 6 **CP 464** after the commissioner unlawfully ordered for a visit which he participated in.

Yonathan falsely alleged that the Protection Order was frivolous and rather than allowing Jennifer Full Faith And Credit under the law and enforcing the protection order which called for the arrest and prosecution of the offender, the court ignored the Protection Order on November 29, 2016, and put the children in the residential custody of Yonathan the day after she dismissed her protection order because she was here

fighting a bad faith contempt motion in Washington, rather than reestablishing her household in New Mexico, where she actually felt safe for the first time since 2004 when at the age of 23 she met Yonathan. That was the year after his application for political asylum was denied **RP 146-147.**

The telephonic harassment, threats, and intentional infliction of emotional harm that Jennifer had been enduring are recognized as domestic violence in New Mexico, evident by the protection order, as well as here in Washington, briefly highlighted below. The Pierce County Superior Court had a legal obligation to obey RCW 26.52 and give Jennifer's Valid Foreign Domestic Violence Protection Order Full Faith and Credit as RCW 26.52 mandates.

26.52.005

Findings—Intent.

The problem of women fleeing across state lines to escape their abusers is epidemic in the United States. In 1994, Congress enacted the violence against women act (VAWA) as Title IV of the violent crime control and law enforcement act (P.L. 103-322). The VAWA provides for improved prevention and prosecution of violent crimes against women and children. Section 2265 of the VAWA (Title IV, P.L. 103-322) provides for nationwide enforcement of civil and criminal protection orders in state and tribal courts throughout the country.

The legislature finds that existing statutes may not provide an adequate mechanism for victims, police, prosecutors, and courts to enforce a foreign protection order in our state. It is the intent of the legislature that the barriers faced by persons entitled to protection under a

foreign protection order will be removed and that violations of foreign protection orders be criminally prosecuted in this state.

[1999 c 184 § 2.]

26.52.010

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Domestic or family violence" includes, but is not limited to, conduct when committed by one family member against another that is classified in the jurisdiction where the conduct occurred as a domestic violence crime or a crime committed in another jurisdiction that under the laws of this state would be classified as domestic violence under RCW

10.99.020

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of

whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Foreign protection order" means an injunction or other order related to domestic or family violence, harassment, sexual abuse, or stalking, for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person issued by a court of another state, territory, or possession of the United States, the Commonwealth of

Puerto Rico, or the District of Columbia, or any United States military tribunal, or a tribal court, in a civil or criminal action.

(4) "Harassment" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as harassment or a crime committed in another jurisdiction that under the laws of this state would be classified as harassment under RCW 9A.46.040.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays in Washington state.

(6) "Person entitled to protection" means a person, regardless of whether the person was the moving party in the foreign jurisdiction, who is benefited by the foreign protection order.

(7) "Person under restraint" means a person, regardless of whether the person was the responding party in the foreign jurisdiction, whose ability to contact or communicate with

another person, or to be physically close to another person, is restricted by the foreign protection order.

(8) "Sexual abuse" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as a sex offense or a crime committed in another jurisdiction that under the laws of this state would be classified as a sex offense under RCW 9.94A.030.

(9) "Stalking" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as stalking or a crime committed in another jurisdiction that under the laws of this state would be classified as stalking under RCW 9A.46.110.

(10) "Washington court" includes the superior, district, and municipal courts of the state of Washington.

[1999 c 184 § 3.]

26.52.020

Foreign protection orders—Validity.

A foreign protection order is valid if the issuing court had jurisdiction over the parties and matter under the law of the state, territory, possession, tribe, or United States military tribunal. There is a presumption in favor of validity where an order appears authentic on its face.

A person under restraint must be given reasonable notice and the opportunity to be heard before the order of the foreign state, territory, possession, tribe, or United States military tribunal was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was given as soon as possible after the order was issued, consistent with due process.

[1999 c 184 § 4.]

26.52.070

Violation of foreign orders—Penalties.

(1) Whenever a foreign protection order is granted to a person entitled to protection and the person under restraint

knows of the foreign protection order, a violation of a provision prohibiting the person under restraint from contacting or communicating with another person, or of a provision excluding the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime, is punishable under RCW

26.50.110.

(2) A peace officer shall arrest without a warrant and take into custody a person when the peace officer has probable cause to believe that a foreign protection order has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order that prohibits the person under restraint from contacting or communicating with another

person, or a provision that excludes the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

RCW 5.40.010

Pleadings do not constitute proof.

Pleadings sworn to by either party in any case shall not, on the trial, be deemed proof of the facts alleged therein, nor require other or greater proof on the part of the adverse party.

26.52.080

Child custody disputes.

(1) Any disputes regarding provisions in foreign protection orders dealing with custody of children, residential placement of children, or visitation with children shall be resolved judicially. The proper venue and jurisdiction for such judicial proceedings shall be determined in accordance with chapter 26.27 RCW and in accordance with the parental kidnapping prevention act, 28 U.S.C. 1738A.

(2) A peace officer shall not remove a child from his or her current placement unless:

(a) A writ of habeas corpus to produce the child has been issued by a superior court of this state; or

(b) There is probable cause to believe that the child is abused or neglected and the child would be injured or

could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050.

[1999 c 184 § 10.]

26.52.900

Short title—1999 c 184. This act may be known and cited as the foreign protection order full faith and credit act.

[1999 c 184 § 1.]

RCW 26.50.010

Definitions.

(3) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member

RCW 9A.04.110

Washington CRIMINAL CODE Definitions.

(28) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

- (g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or
- (i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
- (j) To do any other act which is intended to harm substantially the person threatened or another with respect to his or her health, safety, business, financial condition, or personal relationships;

RCW 26.50.110

Violation of order—Penalties.

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,

26.09, 26.10, 26.26, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

- (i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;
- (ii) A provision excluding the person from a residence, workplace, school, or day care;
- (iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

- (iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or
- (v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

RCW 26.50.120

Violation of order—Prosecuting attorney or attorney for municipality may be requested to assist—Costs and attorney's fee.

When a party alleging a violation of an order for protection issued under this chapter states that the party is unable to afford private counsel and asks the prosecuting attorney for the county or the attorney for the municipality in which the order was issued for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court

may require the violator of the order to pay the costs incurred in bringing the action, including a reasonable attorney's fee.

RCW 26.09.191

Restrictions in temporary or permanent parenting plans.

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW **26.50.010(3)** or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW **26.50.010(3)**

(4) In cases involving allegations of limiting factors under subsection (2)(a)(ii) and (iii) of this section, both parties shall be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties.

RCW 9A.46.110 Stalking:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly harasses or repeatedly follows another person; and

(b) The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person.

The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person; or

(ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

6(c) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

(d) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against,

harassment of, contact or communication with, or physical proximity to another person.

RCW 10.14.020 Harassment:

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

"Course of conduct" includes, in addition to any other form of communication, contact, or conduct, the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally

protected activity is not included within the meaning of "course of conduct."

(2) "Unlawful harassment" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or, when the course of conduct would cause a reasonable parent to fear for the well-being of their child.

Yonathan falsely alleged that the Protection Order was frivolous and that statement determined the course of this case rather than allowing Jennifer Full Faith And Credit under the law and enforcing her valid protection order which allowed for the arrest and prosecution of the

offender, the court ignored the Protection Order on November 29, 2016, and put the children in the residential custody of Yonathan, who is an abuser **RP 146-147**. This should have never happened. There are safeguards in place meant to protect people from this type of systemic abuse. Articles, codes, laws and procedures were all violated in this case. Some of the laws which have been violated by the judicial officers or Yonathan during this case are inserted above, the list, however is not exhaustive. Jennifer's Constitutional provision **Article IV, Section 1 of the United States Constitution**, providing full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

CODE OF JUDICIAL CONDUCT

TERMINOLOGY

The first time any term listed below is used in a Rule in its defined sense, it is followed by an asterisk (*).

“Law” encompasses court rules as well as statutes, constitutional provisions, and decisional law.

“Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge.

“Impropriety” includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge’s independence, integrity, or impartiality.

Scope [6] Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. It

is recognized, for example, that it would be unrealistic to sanction judges for minor traffic or civil infractions.

Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules. The relevant factors for consideration should include the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, including the willfulness or knowledge of the impropriety of the action, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE
INDEPENDENCE, INTEGRITY, AND
IMPARTIALITY OF THE JUDICIARY, AND SHALL

AVOID IMPROPRIETY AND THE APPEARANCE OF
IMPROPRIETY.

RULE 1.1 Compliance with the Law A judge shall
comply with the law,* including the Code of Judicial
Conduct.

COMMENT

See Scope [6].

RULE 1.2 Promoting Confidence in the Judiciary A
judge shall act at all times in a manner that promotes
public confidence in the independence,* integrity,* and
impartiality* of the judiciary, and shall avoid impropriety
and the appearance of impropriety.*

COMMENT

[1] Public confidence in the judiciary is eroded by
improper conduct. This principle applies to both the
professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.

[3] Conduct that compromises the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely

on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

[6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

CANON 2

A JUDGE SHOULD PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.2 Impartiality and Fairness A judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.*

COMMENT [1] To ensure impartiality and fairness to all parties, a judge must be objective and openminded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question. [3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

[4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.

Washington's Supreme Court

In the case of *In re McDole*, 122 Wn.2d 604, 859 P.2d 1239 (1993) the Supreme Court of Washington shows us that "First, statutes and case law have established a strong presumption against placement modifications because

changes in residential placement are highly disruptive to children. See RCW 26.09.002 (defining "best interest of the child"); RCW 26.09.260 (establishing the standard for modification); RCW 26.09.270 (providing that a modification action may not even be pursued unless the trial court initially finds "adequate cause" to proceed with the action)"...." The modification statute was rewritten by the Parenting Act of 1987, Laws of 1987, ch. 460, § 19; amended in 1989, Laws of 1989, ch. 318, § 3, Laws of 1989, ch. 375, § 14; and in 1991, Laws of 1991, ch. 367, § 9. The substance of the pertinent provisions, subsections (1) and (2)(c), has not changed, although the numbering of the statutory sections has changed.

Subsection (2)(d) (formerly subsection (1)(d)) sets forth the standard to be applied in cases where one parent interferes with the other parent's residential time with the child. That subsection requires the residential placement to be retained unless:

The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.”

Conclusion

Jennifer Barnett loves being a mom. It’s what she has done since she was 18, and as time goes on, just like any parent trying their absolute best, she gets better at her God given job of being a mother. She loves her kids, she has always tried to nurture a relationship between them and their father and hated the idea of becoming a single mom with three children over 10

years ago, but she had to for the sake of her and her children's mental, emotional and physical safety.

Jennifer is certainly not without mistakes but always learns from her mistakes and improves as a human being. What Yonathan is saying here, is that "out of the blue", with no reason or warning, Jennifer just left. That is absolutely not true, and her track record over the last decade as outlined in the Report of Proceedings proves that she has worked very hard to facilitate a relationship between the children and their father.

Jennifer Barnett respectfully asks the Court of Appeals Division II to review this record and any other record the court shall deem appropriate, and find that the only acceptable resolution for the errors of law presented herein be a reversal.

Jennifer asks for the relief of reversal in two ways.

1. Reverse the trial court orders so her family unit is reunified along with her life, liberty and the pursuit of happiness.
2. Reverse the courts orders so that all of the same orders, judgments, and findings which have been placed on Jennifer are likewise placed on Yonathan.

Yonathan started this proceeding in bad faith by providing a proposed parenting plan with the intent to sever the secure and loving relationship which Jennifer and her children used to share.

RCW 26.09.260(13) States that if the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party.

Respectfully Submitted on March 2, 2018

A handwritten signature in black ink, appearing to read 'J. Barnett', is positioned above a solid horizontal line that spans the width of the signature.

Jennifer Barnett

Pro Se Appellant