

**FILED
Court of Appeals
Division II
State of Washington
5/28/2019 8:00 AM**

No. 52019-2-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

JEREMY HOLLIS,

Appellant

v.

ELIZABETH GOODWIN,

Respondent

REPLY BRIEF OF APPELLANT

Margaret Brost, WSBA # 20188
Gravis Law, PLLC
1800 Cooper Point Rd SW, Bldg 18
Olympia, WA 98502
360.685.8115

Attorney for the Appellant
Jeremy Hollis

TABLE OF CONTENTS

TABLE OF CONTENTS..... i
TABLE OF AUTHORITIES..... ii
1. Issues Pertaining for Protection Order 1
 a. Items 1 - 3: 1
 b. Item 4 1
 c. Item 5: 2
 d. Item 6: 3
 e. Item 7: 3
 f. Item 8: 4
 g. Items 9-11: 5
 h. Item 12: 5
2. The "injury" to the child's wrist was a minor sprain and was the result of reasonable discipline. Any pain was transient and any mark temporary. 5
3. Erroneous finding of psychological harm 7
4. Fear of imminent physical harm not reasonable 8
5. CONCLUSION: RELIEF SOUGHT 9

TABLE OF AUTHORITIES

Statutes

WAC 388-15-009(2) 6

Counsel, on behalf of Appellant, Jeremy Hollis, files this Reply to the Brief of Respondent, Elizabeth Goodwin, filed on March 6, 2019. Appellant addresses the following issues raised by Respondent.

1. Issues Pertaining for Protection Order

a. Items 1 - 3:

These items are uncited. In addition, the time frames referenced cannot be ascertained. Further, even if the child's behavior is being accurately described, there is no basis to make a causal connection to the Jeremy's actions. Moreover, Item 3 seems to indicate that the mother was causing distress to the child herself.

b. Item 4

While the facts in this item are not disputed, Jeremy had no knowledge that the child was having "outbursts and emotional breakdowns" in 2015. RP 60. He was not included in the decision to obtain counseling for her. RP 60 (A clear violation of the

parenting plan by the mother). He was also not invited to participate in any counseling session, despite the fact that he was having regular parenting time with the child during that period. RP 60.

c. Item 5:

This item has no reference to the actual date of the disclosure and given its proximity to Item 4, gives the mistaken impression that it was made about the same time, when in fact it was made at least **two years later**. (October 2017) RP 13; 44-46; 50. Also, missing is any context for the writing, discovered under the child's bed, apparently made in the course of therapy, which alleged abuse that had occurred some **7 years earlier**, when the child was 5 or 6 years old.

This item is misleading since no professional has ever opined that the child's behavior and psychological issues are the result of abuse by anyone, let alone by the father. Moreover, the

Commissioner expressly declined to make a finding of sexual abuse by the father.

d. Item 6:

This item is not cited. Moreover, it is self-serving vague hearsay by the mother and suggests a causal connection for which there is no evidence. This is a child that is very troubled and who has difficulty in school and with her peer relationships including peers who often talk about suicide. CP 98. She admits to lying and acknowledges that it is reasonable to question her veracity. CP 90.

e. Item 7:

This item (also not cited), while not disputed, gives the mistaken impression that a professional had determined that the child suffered trauma at the hands of her father. The medical note dated, 06/29/2017, (CP 105) is merely documentation of the mother's report to the provider. In it the provider accurately described it as "remote" in time and

drew no conclusions from the mother's self-serving report.

There has been no active investigation whatsoever into the allegations made by the child. The prosecuting attorney has yet to take any action. CPS, which issued a "founded" letter did so based solely on the mother's hearsay statements and without any discussion with Jeremy. It closed its case consistent with its policy of "believing the child" and closing cases within 60 days. The finding is currently on an administrative appeal. Case Number 3579001.

f. Item 8:

It is undisputed that the child is troubled. However, this child has a long history of mental health issues including: Hallucination, Visual, Auditory Hallucination, Major Depressive Disorder, Deliberate Self-Cutting, Ptsd, Severe episode of Recurrent Major Depressive Disorder, without Psychotic Features. CP 101. No professional has

ever suggested that her mental health issues were caused by sexual abuse.

g. Items 9-11:

Jeremy disputes the characterization of the incidents described by declarations of Ayden and Mycah. Neither declaration was introduced into evidence and no testimony was given. RP 7-8. The Commissioner did not comment on the declarations and they do not appear to have been considered by the court. They are essentially irrelevant in this appeal.

h. Item 12:

This item is not cited. It alleges facts not in evidence and irrelevant in any case. It is not part of the record and should be ignored.

2. The "injury" to the child's wrist was a minor sprain and was the result of reasonable discipline. Any pain was transient and any mark temporary.

The Washington Administrative Code requires consideration of several factors including the

nature of the misconduct and the child's developmental level. WAC 388-15-009(2).

In this situation, the child was 12 years old and certainly old enough to know that stealing is wrong. Good parents talk to their children about misdeeds. This child refused to speak with her father about the incident. She actively defied him by her refusal to get out from under the covers in her bed. Then, when he tried to pull her up she actively resisted (RP 58), likely contributing to any injury she sustained as a result.

Assuming that the wrist sprain was indeed the result of the tussle between the father and child, his brief and singular attempt to get her out of bed was not excessive or unreasonable. He did not strike the child, nor did he use excessive force. There is no evidence whatsoever that a wrist sprain is anything other than temporary or that it causes more than minor discomfort. When CPS investigated the incident, they issued an "unfounded" letter.

The CCPourt Commissioner erred when he characterized the incident as unlawful discipline.

3. Erroneous finding of psychological harm

No professional has suggested that the child's emotional issues are the result of anything that the father did.

Both the Court Commissioner and the Superior Court judge have declined to make a finding of sexual abuse by the father. There is also no evidence that the child's suicidal ideation was related to not wanting contact by her father as opined by the Court Commissioner. In fact, until the mother took the child to the police to make a report, the child had never indicated that she wanted no contact whatsoever with her father. She had been calling him on her own initiative with no indication of any fear whatsoever. RP 59. Although she had not reached out to him to resume residential time, she had never complained about the loving cards he delivered to the school. No teacher, or

counselor has ever reported or even suggested, that the child was fearful of the father. There was no basis for the conclusion of psychological harm nor a need to enter a restraining order to prevent contact by the father.

4. Fear of imminent physical harm not reasonable

The child had not had direct contact with her father for 21 months before the December 6, 2017 hearing and the erroneous finding by the Commissioner of an imminent fear of physical harm. The parenting plan entered 18 months prior gave the child control over whether she would have residential time with her father and there was no attempt by the father to change the plan or to ask that she spend time with him. The only thing that had changed was that the mother had involved the child in making a police report alleging abuse many years earlier by the father. In the intervening 6 months between being served with a restraining

order and the hearing, the father had done nothing except hire an attorney to represent him at the hearings.

Even assuming that the child's half-brother's allegations are credible, there is no evidence that because they might have been physically disciplined, that the child would be similarly disciplined. In fact, the only time the father had tried to physically control the child, he quickly stopped when she resisted. There is no basis to reasonably conclude that there is an imminent threat of harm.

Instead, the mother's fear of harm is entirely based on the child's suicidal behavior which is unrelated to anything that the father had done or was likely to do.

5. CONCLUSION: RELIEF SOUGHT

There is insufficient evidence to support a finding of infliction of fear of imminent physical harm. Jeremy asks this Court to reverse

the trial court's denial of his motion to revise
and dismiss the domestic violence protection
order entered against him.

DATED this 24 day of May, 2019

Respectfully submitted,



MARGARET BROST
WSBA No. 20188
Gravis Law, PLLC
1800 Cooper Point Road
SW, Bldg 18
Olympia, WA 98502
360.685.8115

DECLARATION OF SERVICE

On said day below, I e-filed a true and accurate copy of the Brief of Appellant in Court of Appeals, Divison II, Case No. 52019-2-II, and mailed to the following parties:

Elizabeth Goodwin
3600 14th Ave SE
#18-104
Olympia, WA 98501
Email:

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

DATED this 24 day of May, 2019,

at Olympia, WA



Amber Macki
Case Coordinator
Gravis Law, PLLC

BROST LAW, PC

May 24, 2019 - 5:00 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 52019-2
Appellate Court Case Title: Elizabeth Earlene Goodwin, Respondent v Jeremy Dale Hollis, Appellant
Superior Court Case Number: 17-2-30438-4

The following documents have been uploaded:

- 520192_Briefs_20190524165948D2164539_3688.pdf
This File Contains:
Briefs - Petitioners Reply
The Original File Name was brf_appeal_Reply_190518_2152.pdf

Comments:

Sender Name: Amber Macki - Email: email@brostlaw.com

Filing on Behalf of: Margaret H. Brost - Email: email@brostlaw.com (Alternate Email: email@brostlaw.com)

Address:
1800 Cooper PT RD SW #18
Olympia, WA, 98502
Phone: (360) 357-0285

Note: The Filing Id is 20190524165948D2164539