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Court of Appeals
Division II
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NO. 52833-9-11

IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON DIVISION II

DAVID D. BLUHM
Pro Se Petitioner/Appellant

v.

SAMANTHA L. STARKEY (f/k/a PETRONAVE)
Respondent/Appellee

Appeal from the Superior Court of Washington
In and for the County of Kitsap

RESPONDENT'S OPENING BRIEF

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I. Response to Appellant's Assignment of Error

The Kitsap County trial court properly granted Mrs. Starkey's Motion for Relocation, modified the parenting plan based on that relocation, and ordered child support according to the statutory guidelines. Mrs. Starkey, by and through her counsel, entered orders consistent with the trial court's decision. The Kitsap County trial court properly denied Mr. Bluhm's request for relief in his post-trial Motion for Reconsideration.

First, the trial court properly denied Mr. Bluhm's Motion for Reconsideration filed following the trial court's decision, under CR59.

In Mr. Bluhm's Motion for Reconsideration, he cited to RCW 59(a)(3) and RCW 59(a)(8). Mr. Bluhm argues that during the course of trial there was "[a]ccident or surprise which ordinary prudence could not have guarded against," and that the trial court made an "[e]rror in law occurring at the trial and objected to at the time by the party making the application..." Mr. Bluhm's motion did not plead an error in law nor did he plead any occurrence of an accident or surprise that would be supported by statute in such a motion. The trial court properly denied Mr. Bluhm's Motion for

Reconsideration.

Second, the trial court properly interpreted RCW 26.09.520 and analyzed each individual factor of the statute in its decision. The trial court made express findings regarding relocation and the extent to which an analysis of the minor child's best interests impacts the court's decision on relocation.

Third, the trial court properly interpreted RCW 26.19.020, RCW 26.19.035, RCW 26.19.065 and RCW 26.19.071. The trial court properly found that both Mr. Bluhm as well as Mrs. Starkey were voluntarily unemployed, or underemployed and then calculated their individual income according to statute.

Fourth, the trial court did not err as it relates to any findings regarding religious beliefs of the minor child. The trial court properly found that each parent is entitled to practice the religion of their choosing when the minor child is in their care. The trial court went to great lengths to make that clear for both parties.

Fifth, the trial court properly found that the Final Parenting Plan entered on October 3, 2018, comported with RCW 26.09.187. The trial court properly found that the Final Parenting Plan was in the best interests of the minor child. Additionally, the trial court found that Mr. Bluhm failed to meet his burden of proof and failed to overcome the rebuttable presumption in favor of the relocating primary parent per RCW 26.09.520. The trial court considered and expressly addressed the issues that Mr. Bluhm raises as they relate to the court's consideration of best interests.

Lastly, the trial court did not err in regard to allowing proposed orders to be circulated the day of Final Presentation. There was no abuse of discretion. Notwithstanding the issue raised regarding proposed orders, in preparing and reviewing documents for appeal, it became clear that the Final Parenting Plan currently filed with the Kitsap County Superior Court is inadvertently missing language, to include the Mandatory Warnings:

“Warning! If you don't follow this *Parenting Plan*, the court may find you in contempt (RCW 26.09.160). You still have to follow this *Parenting Plan* even if the other parent doesn't. Violation of **residential** provisions of this order with actual knowledge of its terms is punishable by contempt of court and may

be a criminal offense under RCW 9A.40.060(2) or 9A.40.070(2). Violation of this order may subject a violator to arrest.”

The failure to include the above-referenced language is akin to a scrivener’s error and could be properly addressed through a CR 60 Motion. Alternatively, Ms. Starkey is prepared to enter an agreed Amended Final Parenting Plan to include the inadvertently missing language.

II. Issues Presented

- A. WHETHER A MANIFEST ABUSE OF DISCRETION EXISTS WHEN THE TRIAL COURT PROPERLY INTERPRETED RCW 59(a)(3) and RCW 59(a)(8) AND DENIED THE PETITIONER’S MOTION FOR RECONSIDERATION.
- B. WHETHER A MANIFEST ABUSE OF DISCRETION EXISTS WHEN THE TRIAL COURT PROPERLY RELIED UPON THE STATUTORY FACTORS DELINEATED IN RCW 26.09.520, FINDING THAT THE PETITIONER FAILED TO MEET HIS BURDEN OF PROOF.
- C. WHETHER A MANIFEST ABUSE OF DISCRETION EXISTS WHEN THE TRIAL COURT PROPERLY RELIED UPON THE STATUTORY FACTORS DELINEATED IN RCW 26.19.020, RCW 26.19.035, RCW 26.19. 065 and RCW 26.19. 071, TO MAKE A FINDING REGARDING CHILD SUPPORT.
- D. WHETHER A MANIFEST ABUSE OF DISCRETION EXISTS IN REGARD TO ADDRESSING THE PARTIES’ FREEDOM OF RELIGION AND THEIR ABILITY TO

PRACTICE FREELY WITH THE MINOR CHILD.

E. WHETHER A MANIFEST ABUSE OF DISCRETION EXISTS WHEN THE TRIAL COURT PROPERLY RELIED UPON THE STATUTORY FACTORS DELINEATED IN RCW 26.09.271, WHEN IT FOUND THAT THE FINAL PARENTING PLAN WAS IN THE BEST INTERESTS OF THE MINOR CHILD.

F. WHETHER A MANIFEST ABUSE OF DISCRETION EXISTS WHEN THE TRIAL COURT ENTERED A FINAL PARENTING PLAN THAT WAS INADVERTENTLY MISSING LANGUAGE.

III. Statement of the Case

The parties in this action were never married. They have one minor child together, a daughter named Ezri who was born on June 8, 2008. Mr. Bluhm initiated a Petition for a Parenting Plan with the Kitsap County Superior Court on October 7, 2010. An agreed Final Parenting Plan, Findings of Fact and Conclusions of Law, and Final Order of Child Support were signed by the parties and entered by the Court on December 2, 2011.

The agreed final orders from 2008 remained in place until 2018. Mrs. Starkey filed a Notice of Intent to Relocate on May 3, 2018. Mr. Bluhm filed and served his objection to relocation on June 4, 2018. In that objection Mr. Bluhm requested a major modification proposing that Mrs. Starkey no longer be the primary residential

parent.

¹ The brief refers to the verbatim reports as follows: 1RP – Transcript of trial court’s ruling dated September 4, 2018. 2RP – Post Trial Presentation of Orders Transcript dated September 28, 2018.

This matter went to trial in Kitsap County Superior Court on August 21, 2018. The court made the following ruling after trial:

Ms. Starkey request to relocate to Albany, Oregon with Ezri was granted. Mr. Bluhm failed to meet his burden under RCW 26.09.520. Mr. Bluhm failed to meet his burden in regard to demonstrating that the detrimental effect of a relocation outweighs the benefit of the change in location to child *and* to the relocating parent. Mr. Bluhm failed to establish that the relocation would have a detrimental impact on the relative strength, nature, quality, extent of involvement, and the stability of Ezri's relationships with important people in her life such that it would outweigh the benefit of the relocation. *RCW 26.09.520(1)*.

The Court found that the agreed parenting plan from December 2, 2011 served the child's best interests and that there was no reason for the Court to disrupt Ms. Starkey being the primary residential parent. Based on the findings made in regard to the 2011 parenting plan the Court found that Mr. Bluhm failed to demonstrate that the detrimental effect of the relocation would outweigh the benefit to the child and the moving person. *RCW 26.09.520(2)*.

The GAL was unequivocal about the

child's preference to remain with her mother. The evidence presented showed that disrupting the contact between Ezri and Ms. Starkey, the primary parent, would be more detrimental to Ezri than disrupting her contact with Mr. Bluhm, as she resides with him the least. *RCW 26.09.520(3)*.

Neither party was subject to 191 restrictions. *RCW 26.09.520(4)*.

Both parties acted in good faith in regard to bringing and objecting to the action. *RCW 26.09.520(5)*.

The Court found that the evidence presented failed to demonstrate that the relocation would have a detrimental effect on the emotional development and the educational and physical needs of Ezri. *RCW 26.09.520(6)*.

A relocation to Albany, Oregon would enhance Ms. Starkey's quality of life and allow her to reside with her husband. There was no evidence presented to demonstrate that the detrimental effect of the relocation would outweigh the benefit of the change to the child and the relocating person. *RCW 26.09.520(7)*.

There are alternative means of communication that would provide for additional contact between Mr. Bluhm and Ezri via new forms of technology outside of what is provided for as residential time in the parenting plan. Alternative means of communication

can assist in Mr. Bluhm and Ezri continuing to maintain their bond and meaningful relationship. *RCW 26.09.520(8)*.

In regard to alternatives to relocation, it is not feasible for Mr. Bluhm to relocate to Albany, Oregon. Mr. Bluhm has a developing business in this state and resides with his significant other in University Place which impacts his ability to relocate. Additionally, it is not practical for Ms. Starkey to make an alternative arrangement regarding relocation as that would necessitate her to live apart from her husband. The evidence presented at trial did not provide for alternatives to relocation nor did the evidence demonstrate that the detrimental effect of the relocation outweighs the benefits of the change to the child and Ms. Starkey. *RCW 26.09.520(9)*.

Mr. Bluhm indicated that the travel involved in a long-distance parenting plan would be financially difficult for him. Ms. Starkey is seeking to relocate to be with her husband who is already fully established in Albany, Oregon. The Court found that there was not significant evidence presented at trial to demonstrate that the detrimental effect of relocation outweighs the benefit of the change to Ezri and Ms. Starkey. *RCW 26.09.520(10)*.

RCW 26.09.520(11) does not apply to the present case.

Ezri is permitted to relocate to Albany, Oregon with Ms. Starkey.

Mr. Bluhm failed to establish that the child's present environment is detrimental to the child's physical, mental, or emotional health. Mr. Bluhm has failed to meet his burden of proof as to his Petition to Modify Parenting Plan.

In analyzing RCW 26.09.187(3)(a)(i), the Court found that while both parents are well-bonded to Ezri, the GAL's testimony in addition to other evidence presented during trial substantiates RCW 26.09.520(1) in favor of Ms. Starkey remaining the primary residential parent. The Court went on to find that the factors laid on in RCW 26.09.187(3)(a)(i) – (vii) all weighed in favor of Ms. Starkey.

The Court ordered that there shall be joint decision-making.

The Court found that it was necessary to address child support due to the relocation and change in circumstances. The Court found that child support shall be calculated using imputed income for both parties. 1 RP.

Following the trial court's ruling on September 4, 2018 the parties returned to court on September 28, 2018 to hear argument regarding any proposed orders. Mr. Bluhm objected to the proposed Final Parenting Plan on the basis that he did not believe that it provided

for “liberal” residential time and thus, in his opinion, was not in line with the trial court’s ruling, nor did it reflect a parenting plan that was in his daughter’s best interest. 2 RP 10 ln 16-23. Aside from those objections, Mr. Bluhm’s objections to Ms. Starkey’s proposed orders as drafted were generally semantic in nature.

IV. Summary of Argument

- A. The trial court properly dismissed the post-trial Motion for Reconsideration brought specifically under CR59(a)(3) and CR59(a)(3).
- B. The trial court properly relied upon the statutory factors delineated in RCW 26.09.520 to determine that the detrimental effect of a relocation is not outweighed by the benefit to the child and the relocating person.
- C. The trial court properly interpreted RCW 26.09.002 and properly relied upon the statutory factors delineated in RCW 26.09.187 to determine residential provisions for the minor child that serve the child’s best interests and thus make the determination that Ms. Starkey shall remain the primary parent.
- D. The trial court properly relied upon the statutory factors delineated in RCW 26.19.020, 26.19.065, and 26.19.071 to determine that the parties’ income be imputed and used to determine child support obligations.
- E. There is no manifest abuse of discretion where the trial court enters a Final Parenting Plan that is inadvertently missing language.

V. Argument

On appeal, in the present case, the court should uphold a trial

court's findings of fact if the findings are supported by substantial evidence, defined as a quantum of evidence sufficient to persuade a rational fair-minded person the premise is true. *See In re Marriage of Chua*, 149 Wn. App. 147,154,202 P.3d 367 (2009); *see also In re Marriage of Akan*, 160 Wn. App. 48, 57,248 P.3d 94 (2011). That means that the court will look at the evidence and make reasonable inferences therefrom in the light most favorable to the respondent. *Keever & Assocs., Inc. v. Randall*, 129 Wash. App. 733, 737, 119 P.3d 926 (2005).

A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; [and] it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard.

In re Marriage of Fiorito, 112 Wash. App. 657, 664, 50 P.3d 298 (2002).

This court has determined that where the trial court has weighed the evidence, the reviewing court's role is simply to determine whether substantial evidence supports the findings of fact, and if so, whether the findings in turn support the trial court's conclusions of law. *In re Marriage of Greene*, 97 Wash.App. 708, 986 P.2d 144 (1999). A court should “not substitute [its] judgment for the trial court's, weigh the evidence, or adjudge witness credibility.” *Id.* at 714, 986 P.2d 144 (citing *In re Marriage of Rich*, 80 Wash.App. 252, 259, 907 P.2d 1234 (1996)).

“Local trial judges decide factual domestic relations questions on a regular basis” and consequently stand in a better position than an appellate judge to decide whether submitted affidavits establish adequate cause for a full hearing on a petition to modify a parenting plan. *In re Parentage of Jannot*, 149 Wash.2d 123, 126 65 P.3d 664 (2003).

The trial court has broad discretion to determine what is just and equitable based on the circumstances of each case. *Rockwell*, 141 Wash.App. at 242, 170 P.3d 572. Because the trial court is in

the best position to determine what is fair, this court will reverse its decision only if there has been a manifest abuse of discretion. *In re Marriage of Larson and Calhoun*, 178 Wash.App. at 138, 313 P.3d 1228.

A. THE TRIAL COURT PROPERLY DISMISSED THE POST-TRIAL MOTION FOR RECONSIDERATION FOR FAILURE TO STATE AN INSUFFICIENT BASES FOR RECONSIDERATION UNDER CR 59.

“A trial court abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds or untenable reasons.” *In re Marriage of Littlefield*, 133 Wash.2d 39, 46–47, 940 P.2d 1362 (1997).

Here, Mr. Bluhm vehemently disagrees with the dismissal of the CR 59 Motion for Reconsideration. A motion brought under CR 59(a)(3) and CR 59(a)(8) provide, in relevant part, that:

(a) On the motion of the party aggrieved, a verdict *may* be vacated and a new trial granted to all or any other parties, and on all issues, or on some of the issues when such issues are clearly and fairly separable and distinct, or any other decision or order *may* be vacated and reconsideration granted. Such motion may be granted for any one of the following causes *materially effecting the substantial rights of such*

parties (emphasis added):

(3) Accident or surprise which ordinary prudence could not have guarded against;

(8) Error in law occurring at the trial and objected to at the time of the moving party making that application.

First, Mr. Bluhm incorrectly argues that a change in Guardian ad Litem recommendations during the course of trial warrants relief under CR 59(a)(3) as well CR 59(a)(8). The recommendations of the Guardian ad Litem were merely contrary to Mr. Bluhm's desired outcome; the change did not materially affect the substantial rights of Mr. Bluhm. Motions for reconsideration are addressed to the sound discretion of the trial court and will not be reversed absent a clear or manifest abuse of that discretion. *Holaday. V. Merceri*, 49 Wash. App. 321, 324, 742 P.2d 127, 129 (1987), *citing to State v. Scott*, 92 Wash.2d 209, 212, 595 P.2d 549 (1979). An abuse of discretion exists only if no reasonable person would have taken the view adopted by the trial court. *Id. citing to State v. Henderson*, 26 Wash. App. 187, 190, 611 P.2d 1365, *review den'd*, 94. Wash.2d 1008 (1980).

Here, Mr. Bluhm's Motion for Reconsideration does not plead any sort of accident or surprise which ordinary prudence could not have guarded against, nor did he plead any actual error of law. He now makes

that argument on appeal. The argument made on appeal is not supported by law. Parties are made aware that a Guardian ad Litem's role is to investigate and report back to the Court, residential recommendations that are believed to be in the child's best interest. *RCW 26.12.175(1)(a)*. It is also not atypical that information comes out during the course of trial that you may not have anticipated. Trials are unpredictable and each party must be prepared to change course in an effort to push their position forward.

If any of the arguments in Mr. Bluhm's motion actually had any merit, it would have been more properly brought under CR60. The trial court properly denied Mr. Bluhm's Motion for Reconsideration as it did not meet the statutory requirement of bringing a motion under CR 59. There is no manifest abuse of discretion because the trial court properly interpreted CR 59 and applied it to the alleged errors articulated in Mr. Bluhm's motion. The trial court's denial of the motion was not manifestly unreasonable, nor was it based on untenable grounds. Mr. Bluhm has failed to assert any manifest abuse of the trial court's discretion as it relates to the denied motion.

B. THE TRIAL COURT PROPERLY RELIED UPON THE STATUTORY FACTORS DELINEATED IN RCW 26.09.520 WHEN IT DETERMINED THAT THE DETRIMENTAL EFFECT OF THE RELOCATION IS NOT OUTWEIGHED BY THE BENEFIT TO THE CHILD AND THE RELOCATING PERSON.

The Court turns to RCW 26.09.520 when making a determination of whether or not the request for a relocation should be granted in a domestic relations case. The objecting party in a relocation RCW 26.09.520 requires the trial court to consider the following non-weighted factors in making a determination as to the relocation of primary residential parent:

- (1) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;
- (2) Prior agreements of the parties;
- (3) Whether disrupting the contact between the child and the person seeking relocation would be more detrimental to the child than disrupting contact between the child and the person objecting to relocation;
- (4) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;
- (5) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;
- (6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have

on the child's physical, education, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

While Mr. Bluhm does not argue under RCW 26.09.520 in his appeal, the trial court's analysis of the relocation factors directly impacts the determination of what a long-distance parenting plan should look like. The statute does not define general statement of a child's best interests standard in making a finding regarding relocation. *Momb v. Ragon*, 132 Wash. App. 70, 79, 130 P. 3d 406, 411 (2006).

However, the factors of RCW 26.09.520, taken in totality can assist the Court in crafting a parenting plan that serves the best interests of the child following a substantial change in their circumstances. There was no manifest abuse of discretion when the trial court properly applied

the evidence presented to each factor outlined in RCW 26.09.520 and found that Mr. Bluhm had not met his burden of demonstrating that the detrimental effect of the relocation did not outweighed by the benefit to the child and relocating party. *Momb*, at 79.

C. THE TRIAL COURT PROPERLY RELIED UPON THE STATUTORY FACTORS DELINEATED IN RCW 26.09.187 TO ORDER RESIDENTIAL PROVISIONS THAT ARE IN THE BEST INTERESTS OF THE MINOR CHILD.

Washington State law mandates that the best interest of the children is the standard by which final parenting plans are adopted. RCW 26.09.002 contains the policy underlying this statutory approach:

“...In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties’ parental responsibilities. The state recognizes the fundamental importance of the parent-child relationship to the welfare of the child, and that the relationship between the child and each parent should be fostered unless inconsistent with the child’s best interests...Further, the best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm.”

Statutory criteria for establishing a permanent parenting plan is

contained in RCW 26.09.187. Specifically, subsection (3)(a) lists the factors for the court to consider in establishing a permanent residential schedule. These factors are designed to “encourage each parent to maintain a loving, stable, and nurturing relationship with the child.”

RCW 26.09.187(3)(a). These factors are:

- (i) There relative strength, nature, and stability of the child’s relationship with each parent;
- (ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;
- (iii) Each parent’s past and potential for future performance of parenting functions as defined in *RCW 26.09.004(3), including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;
- (iv) The emotional needs and developmental level of the child;
- (v) The child’s relationship with siblings and with other significant adults, as well as the child’s involvement with his or her physical surroundings, school, or other significant activities;
- (vi) The wishes of the parents and the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and
- (vii) Each parent’s employment schedule and shall make accommodations with those schedules.

Factor (i) shall be given the greatest

weight.

Conflicts that may exist or may arise between the parents and their respective residential schedules is not something that is contemplated by RCW 26.09.187. Mr. Bluhm fails to demonstrate that the trial court abused its discretion in ordering the Final Parenting Plan.

D. THE TRIAL COURT PROPERLY RELIEF UPON THE STATUTORY FACTORS DELINEATED IN RCW 26.19.020, 26.19.065, AND 26.19.071 TO DETERMINE THAT PARTIES' INCOME BE IMPUTED FOR PURPOSES OF CALCULATING SUPPORT OBLIGATIONS.

In the present case the Court turns to RCW 26.19.020, RCW 26.19.065, and RCW 26.19.071 when determining how to properly calculate and order child support obligations.

RCW 26.19.020 governs the Child Support Economic Table. Using that economic table, the Court is able to calculate the monthly basic support obligation per the number of children in the family. RCW 26.19.011(1), (2), (3).

RCW 26.19.065 articulates the standards for establishing the lower and upper limits on child support amounts. In relevant part, RCW 26.19.065 reads:

(1) Limit at forty-five percent of a parent's net income. Neither parent's child support obligation owed for all of his or her biological or legal children may

exceed forty-five percent of net income *except for good cause shown. (emphasis added).*

- (b) Before determining whether to apply the forty-five percent limitation, the court must consider whether it would be unjust to apply the limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and any involuntary limits on either parent's earning capacity including incarceration, disabilities, or incapacity.

In determining a parties' income the Court looks to RCW 26.19.071. In relevant part, RCW 26.19.071 states:

(6) **Imputation of income.** The court *shall* impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court *shall* determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a fulltime basis, unless the court finds that the parent is

voluntarily underemployed and finds that parent is purposely underemployed to reduce the parent's obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

- (a) Full-time earnings at the current rate of pay;
- (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
- (c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
- (d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off of public assistance, aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;
- (e) Median net monthly income of year-round full-time workers as derived from the United States bureau

of census, current population reports, or such replacement report as published by the bureau of census.

Mr. Bluhm confuses the trial court's ruling on relocation factors with a discussion of child support. Neither Mr. Bluhm nor Ms. Starkey provided sufficient documentation of prior work-related income history, nor did either party establish that they were unable to obtain full-time gainful employment. Ms. Starkey is primarily responsible for the financial aspects of caring for the minor child, yet Mr. Bluhm goes to great lengths to avoid his own financial obligations to his daughter. Child support was calculated according to the evidence presented to the Court at the time of trial and was ordered retroactive to the date of the filing of the petition. Mr. Bluhm fails to articulate how the trial court's ruling regarding child support was a manifest abuse of the Court's discretion, because there was no manifest abuse of discretion.

E. THE IS NO MANIFEST ABUSE OF DISCRETION WHERE THE COURT ENTERS A FINAL PARENTING PLAN THAT IS INADVERTENTLY MISSING MANDATORY LANGUAGE.

Mr. Bluhm fails to articulate how the Final Parenting Plan was entered by the Court was manifestly unreasonable. Mr. Bluhm could have brought a motion under CR 60, where a motion under CR 59 was not proper. CR 60 provides for relief from a final judgment or order.

Specifically, CR 60(a) states:

“Clerical mistakes in judgments, orders.
Or other parts of the record and errors
therein arising from oversight or omission
may be corrected by the court at any time
of its own initiative or on the motion of
any party and after such notice, if any, as
the court order...”

There is no manifest abuse of discretion.

VI. Conclusion

For the aforementioned reasons, Mrs. Starkey respectfully requests that this court uphold the findings of the trial court and deny Mr. Bluhm’s appeal and affirm the Kitsap County Trial Court’s decision in this matter.

Dated the 10th day of April
2020. RESPECTFULLY
SUBMITTED

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NEWBRY LAW OFFICE

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