

YAKIMA COUNTY NO. 13-3-00956-3

APPEAL NO. 34994-2

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Court of Appeals
Division III
State of Washington

COURT OF APPEALS DIVISION III
OF THE STATE OF WASHINGTON

In re Custody of DEVER

MARTIN and SANDY DEVER, (Petitioners/Appellees)

v.

REBECCA GORLEY. (Respondent/Appellant)

APPELLANT BRIEF

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I. INTRODUCTION

This is a non-parental custody matter under RCW 26.10 involving the Appellant, Rebecca Gorley, mother of minor child, Chloe Dever (age 8), and the Respondents, paternal grandparents, Martin and Sandy Dever. Ms. Gorley appeals the trial court's denial of her motion to revise a commissioner's order finding her in contempt of court for violating an Agreed Residential Agreement (hereinafter referred to as ARS).

For convenience, and no disrespect intended, the Appellant, shall be referred to as Ms. Gorley (for Rebecca Gorley), "the Devers" (for Respondents, Martin and Sandy Dever, paternal grandparents of the minor child), and "CD" for the minor child.

This case challenges the Court of Appeals, Division III, to decide whether a natural parent should be held in contempt for failing to abide by terms of a settlement agreement, signed by the court, entered as an Agreed Residential Schedule under RCW 26.10, in lieu of trial, whereby the natural parent agreed to save one-half of her daughter's monthly social security benefits in a trust account, and to retain those funds, for the child's future post-secondary educational needs.

II. ASSIGNMENTS OF ERROR

1. The trial court erred when it denied Mother's Motion to Revise the Commissioner's Order dated November 21, 2016. (CP 149)
2. The trial court erred as a matter of law, when it found Ms. Gorley in contempt of court for not complying with the provision in the ARS that required Ms. Gorley set aside one-half of the minor child's social security benefits to fund a trust account for post-secondary educational needs. (CP 91-97, 146)
3. The trial court erred by entering judgment, on November 21, 2016, against Ms. Gorley for \$11,410.00-- \$300 attorney fees and \$11,110.00 for the minor child's post-secondary educational needs. (CP 95)
4. The trial court erred by ordering Ms. Gorley to account for and replace the educational funds within 30 days and pay attorney fees within 60 days. (CP 95)
5. The trial court erred by finding that Ms. Gorley had the financial ability to save half of the child's social security benefits, in the past, and in the future (CP 92).
6. The trial court erred by finding Ms. Gorley intentionally violated the ARS (CP 92).

7. The trial court erred as a matter of law when it refused to enforce other provisions agreed upon by the Devers in the ARS that allowed Ms. Gorley to use all of CD's social security benefits to provide for her current needs, without violating a court order. (CP 91, 149)

III. ISSUES RELATED TO ASSIGNMENT OF ERROR

1. Did the trial court violate Mother's constitutional rights under federal and state law, when it found Mother in contempt of court? (Assignment of Errors 1-8).

2. Should the trial court have presumed Ms. Gorley was a fit parent in making its decision to find Ms. Gorley in contempt? (Assignment of Errors 1-8).

3. Did Ms. Gorley waive her constitutionally protected rights to the care and custody of her minor child by agreeing to the terms of the ARS? (Assignment of Errors 1-8).

4. Did the trial court err by limiting its authority at the contempt hearing to strictly deciding whether mother had the ability to pay, to the exclusion of enforcing other provisions in the ARS that permitted Ms. Gorley to act in the child's best interest? (Assignment of Error 8).

5. Should Ms. Gorley be awarded attorney fees and costs under

RCW 26.10.080? (Assignment of Errors 1-8).

IV. STATEMENT OF THE CASE

To avoid a full and contentious trial under RCW 26.10, Ms. Gorley the Devers, and Rick Kinney (the Guardian ad litem for CD) reached a settlement agreement, which returned CD to Ms. Gorley's custody. (CP 1-8)

On November 19, 2014, the court signed and entered the Agreed Residential Schedule, without a full evidentiary hearing on the merits. No formal findings of fact, conclusions of law, or formal decree of non-parental custody, was ever filed with the court. The agreement, prepared by the Devers' attorney, was signed and entered with the court on November 19, 2014. The agreement was formalized using a Washington mandatory form, titled Agreed Residential Schedule (CP 1-9).

Ms. Gorley and the Devers were represented by counsel during settlement negotiations. The parties, their counsel, and Rick Kinney, (the Guardian ad litem for the child) signed the Agreement (CP 9). The Agreement placed CD in Mother's primary care and custody, contained no restrictions or limiting factors under RCW 26.09.001, and provided Mother sole decision-making authority for

education, non-emergency health care, and religious upbringing. In the agreement, the Devers were allowed regular visitation with the child, including alternating weekends, holidays, and extended summer residential time (CP 2-8).

The heart of this appeal lies within a provision contained in the ARS, which imposed an obligation on Mother that she set aside 50 per cent of CD's monthly social security benefits to fund a saving account for college, for DC to use, in the event she attended college. (CP 5). The social security benefits were paid each month to CD as a survivor benefit after CD's father died (CP 46).

Under ¶3.12 of the ARS, the parties included the following "It is the intent of the parties that an educational fund be created for the child. It is also the intent of the parties that mother provide for the basic needs of the child. It is agreed by both parties within three days of social security benefit payout monthly (the third week of each month). Rebecca will place into a custodial account with Chloe and her names on it, an amount equal to one-half of whatever the social security death benefit payout is". The parties agreed "these funds are to be retained for Chloe's future secondary education upon her graduation from high school." (CP 5). It further stated, that if the child

"did not attend a secondary educational facility the fund is still hers upon graduation from high school." (Id).

The ARS required Mother account twice a year "showing the account has been properly funded and the money retained (CP5).

A. Mother held in contempt twice.

Since the ARS was entered on November 19, 2014, the Devers have ordered Mother, on two separate occasions, to appear in court to show cause why the court should not hold her in contempt. On each occasion Mother was held in contempt of court. (CP59, 91-97, and 149)

On the first occasion, August 13 2015, Mother was held in contempt by a court commissioner for "denying visitation Tuesday. 6/16 and part of father's day weekend", and for failing to "follow the educational trust fund provision of the parenting plan." (C P 59)

On the second occasion, November 21, 2016, a court commissioner found Mother in contempt of court for failing to abide by a "contractual obligation to fund an educational trust as set forth in the parenting plan." (CP 92)

Mother filed a motion to revise the commissioner's ruling. (CP 98-100) On December 12, 2016, the trial court denied Mother's

motion to revise. (CP 149) Mother now appeals the trial court's November 21 2016 order on contempt.

B. Devers allegations against Mother.

In a declaration to hold mother in contempt, the Devers claimed Mother was in contempt of court as Mother had not submitted three bi-annual statements, as provided under the ARS, that proved Mother was saving 50 per cent of the child's social security benefits for the child's college fund. (CP 61) The Devers requested the court enter judgment against Ms. Gorley for past child support for \$9,870.00 and \$1,500 in attorney fees. (CP 62)

The Devers never alleged Mother was misusing the funds or not acting in CD's best interest to provide CD's basic needs (CP 60-63) The Devers never alleged in their contempt motion that Mother was unfit or that the child would suffer actual detriment. (CP 60-63)

C. Mother opposed contempt.

Ms. Gorley argued she did not waive her constitutionally protected rights as a parent, that she was fit, and that she acted in her daughter's best interests to provide for her support as required by law. Ms. Gorley argued she needed 100 per cent of the social security benefits each month to provide for CD's basic needs. She

claimed she could not afford to comply with the college savings provision in the ARS, but was complying with all other provisions in the ARS. (CP 86-90) She argued that since the ARS was filed in November 2014, a number of changes had occurred. Among them: (a) she had another child to support (three month old son), (b) she no longer received food stamps or daycare assistance, (c) she was only capable of working part time due to health issues, and (d) compliance (with the college fund provision) would create 'a financial hardship undermining her ability to provide CD's basic needs (CP 86-90)

Mother filed a financial declaration listing monthly wages of \$820 and income of \$942 for CD's social security. Her living expenses included rent, utilities, food, car payment and insurance, and childcare costs. (CP 80-85) After Mother was held in contempt on the first occasion, she filed Chapter 7 bankruptcy. ¹

Mother asserted legal defenses - that she had a constitutional right to raise CD without the Devers' unreasonable demands, that

¹ The bankruptcy court characterized her obligation under the ARS as child support (CP 61-62)

social security regulations prohibit her from saving the money for college, when she needed the money for the child's basic needs, and that the ARS violated was void and unenforceable. (CP 88-89)

V. STANDARD OF REVIEW

When an appeal is taken from an order denying revision of a court commissioner's decision, the superior court's decision is reviewed *de novo*. *In re Marriage of Williams*, 156 Wn.App. 22, 27, 232 P.3d 573 (2010). On review, an appellate court reviews whether trial courts finding are supported by substantial evidence in the record and, if so, whether those findings support the conclusions of law." *Snyder v Haynes*, 152 Wn.App.774, 779, 217 P. 3d. 787 (2009). The court has full authority to determine its own facts and conclusions of law drawn from the facts. *In re Dependency of B. S.*, 56 Wn.App. 169, 171, 782 P. 2d. 1100 (1989).

A trial court's contempt order is reviewed for an abuse of discretion *In re Pers. Restraint of King*, 110 Wn. 2d. 793, 798, 756 P. 2d. 1303 (1988). Discretion is abused if the court's decision is manifestly unreasonable or based on untenable grounds or untenable reasons. *In re Marriage of Littlefield*, 133 Wn.2d,39,46,47, 940 P.2d,1362 (1997). A court's decision is manifestly unreasonable

if its decision is outside the range of acceptable choices. It is based on untenable grounds if the factual findings are unsupported by the record. It is based on untenable reasons if it is based on an incorrect legal standard. *Littlefield*, 133 Wn.2d at 47.

VI. LEGAL ARGUMENT

A. Does the Contempt Hearing Order, from November 21 2016, violate Ms. Gorley's constitutionally protected interest, in raising her child without state interference?

Yes.

The contempt statute, RCW 26.09.160, as applied by the court, under these facts, unreasonably interferes with Ms. Gorley's constitutional right to raise her child without state intrusion - *to wit*: to use monthly social security benefits to provide for her child's current needs, as opposed to saving those funds for her child's future needs.² *In re Matter of Z.C*, 191 Wn App 674, 366 P 3d 439 (2015) and *In re Custody of T L*, 165 Wn App 268, 268 P 3d 963 (2011).

1. Constitutionally protected liberty interest to raise child without state intrusion.

² The legal argument is the same if the trial court relied upon its inherent authority to hold Ms. Gorley in contempt.

The United States and Washington State Supreme Courts have long recognized a parent's fundamental right to the care and custody of his or her child. This right is protected under the due process clause, and equal protection clause of the Fourteenth Amendment, and the Ninth Amendment. The right to raise his or her child is an essential basic civil right *Stanley v Illinois*, 405 U.S. 645, 651, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972).

A state's interference with a parent's right to raise his or her child is subject to strict scrutiny, "justified only if the state can show that it has a compelling interest and such interference is narrowly drawn to meet only the compelling state interest involved" *Id.* at 280, (quoting *In re Custody of Smith*, 137 Wn. 2d. 1, 15, 969 P. 2d. 21 (1998) *aff'd sub nom Troxel v Granville*, 530 U.S. 57, 120 S Ct. 2054, 147 L. Ed. 2d 49 (2000)). Only under extraordinary circumstances will Washington courts subordinate a parent's constitutional rights (to the care and custody of his or her child) to that of a non-parent. *In re Custody of Shields*, 157 Wn. 2d. 126, 145, 136 P. 3d. 117 (2006).

Washington's Non Parental Custody Act, Chapter 26.10 RCW, addresses custody rights between parents and non-parents. Under Chapter 26. 10., to protect a parent's constitutional rights,

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Washington courts demand that a non-parent prove the natural parent is either unfit or that actual detriment will occur to the child, before it will consider even the slightest infringement on natural parents' constitutional rights *In re Custody of E.A.T.W.* 18 Wn. 2d. 335, 344, 227 P. 3d. 1284 (2010).

In the instant case, the trial court violated Mother's constitutional rights under federal and state law by subordinating Mother's constitutionally protected interests to raise her child (to provide for DC's basic needs --- a provision expressly included in the ARS) to the grandparents' interest in saving for CD's future post-secondary educational needs (not a compelling state interest). See, *In re Custody of J.E.*, 189 Wn.App.175, 183, 356 P. 3d. 233 (2015) (parent's rights are given considerable deference when balancing the needs between parent and non-parent).

2. Ms. Gorley's argument is three-fold:

(1) Ms. Gorley did not waive her constitutionally protected parental rights, by agreeing to the terms of the ARS, because there was never a full trial where the trial court found Ms. Gorley unfit or that actual detriment would occur to the child. Ms. Gorley was entitled to a presumption that she was a fit parent when the court

made its decision to hold Ms. Gorley in contempt; *In re Custody of T L*, 165 Wn. App. 268, 268 P. 3d.963 (2011) and *In re Custody of Z C*, 191 Wn. App. 674, 366 P. 3d. 349 (2015);

(2) Ms. Gorley's constitutional liberty interests (to raise her child) were protected under the terms of the ARS. *In re Custody of T L*, 165 Wn. App. 268, 268 P. 3d.963 (2011) and *In re Custody of Z C*, 191 Wn. App. 674, 366 P. 3d. 349 (2015); and

(3) The trial court erred by selectively enforcing the ARS's college fund provision while ignoring, and refusing to enforce, Ms. Gorley's constitutional right to act in the child's best interest, contained in other provisions in the ARS. *In re Custody of T L*, 165 Wn. App. 268, 268 P. 3d.963 (2011) and *In re Custody of Z C*, 191 Wn. App. 674, 366 P. 3d. 349 (2015).

3. *In re Custody of T L*, 165 Wn. App. 268, 268 P. 3d.963 (2011) is controlling authority to reverse the November 21, 2016 contempt order. In *In re Custody of T L*, maternal grandparent and petitioner, filed a non-parental custody petition seeking custody of her grandchild. The mother opposed it. Approximately one year later, Mother, reconciling with the grandparent, joined in the

petitioner, in exchange for the grandparent's promise to return T L after she was stable. *In re Custody of T L*, 165 Wn App 268, 271 (2011). There was no trial or evidentiary hearing before the final orders were entered. *Id.*

Two months later, the parties filed with the court a final residential schedule, findings and conclusion, and a non-parental custody decree, which placed the child with grandmother. The residential schedule did not impose restrictions on mother. *Id.* at 271-72.³

Later, the Mother in *In re Custody of T.L.*, filed a modification petition requesting full custody of her son, claiming circumstances in her life improved. The trial court dismissed Mother's petition to modify, ruling that Mother failed to demonstrate adequate cause under RCW 26.10.260 and .270. *In re Custody of TL*, 165 Wn App 268, 273 (2011).

On appeal, the court reconciled the modification process under Chapter 26.09 and 26.10 in conjunction with a parent's

³ The court of Appeals, Division 3, reviewed the case in *In re Custody of T.L.*, reasonably concluding the final documents were entered by agreement, as there was no evidence a trial took place and neither party filed trial transcripts. *Id.* at 272.

constitutional rights to raise his/her child. It held: In cases where an agreed residential schedule is entered, without benefit of trial, on a modification petition under RCW 26.10, a parent (unlike a nonparent) is not required to establish adequate cause *In re Custody of T L*, 165 Wn App 268, 280-284 (2011).

Rather than hold RCW 26.09, 260 and .270 facially unconstitutional, the *T.L.* court protected Mother's constitutional rights by requiring the court to apply RCW 26.10.100 --the "parentally- protective 'best interests' standard" to alleviate a parent from the heavy burden imposed by RCW 26.09, 260, and 270. *In re Custody of T L*, 165 Wn. App. at 284.

In this case, the trial court violated Ms. Gorley's constitutional rights by not applying RCW 26.10.100. Ms. Gorley claimed she could not afford to save the social security benefits. Ms. Gorley decided it was in DC's best interests to use the money for current needs as opposed to future post-secondary educational needs. Here, Ms. Gorley was simply acting in the best interests of her child. The court erred as a matter of law by not considering the best interests of the child. *In re Custody of T L*, 165 Wn. App. at 284.

4. *In re Custody of Z.C.*, 191 Wn.App.674, 366 P.3d 439 (2011).

Ms. Gorley also relies upon *In re Custody of Z.C.*, 191 Wn.App. 674 (2011), as controlling authority to reverse the contempt order. In *In re Custody of Z.C.*, the natural mother, signed an agreed residential schedule, granting mother's sister full custody of her minor child. (*Id.* at 686). There was no evidentiary hearing or trial. (*Id.* 686-87) Formal findings and conclusions of law, and a decree of custody were signed by both parties and filed with the court, indicating that it was in the best interests of the child to reside with the non-parent. The findings of fact did not state mother was unfit or that her custody would result in detriment to the child. (*In re Custody of Z.C.*, 191 Wn.App at 688)

After the decree was entered and sometime after the mother attended substance treatment, this court, published its decision in *In re Custody of T.L.*, 165 Wn.App. 268, 268 P.3d 963 (2011). (*In re Custody of Z.C.*, 191 Wn.App. at 689).

Thereafter, relying upon *In re Custody of T.L.*, the Mother, in the Z.C. case, filed a motion to dismiss, a CR 60(b) motion, and a Petition to Modify the non-parental custody agreement. (*In re Custody of Z.C.*, 191 Wn.App at 689). Mother's motions were denied on the basis Mother failed to demonstrate a substantial change in

circumstances. The Mother appealed to this court. (*Id.* 689-90).

On appeal, mother argued that her agreement to the residential schedule did not strip her of constitutionally protected parental rights, as the court never made a finding Mother was unfit. (*In re Custody of Z.C.*, 191 Wn.App at 688). This court (Court of Appeals, Division III) agreed, reversed the trial court and remanded it for a hearing where Mother was presumed to be a fit parent and relieved of the burden to establish adequate cause. (*Id.* at 690-691)

Like in *In re Custody of Z.C.*, Ms. Gorley was entitled to a presumption of fitness, affording her the constitutional right to act in the child's best interest. The trial court in the instant case, should have presumed Ms. Gorley was a fit parent, and that unless the Devers proved otherwise, Ms. Gorley could not be held in contempt for exercising her constitutional right to act in her child's best interest. (*In re Custody of T.L.*, 165 Wn.App. 268 (2011)) and (*In re Custody of Z.C.*, 191 Wn.App 674 (2015)). Here, Ms. Gorley claimed she was financially unable to save for college while also providing for the child's basic needs. (CP 41, 80). For these reasons, she acted in DC's best interest by using the money for DC's current needs.

By virtue of the fact the Devers agreed to return the child, the

Devers implicitly agreed Mother was fit. (CP 1-9). For these reasons, it is even more compelling, that at the contempt hearing, Mother was entitled to a presumption of fitness – that her actions (not setting aside \$742) were taken for the best interest of the child, and were not an act constituting contempt of court. *In re Matter of Z.C.*, 191 Wn.App.674, 366 P.3d. 439 (2015); *In re Custody of T.L.*, 165 Wn.App. 268, 268 P.3d 963 (2011).

The Devers failed to offer any compelling evidence to rebut Ms. Gorley's claim that she (Ms. Gorley) was in fact, acting in her child's best interest. The Devers did not submit any evidence to support a finding that Ms. Gorley was unfit or causing detrimental harm to the child for not saving for college. They simply argued that Ms. Gorley should be held in contempt because "she completely and totally disregarded the orders of this court and seems to think she does not have to follow court orders of this court. We are asking that she again be found in contempt." (CP 62).

When Ms. Gorley was faced with the fact (a) she now had another child; (b) she no longer received daycare or food stamp assistance; (c) she could only work part time due to poor health; and (d) was forced to file Chapter 7 Bankruptcy, Ms. Gorley lawfully

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exercised her constitutional right as a fit parent, by choosing to use the money for the CD's current needs. Under these facts, the court erred by finding Ms. Gorley in contempt of court. (CP 41, 61).

Furthermore, by focusing on (a) Ms. Gorley's income; (b) her lack of medical records to corroborate her poor health; and (c) her lack of "listing the income or the reimbursement that she is getting" for her infant child, the trial court denied Ms. Gorley the presumption of fitness. (CP 144 – 46).

B. Did Ms. Gorley waive her constitutional rights as a parent, by signing and agreeing to the ARS, with the benefit of counsel, rather than proceeding to a full trial under RCW 26.10.140? No.

Ms. Gorley did not waive her constitutional rights under the ARS. (CP 1-9).

Ms. Gorley preserved her constitutional rights under the terms of the ARS. *Id.* For example, under paragraph 3.12, the ARS stated: "that mother provide for the basic needs of the child". (CP 5) This provision allowed Ms. Gorley to exercise her judgment as a fit parent, in the event she faced a financial hardship, she could use the social security for DC's basic needs. (CP 5). Another example is the

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preamble, wherein the ARS declared the intent of the parties – to work together in the “best interests of the child”. (CP 1). By including these provisions in the ARS, Ms. Gorley protected her constitutional rights to parent CD as she saw fit.

C. Did the trial court err as a matter of law in deciding whether Ms. Gorley was in contempt, by narrowly focusing on Ms. Gorley’s financial ability to pay, and for refusing to consider other options available to the court? Yes.

At a hearing on contempt, the trial court is not limited to a determination of contempt, but is authorized to consider and determine to what extent the parties should perform duties imposed upon them by the decree of dissolution. *Bradley v. Fowler*, 30 Wn.2d 609, 192 P.2d 969 (1948).

In the instant case, the court erred when it limited its inquiry to whether Ms. Gorley had the financial ability to pay. At the contempt hearing, the commissioner expressly stated “I think from [you] the real issue here today is does mother have the ability to pay”. (CP 144). The court went on to ask whether Mother was receiving child support and commented that Mother had not provided medical proof that she was unable to work. (CP 144, CP 146). This was reversible

error, when it should have been determining whether Ms. Gorley was acting in good faith when she decided to use the money for CD's basic needs, as opposed to saving the money for college, which was many years in the future. *Bradley v. Fowler*, 30 Wn.2d. 609 (1948).

The court could have enforced Ms. Gorley's right under the ARS to provide for CD's basic needs. (CP 5). The court could have enforced the intent of the parties "to reconcile their differences and work together in the best interests of the child" (CP 1). As a last resort, the court could have ordered the parties to mediation, as provided in the ARS. (CP 7-8). This would have at least given the parties a chance to work things out, without trampling on Ms. Gorley's constitutional rights, and forcing her into bankruptcy. Instead, the court found Ms. Gorley in contempt and infringed upon Ms. Gorley's constitutional rights for the sake of the Devers interests in saving for college funds – which is not a compelling state interest under these facts where Ms. Gorley's income is less than \$1,000 per month. (CP 80). *In re Matter of Z.C.*, 191 Wn App 674, 366 P 3d 439 (2015) and *In re Custody of T L*, 165 Wn App 268, 268 P 3d 963 (2011)

D. Should Ms. Gorley Be Awarded her Attorney Fees under

RCW 26.10.080? Yes.

The following is provided under RAP 18.1 Attorney Fees and Expense.

RCW 26.10.080 grants authority for the Court of Appeals to award Ms. Gorley her attorney fees and costs after considering the financial resources of the parties.

Ms. Gorley is a young, unmarried, parent supporting two children without the benefit of food stamps or daycare. (CP 41). Ms. Gorley earns less than \$1,000 per month, working part time as a waitress at Olive Garden. She is burdened with student loan, court fines, and suffers from musculoskeletal problems that currently interfere with her ability to earn more income. (CP 87). Her expenses exceed her monthly income. (CP 80-85) Ms. Gorley has already been forced into bankruptcy as a result of the ARS. (CP 61, 76).

The Devers have the financial ability to pay. Attorney fees do not appear to be a concern for the Devers. Instead of using dispute resolution, which is less costly, the Devers opted to hire an attorney and haul Ms. Gorley into court.

They are each gainfully employed. (CP 87). There is no evidence in the record that either grandparent has any physical

ailments limiting their earnings.

The Devers insistence on enforcing Ms. Gorley to save for DC's college, while ignoring other provisions to which they agreed, is unreasonable and constitutes bad faith. Specifically: the Devers agreed (1) Ms. Gorley was to provide for DC's basic needs (b); to work with Ms. Gorley to provide for DC's best interest, and (c); that unless an emergency existed, the parties were to work together to avoid further conflict and court hearings. (CP 1).

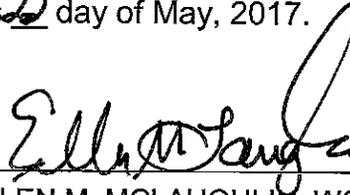
Lastly, Ms. Gorley, had no choice but to appeal. Having been found in contempt on two separate occasions, Ms. Gorley, faces an on-going risk of losing primary custody of DC, if found in contempt a third time. RCW 26.09.260(2)(d). Also, the \$11,410 judgment (non-dischargeable in bankruptcy) against Ms. Gorley, bearing 12 percent interest per annum, imposes many years of financial hardship on Ms. Gorley to support her two children.

VII. CONCLUSION

The contempt order is unconstitutional. *In re Matter of Z.C*, 191 Wn App 674, 366 P 3d 439 (2015) and *In re Custody of T L*, 165 Wn App 268, 268 P 3d 963 (2011). The order should be reversed and Ms. Gorley should be relieved from paying an unfair and overly

burdensome money judgment of \$11,410 entered against her.

Respectfully submitted on this 22nd day of May, 2017.

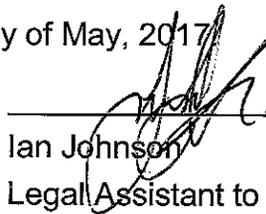


ELLEN M. MCLAUGHLIN, WSBA#27828
Attorney for Appellant, Rebecca Gorley

CERTIFICATE OF SERVICE

I, Ian Johnson, certify that on the 22nd day of May 2017 caused a true and correct copy of the Appellant's Brief to be served on Petitioner/Appellee by emailing a true and correct copy of the brief at the Law Office of Howard N. Schwartz to the following email addresses: howard@rbhslaw.com, and shannon@rbhslaw.com.

DATED this 22nd day of May, 2017



Ian Johnson
Legal Assistant to Ellen M. McLaughlin,
Attorney for Respondent/Appellant.

MCLAUGHLIN LAW OFFICE
May 23, 2017 - 10:21 AM
Transmittal Letter

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Court of Appeals Case Number: 34994-2
Party Represented: Respondent/Appellant
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Trial Court County: Yakima - Superior Court #: 13-3-00956-3

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Comments:

No Comments were entered.

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