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COURT OF APPEALS
DIVISION 111
OF STATE OF WASHINGTON

IN RE THE MARRIAGE OF

ANGELA M. STACY,
nka Angel Base,

Appellant, vs.

John C. STACY, Respondent.

BRIEF OF RESPONDENT

John C. Stacy
Pro Se Respondent

John C. Stacy
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A. Statement of the Case

In an effort to not rehash 10 years of litigation I am going to focus on this case for post-secondary education.

On June 3, 2016, Ms. Base filed a petition to modify child support regarding post-secondary support. CP 330-335. On June 5, 2016 Ms. Base served the paperwork on Mr. Stacy while he was attending Jonathen's graduation. CP 374. The petition requested several key items extend health insurance coverage to age 26, requesting post-secondary support for both Jonathen and Michael, a request that the parents pay for all fees and cost of post-secondary education including transportation expenses, room and board at school as well as at home while attending classes living at home, all equipment and supplies and all other ancillary or incidental expenses. Ms. Base also requested that all payments be made to her with a early accounting. CP 334 – 335.

Ms. Base filed an amended petition to modify child support on June 6, 2016, to include “to continue sharing proportionally all uninsured medical expenses so long as the child is eligible for post-secondary support.” And “Additionally, the right/duty regarding the scheduled child support adjustments to occur in this case is RESERVED and not superseded herein by this request” CP 364 – 365

On June 6, 2016 sent an email requesting that, Mr. Stacy not removed Jonathen from his medical coverage. Stating that “if you have any plans to remove him from your healthcare insurance, please let me know right away. CP 375 Mr. Stacy responded “From what I can tell many of the questions you are posing below are requests within the

paperwork you served me. Also according to the paperwork I have 20 days in which to respond and I will do so.” Also “I do not currently feel comfortable giving a verbal agreement to anything that is already requested via filed court papers.” CP 374

On June 6, 2016 Ms. Base filed a Motion for immediate Restraining Order (Ex Parte) CP 368 – 373. Ms. Base then emailed Mr. Stacy at 2:58PM on June 6, 2016 a notice of the hearing to be heard at 3:30PM on June 6, 2016. CP 374. The motion for immediate Restraining Order (Ex Parte) was not granted. CP 576. And order was entered where Mr. Stacy voluntarily agreed with continuing to provide health care coverage and also voluntarily agreed to continue to pay his portion of the uninsured medical expenses CP 579. with an agreement that he would be able to contest them. “... pending the outcome of the current petition for modification of child support” CP 366 – 367.

On Jun 24, 2016 Mr. Stacy responded to the petition agreeing to post secondary education for Jonathen and requesting it be reserved for Michael. Mr. Stacy objected to any summer term and ancillary expenses that where ordered for Jonathen in the adjustment on September 15, 2015. CP 376 – 388. Of special note there was a miscalculation noted by Mr. Stacy of \$1815.50 that he over paid to Ms. Base that he requested reimbursement for minus any outstanding uninsured medical expenses. CP 377. Ms. Base would later come back in mediation with that exact amount affectively mitigating the amount she was over paid. CP 1067 – 1068.

Further evidence was submitted in support of the Responded in response to the motion for temporary post-secondary support. CP 490 – 497. In Mr. Stacy’s Supplementary Declaration he expressed concerns about the overly aggressive tactics that Ms. Base was using in this case. CP 491 – 493. As well as his concerns about the

continued categorization of abandonment. CP 493. And reiterating his agreement with post-secondary education and the objection of ancillary fees and Ms. Base's request to continue child support for Jonathen. CP 493.

On Sept 13, 2016 the motion for temporary orders was heard. CP 521 – 554. The court did find "... the parties in agreement to pay post-secondary support and re healthcare expenses for that child" CP 509. The court also order arbitration finding "The adjustment of child support is to complicated for this courts motion docket," CP 509. The court adopted Mr. Stacy's proposed child support worksheets CP 511 - 515 and both parties where ordered to pay the school directly. CP 510.

It should be noted that the Sept 13, 2016 hearing was presided over by Superior Court Commissioner Michelle Ressa CP 521. who has a long history with this case. The court did bring up a concern about the amount of information bring presented that didn't need to be. "...there's also a lot of information that doesn't need to be in here, it's just amounts to a smear campaign in a public court file." CP 533. Also when Ms. Base asked "he has to borrow money too?" the court responded with "I hear this argument a lot Ms. Base that there's some sense of entitlement to kids to have their college paid for. There is no entitlement." CP 551. The court also stated "... I think there's an unreasonable request going on here given the incomes versus the cost of this college, which for most people is unattainable to pay for" CP 551

On Sept 15, 2016 Ms. Base filed a Motion to Revise Commissioner's ruling and notice to appear. CP 516 – 520 and on Sept 20, 2016 Ms. Base filed a Petitioner's Brief

in support of her motion. CP 555 – 566. On Sept 23, 2016 The revision was granted in part. CP 582 – 583.

On Oct 25, 2016 both parties attended mediation for Michael and agreed to a child support adjustment for 2016. CP 584 – 593.

On Oct 4, 2016 Ms. Base served Mr. Stacy's landlord's a Subpoena Duces Tecum. CP 594. 614 – 616.

On Oct 20, 2016 Ms. Base received a letter from the property owners citing concern that providing the requested information “ Under the Washington State Law of Agency this would considered a violation of confidentiality of my client's private information” CP 600 - 609

On Nov 1, 2016 a Mailing was sent out to Mr. Stacy's property owners with a notice of hearing with a court date of 11/15/2016 CP 595.

On Nov 2, 2016 Ms. Base filed Mr. Stacy's Bankruptcy information. CP 617 – 675.

On Nov 2, 2016 Ms. Base filed petitioner's Motion/Declaration to compel discovery, and for sanctions. CP 698 – 703.

On Nov 10, 2016 Mr. Stacy filed a response to Ms. Base's motion and included a copy of the lease agreement. CP 704 – 715. In this response Mr. Stacy addressed the Lease and his property owners as well as addressed Ms. Base's allegations surrounding the bankruptcy. CP 713 – 715. Mr. Stacy also brought up concerns around the interactions Ms. Base was having with his landlord and how that could cause the landlord to not renew his lease. CP 715. Ms. Base filed a response on Nov 14, 2016 CP 716 – 720.

On Nov 15, 2016 the motion to compel was denied. CP 753 however both parties where required to supply disclosures as outlined in CP 754 and the request for sanctions was denied. CP 754.

On Nov 21, 2016 Ms. Base filed a Motion to revise Commissioner's Ruling and notice to appear. With a hearing date of Dec 1, 2016. CP 760 – 761.

On Nov 28, 2016 Mr. Stacy filed a financial declaration along with a financial declaration explanation to explain where and how the numbers where reached. CP 986 – 994

On Nov 28, 2016 the hearing for final orders took place CP 1064 – 1121. Ms. Base key requests was requesting a support transfer payment, special expenses, and tuition, fees, transportation. CP 1075. Mr. Stacy objected to all requests except post-secondary education although he did object to the current ordered amount. CP 1089 – 1090, 1094 – 1097. Some key notes from the commissioners ruling are "... I do find that Jonathen is a good candidate for post-secondary support base on those above stated needs." CP 1104. "... Court finds it appropriate when children get post-secondary because it's not a right. It's a very special privilege to have your parents pay for post-secondary education." CP 1105. "But I think every child needs to have a stake in their education." CP 1105. "So I am going to order Jonathen to have a third stake of his education. I don't know if that would of changed where he went or not, but he chose a very expensive school." CP 1106. "So I am going to order Ms. Base to receive these payments that I order Mr. Stacy to pay." CP 1106. The court then ordered amounts to be pay and by whom. CP 1106 – 1109. The court also stated "I'm not including any other outside

expenses for Jonathen. Those expenses as I've listed those include room and board, tuition, fees, some personal expenses, some transportation, Anything else that Jonathen needs to pay for himself." CP 1109 – 1110. "It is a very nice privilege to have parents contribute to that, to his education. But those other costs should not be included." CP 1110. The court then ruled on going over the 45% threshold "Now one thing I do want to make clear when I entered this order and gave it a lot of thought, is I don't think this case necessitates going over the 45% of the father's net income, and I didn't do that by my order." "... at the end of the day almost 45 percent of his income is going towards child support and I think that is sufficient. The father does need money to live on as well. And he does live on the west side of the state so we have to be cognizant when we talk about this income level, it goes a lot less further than it would here in Spokane." CP 1113 – 1114. The court then order no basic support obligation for Jonathen. CP 1114.

On Dec 7, 2016 Ms. Base filed Petitioner's motion for new trial and other relief. CP 1051 – 1056. As well as a Motion for contempt CP 1057 – 1061 and an order to go to court for contempt hearing (order to show cause) CP 1062 – 1063.

On Dec 19, 2016 was the Presentment hearing on the child support modification in regards to post-secondary support heard on Nov 28, 2016. CP 1164 -

On Dec 27, 2016 Mr. Stacy submitted a reply to the Motion for contempt. CP 1161 – 1163

On Jan 3, 2017 The contempt hearing was held. CP 1176 - 1179. The court ruled "... the court does not find bad faith to hold him in contempt" CP 1176 However the court did award Ms. Base lost wages. CP 1177.

On Jan 6, 2017 Ms. Base filed a Motion to revise commissioners ruling and notice to appear. CP 1180 – 1182

On Jan 9, 2017 Mr. Stacy responded objecting to the petition motion for new trial. CP 1183 – 1184

On Jan 11, 2017 the hearing for a new trial was held and the court denied the request for a new trial stating “there is no good cause to order a new trial.” CP 1194 – 1195 Also the presentment of Orders was also heard at the same time. CP 1266 – The court had a few points to note in its ruling. In response to undisclosed income “But even with those two things you still went to mediation and agreed on incomes. This court is not going to go back and reopen this matter of \$26,000.” CP 1291. On amounts ordered and why “Because that was still \$39,000 a year that I was dividing between you and Jonathen and Mr. Stacy. And that’s still \$40,000 a year and I still think that’s concern. I don’t remember the last time I ordered parents to pay post-secondary in that amount because I consider that excessive. And I did it, and part of why I did it is because Mr. Stacy hasn’t been involved in their lives and he can contribute in this one way.” CP 1293. There is quite a bit of back and forth between Ms. Base and the Court with the Court reiterating its stance on why it ordered what it did and also why it will not order more. CP 1293 – 1298.

On Jan 11, 2017 The final order was filed CP 1192 – 1209.

On Jan 19, 2017 there was a revision hearing Re Contempt. The request for contempt was granted but the remainder of the motion for revision was denied. CP 1242 – 1243.

On Jan 20, 2017 Ms. Base filed a Motion to revise commissioners ruling and notice to appear hearing scheduled for Feb 9, 2017. CP 1244 – 1248.

On Jan 24, 2017 Ms. Base filed a ex parte motion and declaration for order shorting time and motion for supplemental order of child support. CP 1255 – 1256.

On Feb 23, 2017 A hearing for revision of the court’s orders of Jan 11, 2017 and Jan 26, 2017 re post-secondary support and re new trial was heard. CP 1323 Of note the court stated “There is no basis to revise the order. This court would have issued the same order.” The motion to revise was denied. CP 1323.

B. Summary of Argument

The trial court did not abuse its discretion in this case. The court was provide volumes of information as well as spending quite a bit of time reviewing the case in coming up with its ruling. The court was also asked on many occasions to review its ruling and each time the court denied to change its ruling. This case has a lot of moving parts to it however when the court decided to no retry the case over a one time contract that temporarily increased Mr. Stacy’s income by \$26,000 it was the correct decision. If the court where to have ordered more post-secondary education based off of the \$26,000 temporary increase in income then Mr. Stacy would be unduly burdened financially for the rest of Jonathen’s time at college because that income is not reoccurring. The court also stated on more than one occasion that the amount it ordered was excessive but ordered it anyway due to the history of the case. The court orders an amount to the child and it is up to the child to choose how it is spent and for what and the amount is not

necessarily derived from debt projected to be incurred by the child. With the amount of money the parents were ordered to pay Jonathen could have his college fully paid for at another university however Jonathen chose to go the university he chose and therefore if it cost more than what the court ordered then he is responsible for that choice. In this case the court is correct for limiting post-secondary education even though the amounts ordered were excessive.

C. **Argument**

A. The courts have a right to limit post-secondary education and required the child to pay a portion.

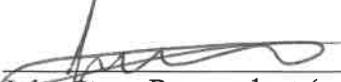
The trial court has a broad discretion to order support for post-secondary education. In re Marriage of Cota, 177 Wn. App. 527, 536, 312 P.3d 695 (2013); see also RCW 26.19.090(2). The court also can also take into account scholarship grants and student loans. In re Marriage of Shellenberger, 80 Wn. App. 71, 84, 906 P.2d 968 (1995) (when awarding post-secondary support, court should consider adult children's ability to contribute to their own education through scholarship grants, student loans, and part-time or summer employment). I believe the court reasonably imposed an obligation on Jonathen to pay a portion of his educational costs. See In re Marriage of Kelly, 85 Wn. App. 785, 789-90, 934 P.2d 1218 (1997) (affirming post-secondary support order requiring child to apply for scholarships and take out student loans).

D. **Conclusion**

I ask the court to uphold the trial court ruling and I request some sort of relief as I feel this appeal was frivolous and a waste of the courts time as well as mine.

6/04/2018

Respectfully submitted,


John Stacy Respondent (pro se)

JOHN STACY - FILING PRO SE

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