

FILED

JAN 31 2018

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

No. 351432

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

JENAE PAPE,

Appellant,

vs.

WADE MILLER,

Respondent.

APPEAL FROM THE SUPERIOR COURT
OF CHELAN COUNTY
Cause No. 15-3-00016-9

REPLY BRIEF OF APPELLANT

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I. STATEMENT OF THE CASE

The appellant incorporates the statement of the case as set forth in her opening brief. Unfortunately, the opening brief reads like a fictional portrayal but is actual events which led to an extreme bias and extreme emotional distress on the Appellant.

II. ARGUMENT

As the Court is aware, RCW 26.09.080 governs the division of property and liabilities in a dissolution. Respectfully, the Appellants grievance is not about “Indian trust money”, it’s about the trial courts misconduct (Appellant acknowledges this is a civil action and is not before this court), however, the true crux issue of this appeal is the trial court’s division of property and debt .

First, the Court erroneously characterized about \$17,523.00 as community that should be separate and also distributed an insurance policy that the appellant opened when they built their house in Chelan and she was pregnant with their first son with Prudential Life. Characterization and wrongful distribution/offsets substantially affected the trial court’s decision, such that the court almost certainly would have divided the property differently if it had the proper character in mind and wasn’t bias. Reversal is thus required.

The court also ordered the appellant to pay the Hawaiian Airlines Visa Card debt in the amount of \$85,000, when infact appellant had already paid for most of this debt.

However, since Respondent attorney denied certain requests and the Respondent had canceled the credit cards (Discover and Hawaiian) so Appellant couldn't obtain the information she needed to provide exact figures but believes it to be less than \$25,000 and due to the fact respondent wasn't held accountable by the trial court which erroneously rests primarily upon the mischaracterization of property, valuation of the businesses and non disclosure of other businesses (Practical Rental Car and Miller's Motor Sports) and other assignments of error, which collectively results in a gross abuse of discretion rather than a nominal difference of opinion on personal property items, especially wherein Respondent declared the basic personal property items have been equally or fairly divided, however, nothing could be further from the truth. The respondent delivered some personal items in one of the businesses vans which was mostly filled with garbage and other hurtful material. (See RCW 26.16.010 which governs separate property of spouse.) (Respondent's Brief – Decree Exhibit C -1)

Washington's appearance of fairness doctrine not only requires a judge to be impartial, it also requires that the judge appear to be impartial. *State v. Finch*, 137 Wash.2d 792, 808, 975 P2d 967 (1999). A reasonable concern can exist even where there is no proof of actual bias. The trial court denied appellants motion for contempt in her attempt to try to gather all the facts of this case. Appellant was locked out of her life so she was not able to gather all her personal effects including paperwork. The trial court also erred in not offsetting the Respondents sale of the house appellant bought her boys in December of 2014 for over \$ 325,000 (including the house, furnishings, decorations, electronics, etc.) with money from appellants recent inheritance. It is the appellants

(2)

understanding the money is in the hand's of respondent's father. The trial courts adjudication of Appellants property interest was erroneous not only did she not receive a penny for 30 years of hard work, Respondent basically paid his settlement for the same amount he and his family made by selling Appellants property bought with her inheritance to protect her children from the abusive environment at home. According to Respondent's Brief -Findings Exhibit A 1-2, just one of the businesses the appellant and respondent started "Blue Water Ent." was valued at \$1,122,333.00 and there where two "encumbrances". If anyone knows Lake Chelan, no property has a negative value. The trial court was unjust in her factual distribution of assets and debts. This is not a frivolous appeal. When there are no "debatable issues upon which reasonable minds could differ" an appeal may be deemed frivolous. That is absolutely not the case here. There are highly debatable issues about how the trial court distributed the marital estate and the domestic concerns.

"Any doubts should be resolved in favor of the appellant." Id.at 692. The Court should reverse.

The "fallacy" of the Respondent's brief, even though done in a very professional manner, most clearly demonstrates the trial courts denial of the true "victims" in this case which are the Appellant and her kids due to the trial court and Respondents attorneys aiding and abetting the Respondents and his family, committed fraud or at the very least, misrepresentation of the facts that lead to untenable orders and judgments.

Appellant served the trial judge with a "Violation Warning Denial of Rights – Under Color of Law on 1-23-17 at 10:19am and also made a claim against Ms. Sampson with the Bar Association due to the above.

(3)

Court Rule 60 Relief from Judgment or Order:

**60(b)(4) Fraud (whether hereto denominated intrinsic or extrinsic),
misrepresentation, or other misconduct of an adverse party**

The trial court ignored the Appellants professional statements and/or “victim impact statements”. The Respondent was arrested on four counts on 8-16-15, however, he was quickly released. There were 5 additional incidents, two similar in nature to the one above (Chelan County case No. 15C09564/ 17C0888) and three where he showed up at Appellants work, however, the building was owned by Respondents attorney, John Weston, so no police personnel were called and the other two, is when he showed up with our youngest son at my counselors office, Julie Broxson. An order for protection issued pursuant to CH 26.50 RCW, Washington Domestic Violence Prevention Act (DVPO), was done by the officer after the 8-16-15 incident. The Respondent was never arrested again even though he was in clear violation of the no contact order , on multiple occasions, which is why Appellant sought professional help with the Support Center in Omak who realized the imminent fear and harm the Respondent and his girlfriends judicial friends were causing the appellant, but the trial court chose to again aide and abett the Respondent causing the Appellant 3 years of extreme emotional distress. The Restraining Order must be vacated because the findings do not meet the statute’s requirements, there is insufficient evidence to support the order but there is sufficient evidence to continue the “no-contact order” on the Respondent. As Respondent always told the appellant when they opened All Seasons Rentals, “you take care of those who take care of you”.

(4)

The appellant is seeking a reversal of the distribution of assets/debts that was filed in Chelan County on March 24, 2017 as a ProSe litigant and under case law: Puckett v. Cox United States Court of Appeals (1979) a ProSe litigant's pleadings should not be held to the same high standards of perfection as lawyers. "Significantly, the Haines case involved a ProSe complaint-as does the present case-which requires a less stringent reading than one drafted by a lawyer."

Ms. Pape's pleadings/briefs are drafted to the best of her ability as a ProSe litigant as you will read she will try the best of her ability to draft this Response in a professional manner and identify case laws and statutes she was able to identify that properly show that this case needs a reversal.

"No person shall be deprived of life, liberty or property, without due process of law"

- Washington State Constitution Article 1 Sec 3 PERSONAL RIGHTS

Accordingly, the trial court abused its discretion when it divided the community assets/debts, and this court should reverse and remand for an equitable distribution of said community property.

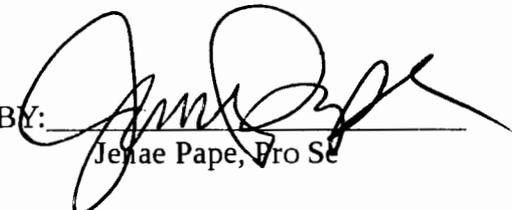
III. CONCLUSION

Based upon the issues raised in this appeal, Ms. Pape, respectfully urges this Court to reverse the trial court's distribution of community assets/debts, and remand for an equitable distribution pursuant to RCW 26.09.080. The appellants

(5)

also respectfully requests that she be awarded reasonable attorneys fees and costs pursuant to RAP 18.1 and further, that the respondent's request for sanctions and fees be denied and order the trial court to rule on the appellants motions for contempt, vacate the restraining order, and order the trial court to approve a Change of Venue to Okanogan County, which is closer to the City of Chelan then the Douglas County Court House so Appellant can have a fair and impartial trial. Appellant is very sorry it had to come to this and prays for a conclusion that is equitable and fair so no additional harm is done to anyone.

DATED this 26th day of January, 2018.

BY: 
Jenae Pape, Pro Se

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

~~Superior Court of Washington, County of _____~~

In re:

Petitioner/s (person/s who started this case):

WADE AUSTIN MILLER

And Respondent/s (other party/parties):

JENAE MARIE PEPE

No. 351432

Proof of Mailing or Hand Delivery
(for documents after Summons and Petition)
(AFSR)

Proof of Mailing or Hand Delivery
(for documents after Summons and Petition)

Warning! Do **not** use this form to prove you mailed or delivered a Summons, Petition, Order to Go to Court, or any kind of Restraining Order. For those documents, use Proof of Personal Service (FL All Family 101), or if you have court permission to serve by mail, use Proof of Service by Mail (FL All Family 107).

I declare:

1. I am (check one): the Petitioner the Respondent (name): _____ and am competent to be a witness in this case.

2. On (date): 1/27, 1/29, 1/30, I served copies of the documents listed in 3 below to (name of party or lawyer served): Fax 1/27 to John Weston (425-712-0999) emailed Weston Associates @ msn.com (1/30/18)

mail (check all that apply): first class certified other and email via Moni

with Weston Associates to Rani Sampson (Rani@overcastlaw.com) 1/29 mailing address and emailed by Appellant on 1/30/18 to state Rani@overcastlaw.com

email to (address): _____ (only if allowed by agreement, order, or your county's Local Court Rule)

fax to (number): Out of state (425) 712-0999 (only if allowed by agreement, order, or your county's Local Court Rule)

Hand delivery at (time): _____ a.m. p.m. to this address:

overnight by Federal Express to court of Appeals on 1-30-18
street address city state zip

I left the documents (check one):

- with the party or lawyer named above.
- at his/her office with the clerk or other person in charge.
- at his/her office in a conspicuous place because no one was in charge.
- with (name): _____, at the address listed in court documents where the party agreed to receive legal papers for this case.
- (For a party or lawyer who has no office or whose office is closed) at his/her home with (name): _____, a person of suitable age and discretion who lives in the same home.

3. List all documents you served (check all that apply):

(The most common documents are listed below. Check only those documents that were served. Use the "Other" boxes to write in the title of each document you served that is not already listed.)

<input type="checkbox"/> Notice of Hearing _____	<input type="checkbox"/> Notice Re Military Dependent
<input type="checkbox"/> Motion for Temporary Family Law Order <input type="checkbox"/> and Restraining Order	<input type="checkbox"/> Sealed Financial Documents
<input type="checkbox"/> Proposed Temporary Family Law Order	<input type="checkbox"/> Financial Declaration
<input type="checkbox"/> Proposed Parenting Plan	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Proposed Child Support Order	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Proposed Child Support Worksheets	<input type="checkbox"/> Declaration of: _____
<input checked="" type="checkbox"/> Other: <u>Response of Appellant</u>	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Other: <u>TO COURT of Appeals only</u> <u>PROOF OF SERVICE.</u>

4. Other: _____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (city and state): Shawnee, Seattle, WA Date: 1-29-18

[Signature]
Signature of server

Jenae Page
Print or type name of server
Jenae Page 1-30-18