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NO. 65974-0-1

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

In re the Marriage of:
AMANDA JO KOEHN (fka ANNIS),
Appellant,
and
JEFF JOSEPH ANNIS,
Respondent.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WHATCOM COUNTY

The Honorable Steven J. Mura

APPELLANT'S BRIEF

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I. INTRODUCTION

This appeal is from a post-decree dissolution dispute where the trial court rescinded a fixed length domestic violence protection order entered by agreement of the parties in a Decree of Dissolution. Respondent failed to meet the burden of proof for modification of a domestic violence protection order. The trial court erred in rescinding the domestic violence protection order despite overwhelming evidence and substantial findings of a history of domestic violence, drug and alcohol problems, and mental health issues of Respondent. The trial court abused its discretion by unilaterally granting relief when there was no basis in fact or law for entry of the order.

II. ASSIGNMENT OF ERROR

The trial court erred by rescinding the December 16, 2009 domestic violence protection order in its ruling of June 9, 2010 and *Order Re Petitioner's Motion to Dismiss Restraining Order* entered August 9, 2010.

III. ISSUE

Whether the trial court erred in rescinding a domestic violence protection order where the unrebutted trial court record contained extensive evidence of a history of domestic violence, two recent criminal convictions for violation of a protection order, and substantial findings of a history of domestic violence, drug and alcohol problems, and mental health issues of Respondent.

IV. STATEMENT OF FACTS

The parties were married February 14, 2002 and separated December 23, 2008. CP 32. The parties' dissolution trial was scheduled for December 16, 2009. On that day, Respondent, Jeff Annis ("Jeff"), appeared *pro se*, and orally requested a continuance of the contested parenting plan issues. All other final orders were agreed. The trial court granted this request over the objection of Appellant, Amanda Koehn ("Amanda"), and bifurcated the trial on the contested parenting plan. RP 3. Findings of Fact and Conclusions of Law ("Findings") and a Decree of Dissolution ("Decree") were agreed and entered December 16, 2009. CP 24-36. These final orders were not appealed by either party. Jeff did not file a motion to modify the Findings or Decree pursuant to Civil Rule 60.

The Findings of Fact and Conclusions of Law found, *inter alia*, that Jeff had a history of domestic violence:

¶ 2.14 Protection Order

The domestic violence Order for Protection signed by the court on this date or dated January 14, 2009 in Case No. 08-2-03282-1, is approved, incorporated and extended as part of these findings.

The husband has a history of domestic violence, including: charges of Assault IV domestic violence; multiple convictions of violation of protection orders including Bellingham Municipal Case #CB62516 and Whatcom County District Court #AC32728. The husband is likely to commit further acts of domestic violence or violate protection orders. The wife should be protected with a permanent protection order. The youngest child should graduate high school on or about June 2026. The wife should be permitted to extend the protection order if necessary.

CP 33. This provision was never modified by the trial court nor sought to be modified by Jeff's subsequent post-decree motion. RP 8-9. The trial court reserved final determination of the domestic violence issues only with regard to the parenting plan:

¶ 3.6 Protection Order

A domestic violence Order for Protection was entered by the court on January 14, 2009 in Case No. 08-2-03282-1. A domestic violence restraining order should be entered against the Husband to protect the Wife from further acts of domestic violence until the youngest child reaches age 18 and has graduated from high school, *the court reserves the right to vacate this provision at the time of trial on parenting plan issues. SJM*

CP 36 (emphasis in original, *italics* are the handwritten modification by the trial court, *sua sponte*, with the trial judge's initials, "SJM").

The Decree of Dissolution provided for a domestic violence protection order for Amanda, but limited it with respect to the children. CP 24, 26-27. It stated:

¶ 3.8 Continuing Restraining Order

A continuing restraining order is entered as follows:

The husband is restrained and enjoined from going onto the grounds of or entering the home, work place or school of the other party, or the daycare or school of the following named children:

Jesse C. Annis, Josephine J. Annis, Jordan J. Annis

The husband is restrained and enjoined from knowingly coming within or knowingly remaining within 100 feet of the home, work place or school of the other party, or the day care or school of these children: Jesse C. Annis, Josephine J. Annis, Jordan J. Annis

Jeff Annis is restrained from coming near and from having any contact whatsoever with Amanda Annis, in person or through others, by telephone, mail, e-mail, electronic, or any means, directly or indirectly.

Jeff Annis may have contact with his children only, not Amanda Annis, only as specifically set forth in the parenting plan entered this date in this matter. This protection order does not prohibit Jeff Annis from

having any contact whatsoever with the children. However, his contact is specifically limited as set forth above and only as permitted in the parenting plan. A violation of the parenting plan schedule may be a violation of this order.

This restraining order expires on: June 30, 2026. This restraining order supersedes all previous temporary restraining orders in this cause number.

¶3.9 Protection Order

The parties shall comply with the domestic violence Order for Protection signed by the court on this date or dated, January 14, 2009 in Case No. 08-2-03282-1. The Order for Protection signed by the court is approved and incorporated as part of this decree.

CP 26-27 (emphasis in original) (the Order for Protection under Case No. 08-2-03282-1 is Trial Exhibit 1 (“Exhibit”)). The January 14, 2009 Order for Protection found that “Respondent, [Jeff Annis], committed domestic violence as defined in RCW 26.50.010 and represents a credible threat to the physical safety of petitioner; the court concludes as a matter of law the relief below should be granted.” *Id.*

The trial court, *sua sponte*, also modified paragraph 3.11 of the *Decree* regarding the parenting plan: “The parties shall comply with the *Domestic Violence Protection Order Parenting Plan* signed by the court on *Jan 14, 2009 until a Parenting Plan is* signed by the court *and* is approved and incorporated as part of this decree. *SJM*” (*italics* are hand-written text inserted by the trial court). RP 28. Jeff’s motion did not seek to modify paragraphs 3.6, 3.9 or 3.11, nor did the trial court do so in its August 9, 2010 order. CP 8-9.

The parenting plan trial was held January 25, 2010. RP 3-60. The final order Parenting Plan was entered April 8, 2010. CP 12-22. At trial, the unrebutted testimony was that Jeff had been charged with domestic violence (“DV”) assault and

with two separate violations of the protection order. A domestic violence protection order was issued against Jeff on January 14, 2009 for his assault on Amanda in December 2008. RP 10, Exhibit 1. Jeff pushed Amanda in that assault, RP 31, which gave rise to the assault charges against him RP 13. The DV assault charge was dismissed in exchange for Jeff's guilty plea to violation of the DV protection order. RP 14. Jeff was convicted of "DV Protection Order Violation" on February 12, 2009. Exhibit 2. RP 11-12. This was for an incident that occurred 2 days after the underlying DV protection order was issued. RP 12. One month later, on March 15, 2009, Jeff violated the DV Protection Order again. RP 13. He was convicted for this on July 30, 2009 and sentenced to 5 days in jail. Exhibit 3, RP 13. Jeff is homeless. RP 32. Jeff testified in his case in chief for one page of the trial transcript (less than a minute), and did not rebut Amanda's testimony. RP 34-35. Jeff has 3 other children ages 13, 22 and 28, with 3 different mothers. RP 36. He did not raise or parent these other children. RP 37. He is unemployed. RP 40. He suffers from a mental health disorder. Exhibit 4, RP 16-22, 35-40.

The trial court entered findings under RCW 26.09.191(3) that Jeff was unfit to care for the children alone or overnight and that he suffered from "medical, physical and/or psychiatric conditions" as follows:

¶ 2.2 Other Factors (RCW 26.09.191(3))

The involvement or conduct may have an adverse effect on the children's best interests because of the existence of the factors which follow:

Neglect or substantial nonperformance of parenting functions.

A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions.

The Court finds that the Father has been homeless since the dissolution started and does not have proper living conditions to care for his children.

The Court finds that the Father has medical, physical and/or psychiatric conditions (including seizures and loss of consciousness for up to 4 hours at a time) that preclude overnight or unsupervised visitation. The children should be protected from this as provided in this plan.

CP 13. The trial court imposed substantial restrictions on Jeff's parenting:

¶ 3.10 Restrictions

The father's residential time with the children shall be limited because there are limiting factors in paragraphs 2.1 and 2.2. The following restrictions shall apply when the children spend time with this parent:

There shall be third party supervision at all times as approved by Mother.

No overnight visitation.

Father shall not consume alcohol or non-prescribed drugs within 24 hours of visitation. Smoking by parents or third parties is prohibited in presence of children.

Father shall provide proper food, clothing and hygiene for the children.

Father shall not pick up the children from school. However, Father may attend school functions that are public so long as he does not disturb the peace of any person, or violate conditions of this order or domestic violence protection order.

CP 15. All exchanges of the children were required to occur at local police stations, at which Jeff was permitted to have contact with Amanda without violation of the protection order (despite his incorrect claim to the contrary in his motion). CP 16,

11.

The trial court placed substantial requirements on Jeff that he was required to complete before modification of the parenting plan:

¶3.13 Other

The Father shall attend and satisfactorily complete the Parenting class at Whatcom Dispute Resolution Center.

Prior to modification of this parenting plan, the Father must complete all of the following:

The Father shall obtain an evaluation by DSHS or some other qualified public agency for him to be observed with the children by a professional to determine whether his functions and interactions with the children are appropriate.

The Father shall obtain a drug and alcohol evaluation. The evaluator may communicate with the Mother to incorporate her information about this matter into the evaluation and recommendations. The Father shall sign release of information forms to permit the evaluator to communicate with third parties and for release of the evaluation to the Court, her counsel and any other relevant third party. The Father shall file the report under seal with the Court immediately upon its completion, and comply with all recommendations thereof.

The Father shall obtain a statement from his medical doctor that indicates he is medically capable of unsupervised parenting.

The Father shall obtain adequate housing and the ability to feed and clothe the children at all times.

The Father shall obtain a mental health/psychiatric evaluation to determine the nature, extent, severity and impact of his auditory hallucinations or psychiatric condition on the children and the provisions of this parenting plan. The evaluator may consult with the Mother to incorporate her information about this matter into the evaluation and recommendations. The Father shall sign release of information forms to permit the evaluator to communicate with third parties and for release of the evaluation to the Court, opposing counsel and any other relevant third party. The Father shall file the report under seal with the Court immediately upon its completion, and comply with all recommendations thereof.

All of the foregoing conditions must be completed and complied with prior to the Father seeking to modify this parenting plan. Upon the

Father's completion of these items the decision authorized should be reviewed by the Court if he petitions for modification.

CP 16-17. Neither party appealed the final order Parenting Plan entered April 8, 2010. Jeff has not taken any action of record to address or ameliorate these underlying issues and court imposed requirements.

On April 21, 2010, Jeff filed a motion/declaration to “dismiss the restraining orders 1. findings of fact 3.6 and 2. Decree of Dissolution 3.8.” CP 8-9, and a second declaration in support. CP 10-11.

Amanda objected and responded by declaration, which included her present fear of Jeff’s likelihood of committing further acts of domestic violence given his mental health and drug abuse combined with his history of domestic violence and criminal convictions for violations of the domestic violence protection order. CP 5-7.

On June 9, 2010 a hearing was held where the trial court granted Jeff’s motion. RP 61-71. At the hearing, the trial court stated “but once they’re separated it doesn’t qualify as domestic violence. It qualifies as an assault or whatever the circumstances are because they’re no longer residing in the same household, nor are they any longer husband and wife.” RP 63. The trial court also stated that “violation of a protection order is not domestic violence.” RP 63, 64.

V. ARGUMENT

THE TRIAL COURT ERRED BY RESCINDING THE DECEMBER 16, 2009 DOMESTIC VIOLENCE PROTECTION ORDER IN ITS RULING OF JUNE 9, 2010 AND ORDER RE PETITIONER’S MOTION TO DISMISS RESTRAINING ORDER ENTERED AUGUST 9, 2010.

- A. The Findings Of Fact And Conclusions Of Law And The Decree Of Dissolution Were Not Appealed Or Modified And Are Therefore Binding On Respondent And The Trial Court And Verities On Appeal.

Jeff Annis signed the Findings of Fact and Conclusions of Law and the Decree of Dissolution without objection. RP 3, CP 28. Jeff did not file an appeal or a motion under Civil Rule 60. CR 60, together with right of appeal within the period prescribed by law, provide the exclusive means for modification of the Decree. State v. Ryan, 146 Wn. 114, 261 P. 775 (1927); Williams v. McCauley, 7 Wn.2d 1, 108 P.2d 822 (1940). The trial court can reopen a case only if authorized by statute or court rule, usually under rules governing new trials and relief from judgment. Rose ex rel. Estate of Rose v. Fritz, 104 Wn. App. 116, 15 P.3d 1062 (2001). The trial court has no inherent power to correct its own mistakes, whether of law or of fact, when alleged mistake amounts to more than irregularity that is extraneous to action of court or that goes to question of regularity of its proceedings. Marie's Blue Cheese Dressing, Inc. v. Andre's Better Foods, Inc., 68 Wn.2d 756, 415 P.2d 501 (1966). Where jurisdictional time for taking appeal has elapsed, the lost right of appeal cannot be revived by subsequent order. Cohen v. Stingl, 51 Wn.2d 866, 322 P.2d 873 (1958); In re Marriage of Penry, 119 Wn. App. 799, 82 P.3d 1231 (2004). Therefore, the trial court lacked jurisdiction to deviate from the terms of the Findings and Decree.

Moreover, the December 16, 2009 Findings of Fact and Conclusions of Law are verities on appeal and binding on Respondent as unchallenged findings. Standing Rock Homeowners Ass'n v. Misich, 106 Wn. App. 231, 241, 23 P.3d 520, *rev. denied*, 145 Wn. 2d 1008 (2001); State v. Hill, 123 Wn.2d 641, 644, 870 P.2d 313 (1994). Therefore, Jeff and the trial court are bound by the domestic violence findings of ¶ 2.14 and ¶ 3.9 in the Findings of Fact and Conclusions of Law, and the

RCW 26.09.191 restrictions in ¶2.2 of the Parenting Plan. CP 33, 27, 13. The strict limitations on Jeff's parenting in paragraphs 3.10 and 3.13 of the parenting plan are also binding, and verities on appeal. Id., CP 15-17.

B. The Domestic Violence Protection Act Is Intended To Protect Victims Of Domestic Violence Such As Amanda Annis.

The trial court modified a fixed-length domestic violence protection order entered pursuant to the DOMESTIC VIOLENCE PREVENTION ACT (DVPA), RCW 26.50 *et. seq.* The trial court previously found, and Jeff did not appeal, that Jeff had committed domestic violence as defined in the DVPA: “[p]hysical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members....” RCW 26.50.010(1); Exhibit 1. The trial court's findings and order were entered after a contested hearing where Jeff was represented by counsel. RP 11. The January 14, 2009 Order for Protection was effective for one year. Id. Within that year Amanda obtained its extension by entry of the Findings and Decree on December 16, 2009. Such an extension may be issued under the DVPA in certain circumstances:

[I]f ... the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

RCW 26.50.060(2). Such orders, however, can be modified or terminated “[u]pon application with notice to all parties and after a hearing ...” RCW 26.50.130(1). Therefore, a clear public policy has been promulgated by the legislature to protect victims of domestic violence. See RCW 26.50 *et. seq.*; see also RCW 10.99 *et. seq.* (domestic violence official response act); RCW 10.99.010 (“The purpose of this

chapter is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide.”).

C. Jeff Annis Failed To Meet His Burden Of Proof That Would Not Resume Acts Of Domestic Violence Against Amanda.

The burden of proof for modification of a permanent protection order is on the moving party by a preponderance of the evidence. Freeman v. Freeman, 169 Wn.2d 664, 672-673, 239 P.3d 557 (2010).¹ The Freeman court delineated 11 factors for determination of the issue:

1. whether the victim has consented to lift the order;
2. the victim's fear of the restrained party;
3. the present nature of the relationship between parties;
4. whether the restrained party has any contempt convictions for violating the order;
5. the restrained party's alcohol and drug involvement, if any;
6. other violent acts on the part of the restrained party;
7. whether the restrained party has engaged in domestic violence counseling;
8. the age and health of the restrained party;
9. whether the victim is acting in good faith to oppose the motion;
10. whether other jurisdictions have entered any protection orders against the restrained party; and,
11. other factors deemed relevant by the court.

Id. at 673. Neither Jeff nor the trial court addressed any of these factors. RP 61-71.

For example, Jeff’s cursory declarations in support of his motion were limited to a few sentences: “I have never injured Amanda. She testified on stand that I had

1. Although not addressed in Freeman, presumably the same standard applies to modification or termination of a long-term fixed length protection order as for a permanent one as RCW 26.50.130(1) is silent as to both and the analysis of Freeman applies equally.

never hit her the seven years we were together. Neither violation of the restraining order involved contact with the respondent. One was unchaining our dog while the other was while I was attempting to pick-up our children to attend a wedding outside my normal hour of visitation. Both incidents were over one year ago. These restraining orders are effecting [sic] my ability to pick-up our children.” CP 10-11 *see also* CP 8-9. Amanda, on the other hand, delineated a recent history of domestic violence as shown by her trial testimony, RP 9-14, the Order of Protection, Exhibit 1, Jeff’s criminal convictions for violation of domestic violence protection order, Exhibits 2 & 3, her reply declaration, CP 5-7, his mental health disorder, RP 16-22, 35-40, Exhibit 4, and the final order Findings and Decree.

Although Jeff and the trial court did not address or weigh the Freeman factors, clearly there is no evidence this standard was met:

1. Amanda has not consented to lift the order.
2. Amanda’s fear is objectively reasonable in light of: (a) her unrebutted testimony; (b) the very recent history of domestic violence; (c) Jeff’s mental health, drug abuse and personal circumstances; and, (d) the present existence of a reasonable likelihood of further acts of domestic violence.

3. The present nature of the parties’ relationship is that they have an ongoing relationship because they share 3 minor children for whom a parenting plan exists until June 30, 2026. *See e.g. Freeman*, 169 Wn.2d at 562; Spence v. Kaminski 103 Wn. App. 325, 333, 12 P.3d 1030 (2000) (“[T]he continuing relationship of the parties, who still struggled over custody issues, presented ongoing opportunities for conflict”).

4. Jeff was convicted twice for violation of the protection order *within the year preceding his April 2010 motion*, on February 12, 2009 and July 30, 2009.

5. It was un rebutted that Jeff has drug and alcohol issues which were reflected in the trial court findings and orders, and no evidence of his having obtained any treatment for such issues.

6. Jeff has had other violent acts as testified to by Amanda and based upon his history of criminal charges for Assault in the Fourth Degree, Domestic Violence. RP 9-14.

7. There is no evidence Jeff engaged in any domestic violence counseling.

8. Jeff is young, therefore capable of further acts of domestic violence. His health, on the other hand, is unstable and disturbing. It is clear from the testimony of both parties, that Jeff suffers from untreated mental health issues that substantially affect normal functioning. See *also* Exhibit 4 (psychiatric report).

9. Amanda is clearly acting in good faith given the extensive history and its recency.

10. Other jurisdictions have entered protection orders against Jeff, including the Whatcom County District Court, Exhibit 2, and the Bellingham Municipal Court, Exhibit 3.

11. No factors or other issues were addressed by the trial court. Therefore, Jeff has failed to meet his burden of proof by a preponderance of the evidence that he will not resume acts of domestic violence against Amanda.

D. The Trial Court's Ruling Was An Abuse Of Discretion.

The trial court's ruling was an abuse of discretion, manifestly unreasonable and should be overturned. See In re Marriage of Ziegler, 69 Wn. App. 602, 849 P.2d 695 (1993); In re Custody of Salerno, 66 Wn. App. 923, 833 P.2d 470 (1992). Amanda was granted a fixed length protection order until the parties' youngest child was age 18. CP 27. She did so on the un rebutted evidence of a reasonable likelihood of recurrence. Amanda testified that Jeff was a mentally ill drug addict who had committed domestic violence many times, including one assault and two violations of DV protection orders within one year. RP 3-32. Jeff also presented evidence of his mental deficiencies. Exhibit 4. Based on this evidence, the trial court entered the findings above and granted the protection order until June 30, 2026. Thus, Amanda met the burden of showing a likelihood of recurrence. See Spence v. Kaminski, 103 Wn. App. 325, 333, 12 P.3d 1030 (2000); Barber v. Barber, 136 Wn. App. 512, 513, 150 P.3d 124 (2007).

Based on the trial court's comments and colloquy at the hearing, it appears it either misunderstood the law or disregarded it. RP 61-71. For example, the trial court said "but once they're separated it doesn't qualify as domestic violence. It qualifies as an assault or whatever the circumstances are because they're no longer residing in the same household, nor are they any longer husband and wife." RP 63. This is, of course, inconsistent with the definition of domestic violence under RCW 26.09.010(2), which clearly includes "former spouses" and "persons who have a child in common." For the trial court to make such an obvious misstatement of the law is not only shocking, it indicates the trial court's failure to review the facts and

law applicable to this matter. The colloquy between Amanda's attorney and the trial court further show that it was the trial court that was advocating a position, not the moving party. In other words, Jeff presented no factual or legal basis or argument for his motion, yet the trial court blindly took his position and argued his case against Amanda's attorney. The trial court stated that "violation of a protection order is not domestic violence," RP 63, 64, and wholly disregarded the Freeman factors. "A trial court would necessarily abuse its discretion if it based its ruling on an erroneous view of the law." Wash. State Phys. Ins. Exch. & Ass'n v. Fisons Corp., 122 Wn.2d 299, 339, 858 P.2d 1054 (1993). The trial court improperly acted unilaterally in this matter with a clearly erroneous view of the law.

The trial court's ruling is unsupported in fact or law. Jeff's motion was supported by a few very limited sentences which were essentially minimization of his prior acts of domestic violence, with no new evidence. For example, he said "I have never *'injured'* Amanda," (which is not the definition of domestic violence), his two criminal convictions for violation of the DV protection order were "over one year ago" and his violations did not involve "contact with [Amanda]." CP 8-11. "A trial court's decision is manifestly unreasonable if it adopts a view that no reasonable person would take." Salas v. Hi-Tech Erectors, 168 Wn.2d 664, 669, 230 P.3d 583 (2010) (internal quotation marks omitted) (quoting In re Pers. Restraint of Duncan, 167 Wn.2d 398, 402-03, 219 P.3d 666 (2009)). "A decision is based on untenable grounds or for untenable reasons if the trial court applies the wrong legal standard or relies on unsupported facts." Id. (quoting Mayer v. Sto Indus., Inc., 156 Wn.2d 677, 684, 132 P.3d 115 (2006)). Such is the case at bar.

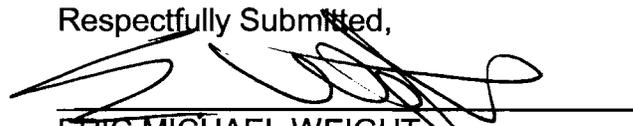
Jeff did not meet any burden of proof for rescission of the protection order as he presented no evidence regarding the likelihood of further acts of domestic violence. Freeman v. Freeman, 169 Wn.2d 664, 672-673, 239 P.3d 557 (2010). Instead, the trial court's decision appears to rest on its misunderstanding of the definition of domestic violence. RP 63-64. For example, at the hearing Jeff said "I have been arrested three times now **when I don't feel I've done anything wrong.**" RP 66 (emphasis added). To which the trial court responded "That is kind of ancient history, wasn't it?" Id. With limited analysis and no findings, the trial court went on to say, on the other hand, "I will put him in jail if he is not dignified and respectful." RP 70. The trial court did so without any showing of Jeff's compliance with the restrictions in the Parenting Plan, CP 16-17, and without any evidence of a change of circumstances regarding the Findings of Fact ¶ 2.14. Therefore, the trial court's ruling was an abuse of discretion, manifestly unreasonable and must be overturned. In re Marriage of Ziegler, 69 Wn. App. 602, 849 P.2d 695 (1993); In re Custody of Salerno, 66 Wn. App. 923, 833 P.2d 470 (1992).

VI. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse the August 9, 2010 trial court order.

DATED: May 6, 2011

Respectfully Submitted,



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COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

In re the Marriage of:
AMANDA JO KOEHN (fka Annis),
Appellant,
and
JEFF JOSEPH ANNIS,
Respondent.

NO. 65974-0-1

DECLARATION OF SERVICE

My name is Eric Weight. I am a citizen of the United States, a resident of Bellingham, Washington, over the age of 18 years and not a party to this case. On this date I caused a copy of the following document to be delivered to the addresses below by US mail, postage prepaid: **Appellant's Brief.**

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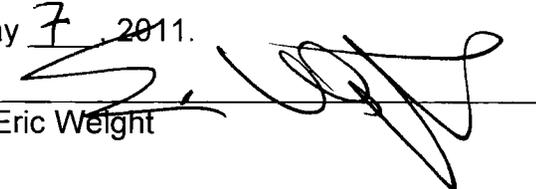
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I declare under penalty of perjury under the laws of Washington that the foregoing is true and correct.

Signed in Bellingham, Washington on May 7, 2011.


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600 University Street
Seattle, WA 98101

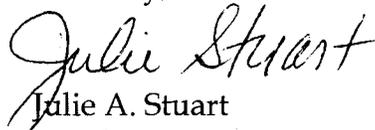
Re: Koehn v. Annis
Court Case No. 65974-0-I

Dear Sir or Madam:

Enclosed please find an original and two copies of Appellant's Brief and Declaration of Service to be filed in the above-referenced case.

Please date stamp one copy and return to me in the enclosed self-addressed stamped envelope. Thank you.

Sincerely,


Julie A. Stuart
Legal Assistant

JAS/
Enclosures

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