No. 87064-1

IN THE SUPREME COURT

OF THE STATE OF WASHINGTON

Dan Barrett, Jr. *Respondent*

vs

Dan Barrett, Sr., *Appellant*

OPENING BRIEF OF PETITIONER/APPELLANT

Dan Barrett, Sr.

Petitioner/Appellant, acting pro se

P.O. Box 361

South Prairie WA 98385

253-273-1110

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I. INTRODUCTION & STATEMENT OF THE CASE

This case should have been dismissed on 25 October 2005. Yet it lives on despite all legal efforts of this Petitioner/Appellant to end it. It has been appealed twice to Division Three. **[# 25303-1-III & #29045-0-III]**

The reasons this has happened are of less importance than correcting the injustices done to Petitioner and also to the dignity of the courts. The injustice includes severe damage to his reputation, intense emotional upheaval, and substantial unlawful transfers of Petitioner's wealth under the guise of child support.[1] Sadly, the injustice and damage done to the other children by their eldest sibling cannot be repaired or redressed.

This case was settled and completed in Pierce County in 2005. Subsequently, Respondent sought intervenor status in Pierce County, and it was granted. He filed an intervenor custody petition under the same cause number.

Yet he proceeded to file a third-party custody action in Kittitas County Superior Court knowing full well that the case was still active in Pierce County Superior Court because of *his* actions in that court.

Despite Petitioner's best efforts to provide the Kittitas judge with the relevant facts showing that his court's jurisdiction was lacking, Kittitas County Superior Court took control over the subject matter. Essentially, the court transferred venue of the case to itself, thus facilitating the obvious forum shopping by Respondent.

Seven years later, it refuses to recognize its error nor correct it,

[1] Petitioner is not seeking refund of support monies that he has already paid.

even though this Court has stated that no judicial authority exists without it and the issue can be raised at any time.

II. ASSIGNMENTS OF ERROR

#1 The trial court erred when it entered Findings of Fact #1 through #11 on 30 January 2012.

#2 The trial court erred when it entered Conclusions of Law #1 through #6 on 30 January 2012.

#3. The trial court erred when it entered a money judgment of $3740.00 against Petitioner Dan Barrett, Sr. on 30 January 2012.

#4 The trial court erred when it entered "Judgment" #1 through #6 on 30 January 2012.[2]

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

First Issue

Does the Kittitas County superior court have authority to exercise jurisdiction over the subject matter of this cause (take cognizance) when the cause was pending in Pierce County Superior Court at the time of filing in Kittitas County and Respondents had successfully sought intervenor status under the Pierce County cause number?

Second Issue

Does a superior court abuse its discretion when it imposed a child support obligation solely upon one parent when there is no evidence that the other parent has had parental rights terminated?

Does a superior court have authority to order a parent to pay another party's ostensibly reasonable attorney fees in a third party custody matter when there is no evidence that the parent so ordered has the ability to pay?

[2] These provisions appear to be findings or conclusions that are mislabeled.

IV. SUMMARY OF ARGUMENT

The thrust of this review is whether there exists sufficient "wiggle room" in the law to permit the "forum shopping" done by Respondent.

The primary question presented is whether the Kittitas County Superior Court could take cognizance of a matter that was already pending in Pierce County Superior Court and in which the initiating party had participated. A collateral question is whether estoppel and/or res judicata precluded trial of allegations of violence which supposedly occurred prior to the entry date of the final parenting plan in Pierce County Superior Court.

A second question is presented with regard to the court ordering Petitioner/Appellant to pay the other party's attorney fees without showing need and ability to pay. This question will not be reached if the first question is resolved in favor of Petitioner/Appellant.

V. ARGUMENT

Can a court take jurisdiction from another court? Can jurisdiction be exercised in a manner not specified in statute?

At the very first hearing in Kittitas County Superior Court, Respondent's attorney (Richard Cole) recited his version of the prior proceedings of two different courts (Pierce County Superior and Puyallup Tribal). **[VRP 10/24/05 - p3-5]**. Cole's recitation was incomplete and misleading because he failed to disclose to the court that his client (Respondent) had already filed and served a Non-parental Custody Petition in the Pierce County Superior Court dissolution case after he had been granted intervenor status. **[P.C.Sup.Ct. #97-3-02158-7]**.

At best, this omission misled the court into a venue discussion in which Cole made sweeping, unintelligible and incorrect conclusory statements about venue, jurisdiction, and in which he conflated RCW 26.09 with RCW 26.10. **[VRP 10/24/05 - p3-5]**.[3]

When it was Petitioner/Appellant's turn to address the court, he did not get very far before Judge Sparks interrupted him and made a startling statement that has gone unnoticed until now:

> THE COURT: ... Jurisdiction is the ability of the court to have the authority to hear a case. Venue is which actual place is it heard. *Because Kittitas County Superior Court is exactly the same jurisdiction as the Yakima County Superior Court as is the same as Pierce County, King. We are one big court system in Washington*. So the difference is venue. This is a different venue. We are in Ellensburg. In Pierce County is in Tacoma. So that's the difference. So let's be clear on that. *So we have jurisdiction here because it's the same court*. It's just in a different place. Does that make sense?
>
> [emphasis added]
>
> **VRP 10/25/05 - p6-7**

The use of the word "we" is extremely troubling. It is frankly stunning that such an egregious mis-statement of the law could be uttered by a judge in open court. Adding to the stunning aspect is that one of the lead opinions on the difference between venue, jurisdiction and the authority of a court to act is from the same county as this case:

> Under the priority of action rule, the trial court that first obtains jurisdiction is the court in which this matter will normally proceed. [cite omitted]. SSI contends the court that acquires jurisdiction is the court in the county in which both filing and

[3] This court should take judicial notice of the docket history of this case.

> service are first completed. We disagree. *The applicable court rule and statute are unambiguous. Both provide that a civil action is commenced by filing or by service of the summons and complaint*. CR 3; RCW 4.28.020. *Once an action is commenced, "the court is deemed to have acquired jurisdiction and to have control of all subsequent proceedings."* RCW 4.28.020.
>
> "CR 3 clearly and unmistakably provides that an action is commenced today by service of a summons or by the filing of a complaint." [cite omitted]. RCW 4.28.020 clearly provides that the court is deemed to have acquired jurisdiction from the time an action is commenced. Therefore, the King County court acquired jurisdiction over this matter when the County filed its complaint. The fact that SSI completed both service and filing first does not confer jurisdiction on the Kittitas County court. [cite omitted]. [emphasis added]
>
> **Seattle Seahawks v. King County, 128 Wn.2d 915, 916-917, 913 P.2d 375 (1996)**

Regardless of whether one takes the view that the original petition filed for dissolution of marriage or the non-parental custody petition filed in Pierce County by Respondent is the determining act, the result is the same -- Pierce County Superior Court has long ago acquired exclusive jurisdiction over the case and the minor children.

Respondent implicitly acknowledged this reality by seeking intervenor status in Pierce County as well as also seeking affirmative relief under that same cause number. Nonetheless, less than a month later he commenced an action in Kittitas County Superior Court seeking the same relief.

In 1990, this Court held that each superior court is a separate court:

> In Washington, cases may be consolidated pursuant to CR 42(a), which provides in part:
>
> . . .
>
> This rule provides the procedure for consolidation

> of cases "pending before the court." *Only if the various counties' superior courts are viewed as a single superior court of the State of Washington would cases pending in superior courts of different counties be "pending before *the* court*," thus authorizing consolidation under CR 42(a). Neither the state constitution nor the statutes creating the superior courts support such a characterization. Both the constitutional provisions and the statutes pertaining to superior courts refer to multiple courts. See Const. art. 4, §§ 1, 5 ("The judicial power of the state shall be vested in . . . superior courts . . .. There shall be in *each* of the organized counties of this state a superior court . . ."). (Italics ours.) See also, e.g., RCW 2.08.030 ("The superior courts are courts of record . . .."). (Italics ours.) *Under the language of the constitution and the statutes, there is no single superior court. Actions pending before the superior courts of different counties are not "pending before *the* court."* [emphasis added]
>
> **Am. Mobile Homes v. Seattle-First, 115 Wn.2d 307, 312-313, 796 P.2d 1276 (1990)**.

Further in the same opinion, it states:

> We agree with the federal courts that have considered this question that to permit a court to divest another court of jurisdiction over a case pending in the second court has the potential to create chaos in our court system. This is because to allow one superior court this much control would ignore the practical considerations venue brings to a lawsuit. It would also ignore the principles of venue determination recognized in our statutes, court rules, and case law. Therefore, we hold that a superior court may not transfer to itself a case which is pending in another county.
>
> **American Mobile Homes, at 316**.
>
> [T]he court which first gains jurisdiction of a cause retains the exclusive authority to deal with the action until the controversy is resolved. The reason for the doctrine is that it tends to prevent unseemly, expensive, and dangerous conflicts of jurisdiction and of process.
>
> **American Mobile Homes, at 317**.

Petitioner/Appellant challenged Kittitas County Superior Court jurisdiction based on this holding (and **Seattle Seahawks**) but was rebuffed. The Kittitas court accepted the view that it was a mere venue issue and that the Pierce County case history was of no import.[4] Yet **Seattle Seahawks** clearly holds that this is not a venue issue:

> [T]he underlying purpose of the priority of action rule is to determine which trial court has jurisdiction to control the proceedings. *A motion for a change of venue must be brought before the King County court*. [cite omitted].
>
> **Seattle Seahawks, at 917-918**.

The trial court was clearly wrong and its acts were without authority.

There is no obvious logic for filing a petition in one county and then filing a virtually identical petition in another county. Likely, Respondent figured out that it would be impossible to show a substantial change in circumstances in order to modify the parenting plan in Pierce County since the court file was right there. In Kittitas County, however, he would get a new case number and the court file would have no documents from prior litigation in the case. Thus, the ability of a court to easily verify statements about the history of the case would be difficult and challenges by Petitioner/Appellant could be made to appear to be a venue dispute.

It is material to the argument presented here to define the characteristics of a final judgment:

> [A] final judgment is recognizable as final for purposes of appeal if it finally determines the rights of

[4] In 2010, Respondent's attorney without notice obtained an ex parte order of dismissal from the Pierce County Superior Court. Apparently, Respondent was concerned about Petitioner/Appellant's argument prevailing since the Pierce County court clerk's office showed the case as still active.

> the parties in the action and *is not subject to de novo review at a later hearing in the same cause*. This is true even if it directs performance of certain subsidiary acts in carrying out the judgment, the right to the benefit of which is adjudicated in that judgment, and even if it is followed by subsequent orders with regard to those subsidiary acts.
>
> [emphasis added]
>
> **Wlasiuk v. Whirlpool Corp., 76 Wn. App. 250, 255, 884 P.2d 13 (1994).**

Applying this description, a parenting plan entered by default is a final judgment. Further action in relation to it would generally begin with CR 55. The Parenting Act of 1987, in recognition that final parenting plans are subject to the dynamics of change and growthin the family, crafted its statutory scheme for modification of parenting plans:

> . . . [T]he court shall not modify a prior custody decree or a parenting plan unless it finds, *upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan*, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child.
>
> [emphasis added]
>
> **RCW 26.09.260**

Because the Pierce County Superior Court entered the parenting plan by default, the only method of raising issues of fact from ***before*** the date of its entry would be to move to vacate the plan.[5] However, Respondent would not have standing to bring such a motion since his status as an

[5] Such a motion would fail because there was nothing irregular about the procedures used by Petitioner/Appellant to obtain default entry nor did any fraud exist.

intervening party did not exist until after the entry of default. Another way to state this is to say that he was not a party aggrieved by the default judgment; thus he lacks standing to seek relief from its effect.

But that did not deter Respondent from seeking a court where he could allege child abuse as a justification for the two years he claimed to be the unauthorized sole caretaker of the children. As can be seen from the initial pleading in Kittitas County, Respondent alleged that it was Petitioner / Appellant's "violent nature" plus the allegedly two years that the children had resided with Respondent which together showed adequate cause to modify custody.[6]

Under these circumstances, Respondent crossed into forbidden territory as established by this Court ***and*** the United States Supreme Court:

> The liberty interest at issue in this case — the interest of parents in the care, custody, and control of their children — is perhaps the oldest of the fundamental liberty interests recognized by this Court. More than 75 years ago, in Meyer v. Nebraska, 262 U. S. 390, 399, 401 (1923), we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own."
>
> . . .
>
> [T]he Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.
>
> . . .
>
> Section 26.10.160(3), as applied to Granville and her family in this case, unconstitutionally infringes on that

[6] Respondent did not allege a substantial change in circumstances since the parenting plan was entered.

> fundamental parental right. The Washington nonparental visitation statute is breathtakingly broad. According to the statute's text, "[a]ny person may petition the court for visitation rights at any time," and the court may grant such visitation rights whenever "visitation may serve the best interest of the child." §26.10.160(3) (emphases added). That language effectively permits any third party seeking visitation to subject any decision by a parent concerning visitation of the parent's children to state-court review. Once the visitation petition has been filed in court and the matter is placed before a judge, a parent's decision that visitation would not be in the child's best interest is accorded no deference. Section 26.10.160(3) contains no requirement that a court accord the parent's decision any presumption of validity or any weight whatsoever. Instead, the Washington statute places the best-interest determination solely in the hands of the judge. Should the judge disagree with the parent's estimation of the child's best interests, the judge's view necessarily prevails. Thus, in practical effect, in the State of Washington a court can disregard and overturn any decision by a fit custodial parent concerning visitation whenever a third party affected by the decision files a visitation petition, based solely on the judge's determination of the child's best interests. The Washington Supreme Court had the opportunity to give § 26.10.160(3) a narrower reading, but it declined to do so.
>
> **Troxel v Granville, 530 U.S. 57, 65, 66-67, (2000).**

Petitioner/Appellant asserts that Respondent's non-parental custody petition seeking to wrest custody of his siblings from their father could not have prevailed under **Troxel** if had it been styled as a visitation petition. It is absurd to consider that it can survive as a custody petition under the **Troxel** standards regardless of which court had cognizance.

But there is another aspect that is present and which has been actively hidden in plain sight by the concerted actions taken in the legal system. Respondent enticed and concealed his siblings from their father

with the active approval of their mother or vice versa. ***This is a crime***:

> (1) A relative of a child under the age of eighteen or of an incompetent person is guilty of custodial interference in the first degree if, with the intent to deny access to the child or incompetent person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the child or incompetent person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person and:
>
> (a) Intends to hold the child or incompetent person permanently or for a protracted period; or
>
> . . .
>
> (2) A parent of a child is guilty of custodial interference in the first degree if the parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to time with the child pursuant to a court-ordered parenting plan, and:
>
> (a) Intends to hold the child permanently or for a protracted period; or
>
> . . .
>
> (4) Custodial interference in the first degree is a class C felony.
>
> **RCW 9A.40.060**

It is obvious that Respondent's own statements made to support his case are an admission of custodial interference. The civil courts do not exist to create a judicial alibi for criminal activity.

Irrespective of which court had jurisdiction, the default judgment was res judicata as to any issues which could have been litigated.

In a 2000 opinion, the trial court accepted an agreed order of dependency. Later, the parents sued for negligent investigation, violation of

42 U.S.C. §1983, negligent infliction of emotional distress, and outrage. The trial court dismissed the lawsuit. The appeals court held:

> Collateral estoppel precludes a party from relitigating an issue of fact that the party has already litigated to final judgment, so long as injustice does not result. A key issue of fact in the dependency action was whether the [parents] had abused or neglected their children prior to December 5, 1994. The dependency court resolved that issue by entering a judgment that was final and appealable. In that judgment, it ruled that the children were dependent within the meaning of RCW 13.34.030(4), which is equivalent to saying the children were abused or neglected. Assuming without holding that the [parents] could attack the trial court's judgment directly (i.e., by motion made in the dependency action), they may not attack it collaterally (i.e., by relitigation in a separate action such as this). For purposes of this case, the Miles are bound to the proposition that their children were abused or neglected in 1994. [footnotes omitted]
>
> **Miles v. CPS, 102 Wn. App. 142, 153, 6 P.3d 112 (2000).**

For the purposes of res judicata, a default judgment should have the same effect as the **Miles** agreed order. After proper service, a default is a choice to not litigate as is an agreed order. Petitioner/Appellant sees no reason that the **Miles** holding should not apply to this instant matter.

Under **Miles**, the only facts which could have been litigated were those facts arising subsequent to 11 February 2005 (date of entry of the default parenting plan). Yet none of the alleged facts in the Kittitas non-parental custody petition arose subsequent to that date. Thus, the petition failed to fulfill the elements of RCW 26.09.260 and should have been dismissed because it was not (nor could it be) an original action.

Additionally, there is the question of whether a collateral attack upon the existing parenting plan (and the Pierce County superior court's finding that it was in the best interests of the children) can be mounted in a separate action. The closest case that Petitioner/Appellant found that addresses this issue holds:

> Lastly, we address whether Aldrich can assert DSHS's error by motion to show cause filed in his original dissolution action. Res judicata applies to the quasi-judicial decision of an administrative tribunal as well as to the judicial decision of a court. [cites omitted] *It operates at such time as the decision in question becomes final*. [cites omitted] *When it operates, it precludes relitigation by collateral attack*, [cites omitted] *and generally speaking, a motion filed in a different action constitutes a collateral attack*. [cites omitted]
>
> In this case, DSHS's administrative order was quasi judicial. See RCW 74.20A.055(1) (proceeding brought under statute is "adjudicative"). It became final when Aldrich failed to properly appeal it within 30 days. RCW 74.20A.055; RCW 34.05.542(2). *It has been res judicata ever since, and Aldrich cannot now collaterally attack it by motion filed in a different cause of action*.
>
> [emphasis added]
>
> **Marriage of Aldrich, 72 Wn. App. 132, 138, 864 P.2d 388 (1993)**.

Even if Petitioner/Appellant's jurisdictional argument fails, the manner in which the case was pursued in Kittitas County was defective in that it denied due process to Petitioner/Appellant.

Irrespective of Petitioner/Appellant's other arguments, it was an abuse of discretion to award reasonable attorney fees to Respondent.

An award of reasonable attorney fees is authorized by statute:

> The court from time to time, after considering the financial resources of all parties, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.
>
> . . .
>
> **RCW 26.10.080**

Appellate opinions on this statute are sparse and not really helpful. However, the text is the same as RCW 26.09.140 so opinions interpreting that statute should be appropriate for use here.

The only finding (entered 30 January 2012) that related to Petitioner / Appellant's current ability to pay stated as follows:

> The Court finds that $2000.00 is a reasonable amount of attorney's fees to award to Petitioners to be paid by Respondent Daniel Barrett, Sr. and that he has the ability to pay said amount, and additional fees associated with the Remand Hearing as provided herein.
>
> **Finding of Fact # 11**

The trial court also made Finding of Fact # 5, which stated:

> The Court reaffirms the Findings of Fact regarding the gross income and net income of the father as originally found by the Court pursuant to the Washington State Child Support Schedule filed with the Court May 15, 2006 and the Order of Child Support entered May 15, 2006 in the original cause of action.

There are no findings relating to Petitioner/Appellant's ability to pay. There is an implied premise that previous findings entered in 2006 provided sufficient current evidentiary support for Finding # 5 but two

points operate against accepting that premise at face value.

First, the findings should have been restated as findings in the current Findings of Fact. Because this was not done, there is no basis to imply that they were sufficient or proper to be used by reference. In other words, Finding # 5 essentially asserts that we should "trust" that the previous findings were appropriate and sufficient. Petitioner/Appellant declines to trust findings that have already been subjected to a trip to Division Three and he finds no reason to trust Respondent for any purpose.

Second, there is no authority to "accept" Child Support Schedules for anything other than child support. Likewise, a child support order is not evidence of anything other than its existence and the steps leading up to its entry. If a child support schedule declaration was suitable for another purpose, the statutes would say so. Most importantly, the worksheets are done pursuant to child support statutes which do not have the same requirements as RCW 26.10.080. Thus, they cannot be extrapolated straight across to another use.

Finding of Fact # 11 mainly a Conclusion of Law. As such, it fails to provide support for the award of attorney fees.[7] Conclusion of Law # 6 has no findings regarding Petitioner/Appellant's ability to pay the other party's attorney fees for the Remand Hearing. Thus, it is an unsupported conclusion of law and cannot help support the award of attorney fees.

[7] It should be noted that Conclusion of Law # 5 is virtually a restatement of Finding of Fact # 11, as regards to Petitioner/Appellant. Thus it is of no help to support the Order awarding fees.

Stare decisis and the late attack on the assumption of jurisidiction is no bar to this Court making a just determination.

Petitioner/Appellant anticipates that Respondent will argue both that Petitioner/Appellant has had his opportunity to raise this question and that this Court should be bound by the prior decisions of Division Three which ruled against Petitioner/Appellant.

If those appellate decisions were based on all relevant information and were themselves correct, Petitioner/Appellant would agree. This question of the original authority of the Kittitas County Superior Court at this late date is addressed as follows:

> . . . [T]he appropriate test to be followed in contesting subject matter jurisdiction is set forth in Restatement (Second) of Judgments § 12 (1982):
>
> When a court has rendered a judgment in a contested action, the judgment precludes the parties from litigating the question of the court's subject matter jurisdiction in subsequent litigation except if:
>
> (1) The subject matter of the action was so plainly beyond the court's jurisdiction that its entertaining the action was a manifest abuse of authority; or
>
> (2) *Allowing the judgment to stand would substantially infringe the authority of another tribunal or agency of government*; or
>
> (3) The judgment was rendered by a court lacking capability to make an adequately informed determination of a question concerning its own jurisdiction and as a matter of procedural fairness the party seeking to avoid the judgment should have opportunity belatedly to attack the court's subject matter jurisdiction.
>
> [emphasis added]
>
> **Marriage of Brown, 98 Wn.2d 46, 50, 653 P.2d 602 (1982).**

As argued herein, the Kittitas County Superior Court has substantially infringed the authority of another tribunal -- namely, Pierce County Superior Court. Thus, this Court's own precedent authorizes the present attack by Petitioner/Appellant.

Further support for this Court to render a decision on the validity of the trial court's assumption of jurisdiction of the subject matter is found in the following opinion:

> *Under the doctrine of stare decisis, the court is not obliged to perpetuate its own errors*. This doctrine means that the rule laid down in any particular case is applicable to another case involving identical or substantially similar facts, [cite omitted]. *But the doctrine will not be applied in cases in which to do so would perpetuate error* and in which no property rights would be affected by the overruling of the prior decision, [cite omitted]. *We see no reason why this principle should not apply where the allegedly erroneous decision is one which was rendered on a prior appeal of the same case*. And in fact it is the increasingly accepted view that the doctrine of "law of the case" is a discretionary rule, which should not be applied where it would result in manifest injustice.
>
> [emphasis added]
>
> **Greene v. Rothschild, 68 Wn.2d 5, 8,414 P.2d 1013 (1966)**

VI. CONCLUSION

Respondent hid his siblings from their father for years with no authority except that he states that his mother abandoned them to his care. He made no effort to obtain legal authority to have them in his care.

When Respondent found out that his father had a court order placing his siblings in his father's care, he went looking for a judge so he

could get a different result. First he went to the tribal court even though he knew that none of the children (including himself) were Indians. The tribal court told him to go back to Pierce County. Instead he went to Kittitas County and found a judge and an attorney to give him what he wanted. All he had to do was accuse his father of being a violent dangerous person.

It is up to this court to set this situation right by voiding all of the Kittitas County Superior Court actions all the way back to the beginning so that this case can't serve as a template for others to violate jurisdiction.

Forum shopping is recognized as a bad thing in every court system in the country. Our statutes and civil rules and precedent all prohibit it. Yet some members of the legal system would rather not admit they made a mistake, choosing to perpetuate the error and even compound it.

Petitioner/Appellant request that this Court retain the appeal and declare the action void from the start.

Respectfully submitted:

10/13/12 Dan Barrett

date Dan Barrett Sr., *Petitioner/Appellate pro se*

No. 87064-1

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Daniel Barrett Sr.	)	
Appellant	)	**DECLARATION**
vs	)	**OF SERVICE**
	)	
Daniel Barrett, Jr.	)	
Respondent	)	
	)	

Daniel Barrett Sr. declares as follows:

On October 13, 2012, I served a true copy of

OPENING BRIEF

upon the Respondent by mailing a copy to his attorney at:

Richard Cole
P.O. Box 638
Ellensburg WA 98926

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

Dated 10/13/12 at Tacoma WA

Dan Barrett

Dan Barrett Sr. declarant

ORIGINAL

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Rec'd 10-15-12

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