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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Supreme Court No: 90940-7

In re the Marriage of:

Jonathan J. Arras, Respondent,

and

Laura G. Arras (nka McCabe), Petitioner.

RESPONSE TO PETITIONER'S MOTION TO EXTEND TIME AND PETITION FOR REVIEW

Brook A. Goddard, WSBA #31789
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ORIGINAL

TABLE OF CONTENTS

STATEMENT OF AUTHORITIES

CASES

STATUTES

RULES AND REGULATIONS

I. RESPONSE TO MOTION TO EXTEND TIME

The deadline for Ms. McCabe (formerly known as Mrs. Arras) to file and serve her Petition for Review was October 27, 2014. She admits that she didn't even mail her Petition for service and filing until October 27th. Per Civil Rule 5(b)(2)(A) and RAP 18.6(b), service by mail is deemed complete three days after the paper is mailed, which made Ms. McCabe's Petition for Review three days late (i.e. October 30th).

On motion Ms. McCabe now seeks the Court's acceptance of her late filing, but RAP 18.8(b) provides that the Court is only to extend the time within which a party may file a Petition for Review in extraordinary circumstances and to prevent a gross miscarriage of justice. This is not such an exceptional situation, with the facts and law in this case having already been reviewed ad nauseum. Over two years ago, on August 2, 2012, the Court modified the parties' parenting plan and entered restraining orders to protect the children from Ms. McCabe. Ms. McCabe filed a motion for revision of those orders, which the Court denied. On July 19, 2013, after nearly a year of proceedings that included seven hearings and a four day trial with a great number of witnesses (including a GAL who had performed an extensive

investigation), the Court issued findings and conclusions that upheld modification of the parties' 2010 parenting plan. On April 9, 2014 the Court of Appeals then denied Ms. McCabe's Motion to Stay, and on August 25, 2014 the Court of Appeals denied Ms. McCabe's appeal in total. Ms. McCabe then filed yet another appeal, this time a Motion for Reconsideration, which the Court of Appeals also denied. This case has been reviewed, and re-reviewed, for over two years now. Justice has been very thoughtfully applied by multiple tribunals in these very lengthy proceedings, with Ms. McCabe simply unwilling to accept the rulings. There are no extraordinary circumstances in this case that necessitate application of the extraordinary extension of time remedy in RAP 18.8(b) so that Ms. McCabe may file her Petition for Review for yet further review, this time at the Supreme Court level.

Ms. McCabe seeks to excuse her three day late Petition for Review by claiming, under oath, that she "has never before prepared a petition for Supreme Court review." Ms. McCabe has perjured herself with this statement. Attached as Exhibit 1 is an Order from the Washington State Supreme Court denying a previous Petition for Review filed that Ms. McCabe filed in 2013 (along with the Court of Appeals decision Ms. McCabe appealed). In proceedings separate from

the present parenting plan modification action, Mr. Arras had to obtain an anti-harassment order against Ms. McCabe due to her improper accessing of his financial records and attempts to surveil and contact him. Rather than simply accept the anti-harassment order and leave Mr. Arras alone however, Ms. McCabe appealed the anti-harassment order to the Court of Appeals and then filed a Petition for Review to the Washington State Supreme Court. Both the Court of Appeals and Washington State Supreme Court denied Ms. McCabe's appeals.

Ms. McCabe is also not as she claims a simple pro se who isn't "professionally equipped to represent herself in this case"; she is a licensed attorney, and she is competent and extremely aggressive to the point of appealing nearly every decision that has been issued in these proceedings. She was represented by counsel throughout the Superior Court proceedings, which included seven hearing and a four day trial. Her counsel then withdrew, after which Ms. McCabe continued on by filing an appeal to the Court of Appeals. Ms. McCabe very capably appealed to the Court of Appeals (including two separate motions to stay and a motion for reconsideration), and now she's of course appealing to the Washington State Supreme Court. And that is all separate from her previous pro se appeal of the anti-harassment

proceedings to the Court of Appeals and then the Supreme Court.

Ms. McCabe further states that she "has not worked in the field of law for many years." This is another falsehood. Attached as Exhibit 2 is a WSBA printout showing that Ms. McCabe has an active bar number, a law firm, a law firm mailing address, and a law firm website.

In addition to denying Ms. McCabe's request for allowance of her late Petition for Review, it is requested that the Court impose attorney fees and other sanctions against Ms. McCabe for her false statements to the Court under oath that she had never before filed a Petition for Review to the Washington State Supreme Court and that she is not a practicing attorney. Such blatant falsehoods, by a licensed attorney no less, must be dealt with harshly.

II. RESPONSE TO PETITION FOR REVIEW

A) Restatement of Procedural & Factual Background

i. 2009 Dissolution of Marriage Proceedings

Mr. Arras and Ms. McCabe were married on August 6, 2002. Two children were born of their marriage, a son Jared (now age 11) and a daughter Allegra (now age 8).

Mr. Arras filed for dissolution of the parties' marriage on July 15, 2009, and on May 6, 2010 the parties entered an agreed parenting

plan. The parenting plan designated Mr. Arras as the primary parent, with Ms. McCabe to have parenting time every Tuesday after school until 7:30 p.m., every Thursday after school until Friday return to school, and alternating weekends from Friday after school until return to school on Monday.

ii. Pre-Parenting Plan Modification Events

Ms. McCabe began to abuse and neglect the parties' children. She was physically and verbally abusive to them, she was neglecting their basic hygiene, she was repeatedly moving her residence and uprooting the children, she was keeping the children up late and then failing to get them to school on roughly 20% of the days she was responsible for their transportation, she was hindering their engagement in extracurricular activities, and the parties' son's behavior as a result of the abuse and neglect was worsening to the point that he was becoming a danger to himself and others and he was having terrible trouble at school. It was unclear if this was the result of Ms. McCabe having drug or mental health issues, or if it was simply horrific parenting, but it was clear to Mr. Arras and Ms. McCabe's own father and stepmother that something had to be done.

Compounding the situation, Ms. McCabe put up repeated

roadblocks to the parties' children medical and mental health care, refusing to work with Mr. Arras regarding really any joint decision making issues. Mr. Arras sought to get Jared medical and counseling help, but it took months for he and Jared's school counselor and principal to obtain Ms. McCabe's signature on a consent form for Jared to get counseling. Ms. McCabe's own father offered to pay for any out of pocket expenses, and Mr. Arras broadly suggested that Ms. McCabe choose any doctor she wished, but still Ms. McCabe prevented Jared from getting the medical care he needed.

iii. 2012 Modification Proceedings

Mr. Arras filed a petition for modification of the parties' parenting plan on August 2, 2012. That same day the court entered restraining orders against Ms. McCabe to protect the children. Ms. McCabe appealed those orders, which the court denied on August 13, 2012.

On August 27th the court on the family law motions calendar found Mr. Arras' petition to have proper adequate cause, the court granted Mr. Arras sole decision making over the children, a guardian ad litem (GAL) was appointed on behalf of the children to investigate the issues, and Ms. McCabe's parenting time was ordered to be

supervised and limited to Tuesdays and Thursdays from 3:30 p.m. to 7:30 p.m., and Saturdays from noon until 4:00 p.m.

Ms. McCabe filed a motion for revision of the August 27th orders (i.e. appeal from the family law commissioner's decision for review by the assigned trial court judge), with the court denying Ms. McCabe's appeal.

On October 10, 2012, the GAL issued a 37 page report following her initial investigation. The GAL's report confirmed that the parties were unable to do joint decision making, Jared was having serious school issues, Ms. McCabe was overwhelmed and not making choices "with regard to the best interest of the kids", and that Ms. McCabe had "hit and slapped Jared on, at least, one occasion each as well as yelled, screamed and called him names." The GAL then recommended that Ms. McCabe's parenting time continue to be supervised (8 hours on Saturdays and 8 hours every other Sunday), and that Mr. Arras continue to have sole decision making authority for the children,

On October 16, 2012, the Court reviewed the GAL's interim report and agreed that Ms. McCabe visitations should continue to be supervised, with Mr. Arras to have continued sole decision making

and for both children to continue with counseling.

On December 21, 2012 a status conference was held pursuant to the Case Schedule. The court's Order on Status Conference noted that Ms. McCabe had refused to sign a joint Confirmation of Issues or even appear at the conference, and thus she was fined $1,250.

On May 15, 2013 the GAL issued her final report. In her report the GAL continued to recommend sole decision making authority by Mr. Arras, confirmed the reports of Ms. McCabe's abuse of Jared, and noted that Jared's behavior had markedly improved over the previous year while predominately with Mr. Arras.

From July 8, 2013 through July 11, 2013 the parties engaged in a four day trial regarding Mr. Arras' petition for modification of the parties' 2010 parenting plan. Ms. McCabe was represented by counsel. Ms. McCabe's counsel withdrew shortly before she filed her appeal to the Court of Appeals.

On July 19, 2013, the trial court orally issued its findings and conclusions, granting Mr. Arras' request for modification of the parties' 2010 parenting plan.

At a presentation hearing on October 16, 2013 the Court entered a new parenting plan, along with findings of fact and

conclusions of law ("Order re Modification/Adjustment of Parenting Plan") which set out the various legal basis for the modification as well as the findings in support.

B) The Court of Appeals Did Not Apply the Wrong Standard of Review

Trial court decisions made with respect to modification or adjustment of a parenting plan are discretionary, with the court on appeal applying the abuse of discretion standard and reviewing the evidence and reasonable inferences therefrom in the light most favorable to the Respondent. In re Marriage of Zigler and Sidwell, 154 Wn. App. 803, 808, 226 P.3d 202 (2010); see also In re Marriage of McDole, 122 Wn.2d 604, 859 P.2d 1239 (1993). This authority regarding the standard of review was cited and discussed in the Court of Appeals' August 25, 2014 ruling and the Respondent's briefing yet Ms. McCabe does not provide any discussion of either of these cases in arguing now on Petition for Review that the wrong standard of review was applied. Ms. McCabe has accordingly failed to show error necessitating review.

C) The Court of Appeals Did Not Abuse It's Discretion

Ms. McCabe next argues that there was an abuse of discretion in the trial court's ruling to modify the parties' parenting plan because the

statutory factors in RCW 26.09.260(1) and 26.09.260(2)(C) weren't found. This basis for the Petition for Review fails as well as the trial court and the Court of Appeals both held that the parenting plan should be modified pursuant to RCW 26.09.260(1) and 26.09.260(2)(C) (among other sections), with extensive discussion thereof.

D) The Court of Appeals Decision Did Not Conflict With State Law

In this section Ms. McCabe simply provides new argument without actually analyzing the Court of Appeals' 17 page ruling to show how specific sections of the ruling (including citations to authority and the trial record) "conflict with State law". She makes a very general allegation of error, focusing more on her own arguments rather than an analysis of the Court of Appeals' ruling. And where she does discuss findings, it's with respect to the trial findings rather than the Court of Appeals'. Accordingly, in this section Ms. McCabe hasn't shown how the Court of Appeals' decision conflicts with State law so as to necessitate Supreme Court review.

E) The Court of Appeals Did Not Improperly Shift the Burden of Proof to Ms. McCabe

As discussed in section III(A) above, the Court of Appeals properly noted, and Ms. McCabe did not refute, that trial court decisions made with respect to modification or adjustment of a

parenting plan are discretionary, with the court on appeal applying the abuse of discretion standard and reviewing the evidence and reasonable inferences therefrom in the light most favorable to the Respondent. In re Marriage of Zigler and Sidwell, 154 Wn. App. 803, 808, 226 P.3d 202 (2010); see also In re Marriage of McDole, 122 Wn.2d 604, 859 P.2d 1239 (1993). Ms. McCabe has not shown improper shifting of the burden of proof.

F) The Court of Appeals Did Not Improperly Affirm Untenable Findings or Unsupported Conclusions

In this section Ms. McCabe once again restates her version of the events by pointing out evidence she thinks is in her favor, while this Court must view all of the evidence and reasonable inferences in the light most favorable to Mr. Arras. Ms. McCabe has not provided more than conclusory discussion of the Court of Appeals' decision, and thus she shows no error necessitating Supreme Court review

G) The Court of Appeals Did Not Err By Not Addressing the Omitted Presentation Hearing

Last, Ms. McCabe contends that the trial court erred by not having a presentation hearing. The parties did in fact attend a presentation hearing. On July 19, 2013, the trial court orally issued its findings and conclusions, and the Court and the parties then followed

up with a presentation hearing on October 16, 2013. RP 683-694, CP 187 – 201. There was some delay before the presentation hearing due to Ms. McCabe demanding more time to listen to the oral ruling transcript so that she could make arguments for changes at the presentation hearing, which she then made. At the presentation hearing the Court entered a new parenting plan, along with findings of fact and conclusions of law ("Order re Modification/Adjustment of Parenting Plan") which set out the various legal basis for the modification as well as the findings in support.

H) Mr. Arras is Entitled to His Fees and Costs on Appeal

An award of attorney fees is statutorily authorized in appeals in family law proceedings, with RCW 26.09.140 providing: "Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney fees in addition to statutory costs." In awarding fees under RCW 26.09.140, the appellate court may consider the arguable merit of the issues on appeal. In re Marriage of Booth, 114 Wn.2d 772, 791 P.2d 519 (1990). Ms. McCabe, as an attorney proceeding pro se, has foisted yet further great expense upon Mr. Arras as she now attempts to bring this matter to the Washington State Supreme Court after multiple failed appeals

below.

III. CONCLUSION

Ms. McCabe's Petition for Review should be denied for being served and filed late (3 days according to CR 5(b)(2)(A) and RAP 18.6(b)). In this latest appeal she also fails to provide even colorable argument to support her Petition for Review to the Washington State Supreme Court.

Attorney fees and other sanctions against Ms. McCabe are also requested due to Ms. McCabe's documentable false statements to the Court, and for another baseless appeal that continues to cost Mr. Arras dearly in defense.

Date: December 22, 2014 Goddard Wetherall Wonder, PSC

Brook A. Goddard, WSBA #31789
Attorney for Respondent

DECLARATION OF MAILING

I declare under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I am a citizen of the United States and resident of the State of Washington, I'm over the age of 18, and I'm not a party to the above-entitled action; and

2. On the below stated date, I mailed via 1st Class US Mail a true and correct copy of the above Response to Petitioner's Motion to Extend Time and Petition for Review Brief to the Petitioner (Laura McCabe) at the following address: 5260 18th Avenue SW, Seattle, WA 98106

DATE: December 26, 2014.

Brook A. Goddard, WSBA #31789
Goddard Wetherall Wonder, PSC

Exhibit 1

THE SUPREME COURT OF WASHINGTON

JONATHAN J. ARRAS,	)	NO. 88395-5
Respondent,	)	ORDER
v.	)	COA NO. 68454-0-I
LAURA G. MCCABE,	)	
Petitioner.	)	

Department I of the Court, composed of Chief Justice Madsen and Justices C. Johnson, Fairhurst, Stephens and Gonzalez, considered at its June 4, 2013, Motion Calendar, whether review should be granted pursuant to RAP 13.4(b), and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petition for Review is denied.

DATED at Olympia, Washington this 4th day of June, 2013.

For the Court,

CHIEF JUSTICE

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

JONATHAN J. ARRAS,	)	No. 68454-0-I
	)	
Respondent,	)	DIVISION ONE
	)	
v.	)	
	)	
LAURA G. McCABE,	)	UNPUBLISHED
	)	
Appellant.	)	FILED: November 5, 2012
	)	
	)	

Cox, J. — Laura G. McCabe[1] appeals the entry of an anti-harassment order against her, ordering her not to make any attempts to surveil or contact Jonathan J. Arras. Because the evidence is sufficient to support the court's decision to enter the order, we affirm.

In December 2011, Laura McCabe called the City of Bellevue and several other utilities, requesting copies of the residential utility bills of Jonathan Arras, her former husband. McCabe later claimed that she was accessing these records to provide information to her mother, who resides in an apartment on Arras's property and pays Arras a percentage of each month's utility bills.

Upon learning of these calls, Arras filed a petition for an anti-harassment

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[1] McCabe is an attorney and member of the Washington State Bar Association. She represents herself in this action. See Kay v. Ehrler, 499 U.S. 432, 437, 111 S. Ct. 1435, 113 L. Ed. 2d 486 (1991) ("Even a skilled lawyer who represents himself is at a disadvantage in contested litigation.").

against McCabe. After a hearing, the court entered an anti-harassment order, restraining McCabe from surveilling or contacting Arras, with exceptions for contact to discuss the parties' children.

McCabe appeals.

SUFFICIENCY OF THE EVIDENCE

McCabe argues that there was insufficient evidence to support the trial court's imposition of an anti-harassment order. We disagree.

At a hearing on a petition for an anti-harassment order, "if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil anti-harassment protection order shall issue prohibiting such unlawful harassment."[2] Under RCW 10.14.020(1), unlawful harassment consists of (1) a knowing and willful (2) course of conduct (3) directed at a specific person, (4) which seriously alarms, annoys, harasses, or is detrimental to that person, and (5) serves no legitimate or lawful purpose.

"Course of conduct" is defined as "a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. [It] includes, in addition to any other form of communication, contact, or conduct, the sending of an electronic communication, but does not include constitutionally protected free speech."[3] This conduct "may be brief, but must

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[2] RCW 10.14.080(3).

[3] RCW 10.14.020(1).

evidence 'continuity of purpose.'"[4]

To demonstrate that a defendant's actions had no lawful purpose, we look to RCW 10.14.030. This statute enunciates a number of factors to be considered in assessing "whether the course of conduct serves any legitimate or lawful purpose."[5] These include whether (1) "[t]he respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner," (2) "[t]he respondent's course of conduct has the purpose or effect of unreasonably interfering with the petitioner's privacy or the purpose or effect of creating an intimidating, hostile, or offensive living environment for the petitioner," and (3) the "[c]ontact by the respondent with the petitioner or the petitioner's family has been limited in any manner by any previous court order."[6] Further, a court will affirm the findings that the victim experienced substantial emotional distress and that the course of conduct would have caused substantial emotional distress to a reasonable person so long as substantial evidence supports these findings.[7]

We review the trial court's imposition of an anti-harassment order for substantial evidence. As the supreme court held in In re Marriage of Rideout, where the court holds a hearing and weighs contradictory evidence prior to the

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[4] Burchell v. Thibault, 74 Wn. App. 517, 521, 874 P.2d 196 (1994) (quoting RCW 10.14.020(2))

[5] RCW 10.14.030.

[6] Id.

[7] State v. Noah, 103 Wn. App. 29, 39, 9 P.3d 858 (2000).

entry of a protection order, the proper standard of review is one of substantial evidence.[8]

> [T]he substantial evidence standard of review should be applied . . . where competing documentary evidence had to be weighed and conflicts resolved. The application of the substantial evidence standard in cases such as this is a narrow exception to the general rule that where a trial court considers only documents, such as parties' declarations, in reaching its decision, the appellate court may review such cases de novo because that court is in the same position as trial courts to review written submissions.[9]

Here, the court had sufficient evidence to support its imposition of the anti-harassment order. There is no dispute that the conduct here was "knowing and willful," as the statute requires. The trial court specifically found in its oral ruling that McCabe's three separate phone calls constituted a "pattern of conduct." This finding was supported by substantial evidence. In his Petition for Order for Protection, submitted under penalty of perjury, Arras stated that "on 12/29/11, Laura McCabe called ***several of my utility companies***. . . ." Further, at the court hearing Arras stated that McCabe "called multiple utility providers using her previous name, accessed [his] accounts and requested financial records." Arras made these statements while under oath. "Credibility determinations are for the trier of fact and cannot be reviewed on appeal."[10]

Additionally, by obtaining private information regarding Arras's utility bills,

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[8] 150 Wn.2d 337, 351, 77 P.3d 1174 (2003).

[9] Id.

[10] State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

McCabe did "unreasonably [interfere] with the petitioner's privacy. . . ."[11] And, though McCabe argues otherwise, this interference was not pursuant to any statutory authority. Thus, the court's finding that McCabe's acts did not support any lawful or legitimate purpose was supported by substantial evidence.

Finally, there was sufficient evidence to demonstrate that McCabe's actions caused substantial emotional distress. Arras testified that he discovered McCabe had accessed his utility bills when "whatever changes were made for whatever reason" resulted in his not receiving his billing statement. This testimony and McCabe's invasion of Arras's privacy were sufficient to support a finding that her actions caused Arras emotional distress and would have caused a reasonable person in a similar circumstance emotional distress.

McCabe argues that Arras failed to present a sufficient factual basis to support a finding that she engaged in a "course of conduct." But, the court could and did consider Arras's testimony under oath in the hearing, as well as his statement in his petition for an anti-harassment order. This evidence was sufficient to support the court's finding.

McCabe also contends that because Arras already shared the utility information with McCabe's mother, he had no reasonable claim to distress when she accessed this same information. But this argument is without merit. Arras's sharing of information with one person does not indicate that he abandoned all privacy protections. Similarly, McCabe's argument that she had a lawful right to

[11] RCW 10.14.030(5).

access this information because her mother is Arras's co-tenant is unpersuasive. The question before the court was whether McCabe herself, not her mother, had a legitimate or lawful purpose in accessing Arras's utility records. She did not.

McCabe points to RCW 10.14.030(6), whether court "[c]ontact by the respondent with the petitioner . . . has been limited in any manner by any previous court order." She argues that because a parenting plan limiting her contact with Arras was already in place, the entry of a protection order was improper. But the provisions of these orders do not overlap. Nor does the fact that a parenting plan had already limited McCabe's contact with Arras, in and of itself, invalidate the court's anti-harassment order.

Finally, McCabe contends that the court "assumed an ultimate disputed fact" when it addressed her as "Ms. Arras." She argues that announcing the case as "Jonathan Arras versus Laura Arras, also known as McCabe" and by addressing her as "Ms. Arras," the trial court assumed that she had represented herself as "Mrs. Arras" when she contacted the utility companies. But the court did not assume anything. Arras produced evidence that when McCabe spoke to at least one utility representative, she identified herself as "Ms. Arras . . . the wife of Jonathan Arras." Further, the issuance of the protection order did not turn on McCabe's identification of herself as Ms. Arras.

ANTI-HARASSMENT ORDER AND FREE SPEECH

McCabe also argues that the court's anti-harassment order infringes upon her First Amendment rights of free speech because it constituted a vague and

overbroad limitation. We disagree.

RCW 10.14.020(2) provides that "[c]onstitutionally protected activity is not included within the meaning of 'course of conduct.'" Additionally, RCW 10.14.190 provides that "[n]othing in this chapter shall be construed to infringe upon constitutionally protected rights including, but not limited to, freedom of speech and freedom of assembly." But, if substantial evidence supports an anti-harassment order, and the court in entry of that order focuses on "the speaker's conduct and not the message," the entry of an order has not violated a defendant's first amendment rights. [12]

In In re Marriage of Suggs, the supreme court held that the order entered by the court was so vague as to infringe on Suggs free speech.[13] There, the anti-harassment order forbade Suggs from "knowingly and willfully making invalid and unsubstantiated allegations or complaints . . . designed for the purpose of annoying, harassing, vexing, or otherwise harming [Sugg's former husband] for no lawful purpose."[14] The supreme court held that this language lacked the specificity necessary for a constitutional anti-harassment order.[15]

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[12] Trummel v. Mitchell, 156 Wn.2d 653, 668, 131 P.3d 305 (2006); see Noah, 103 Wn. App. at 38-39 ("Our inquiry is whether there was a factual basis for the antiharassment order, excluding consideration of the protection speech and picketing.").

[13] 152 Wn.2d 74, 84, 93 P.3d 161 (2004).

[14] Id. at 78-79.

[15] Id. at 83-84.

Here, in contrast to Suggs, the court's order was specific about the behavior it was prohibiting. In its anti-harassment order, the lower court restrained McCabe from "making any attempts to keep [Arras] under surveillance," and "from making any attempts to contact" him, aside from email contact regarding their children. Unlike the court order in Suggs, which prohibited behavior which was "annoying, harassing, or vexing," the words "surveil" and "contact" are clear and not overly vague or broad. Thus, the court order was not an unconstitutional infringement of McCabe's right to free speech.

McCabe argues that because she "was never accused of conduct that could be described as 'surveillance,' the orders present[ed] a vague, overbroad warning not to assist her mother during the complex, eminent litigation . . . ." But it is clear that the court considered her phone calls to determine Arras's utility charges to be "surveillance." It was this conduct that the court consequently targeted in its anti-harassment order.

McCabe also contends that her conduct was reasonably necessary to protect property or liberty interests of her mother. But, as noted above, McCabe's infringement of Arras's privacy was not necessary or reasonable.

APPEARANCE OF FAIRNESS

McCabe argues that lower court's hearing lacked the appearance of fairness. We disagree.

The appearance of fairness doctrine requires that a judge disqualify herself if she is biased against a party or her impartiality may reasonably be

questioned.[16] "A party claiming bias or prejudice must, however, support the claim; prejudice is not presumed . . . . Evidence of a judge's actual or potential bias is required before the appearance of fairness doctrine will be applied."[17]

Here, to show a violation of this doctrine, McCabe must present evidence of the hearing judge's actual or potential bias.[18] She is not able to do so. She points to the judge's decision not to allow her witness to testify. But, it is within the court's discretion to admit or deny rebuttal testimony, and McCabe does not demonstrate why the court abused its discretion here.[19] McCabe also argues that the court's rejection of her arguments demonstrated its prejudice. But the court properly rejected McCabe's arguments, as we have discussed above.

FORUM SHOPPING

McCabe argues that Arras engaged in forum-shopping when he filed his anti-harassment petition. She contends that because she and Arras had previously litigated the dissolution of their marriage in "Family Court," it was "forum shopping" and "illegimate" for Arras to bring this separate action in King County Superior Court. These arguments are without merit.

Black's Law Dictionary defines "forum-shopping" as "[t]he practice of choosing the most favorable jurisdiction or court in which a claim might be

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[16] State v. Dominguez, 81 Wn. App. 325, 328, 914 P.2d 141 (1996).

[17] Id. at 328-29.

[18] State v. Post, 118 Wn.2d 596, 619, 826 P.2d 172 (1992).

[19] State v. White, 74 Wn.2d 386, 395, 444 P.2d 661 (1968).

heard."[20] Here, Arras did not engage in forum-shopping as he did not select a different forum from the one in which he and McCabe had litigated their family law matter. Both proceedings occurred in King County Superior Court. It is irrelevant that these separate matters were heard by different judges of the superior court.

PROTECTION ORDER IS NOT HARMLESS

McCabe argues that, though the protection order entered by the court restricts her actions less than Arras originally requested, it is still not harmless. But McCabe does not cite any authority to explain what she means by this statement. We do not consider arguments unsupported by legal authority.[21]

We affirm the anti-harassment order.

Cox, J.

WE CONCUR:

Appelwick, J.

Schindler, J.

[20] Black's Law Dictionary 726 (9th ed. 2009).

[21] RAP 10.3(a)(6).

Exhibit 2

Laura G McCabe

WSBA Number:	40908
Admit Date:	12/01/2008
Member Status:	Active
Public/Mailing Address:	McCabe Law Office PO Box 7424 Bellevue, WA 98008-1424 United States
Phone:	(360) 224-6666
Fax:	
TDD:	
Email:	lauragmccabe@gmail.com
Website:	www.mccabelawoffice.com

Contact Member

Contact this member via email.

Practice Information

Back to top

Firm or Employer:	McCabe Law Office
Firm Size:	Not Specified
Practice Areas:	None Specified
Other Languages Spoken:	None Specified

Liability Insurance

Back to top

Private Practice:	Yes
Has Insurance?	Yes - Click for more info
Last Updated:	02/11/2014

Committees

Back to top

Member of these committees/boards/panels:

None

Disciplinary History

No Public Disciplinary History

Only active members of the Washington State Bar Association, and others as authorized by law, may practice law in Washington.

The discipline search function may or may not reveal all disciplinary action relating to a lawyer. The discipline information accessed is a summary and not the official decision in the case. For more complete information, call 206-727-8207.

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OFFICE RECEPTIONIST, CLERK

To: Brook Goddard
Subject: RE: In re the Marriage of Jonathan Arras & Laura Arras: Cause #90940-7

Received 12-26-2014

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Brook Goddard [mailto:brookgoddard@gwwp.com]
Sent: Friday, December 26, 2014 3:18 PM
To: OFFICE RECEPTIONIST, CLERK
Subject: In re the Marriage of Jonathan Arras & Laura Arras: Cause #90940-7

Dear Clerk's Office –

I represent Mr. Arras, the Respondent in the present proceedings before the Supreme Court. Attached please find Mr. Arras' Response to Petitioner's Motion to Extend Time & Petition for Review.

Brook A. Goddard

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