

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Nov 26, 2014, 1:09 pm
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IN THE WASHINGTON STATE SUPREME COURT

In re the Marriage of:)
) Supreme Court No. **90940-7**
JONATHAN J. ARRAS)
&) **MOTION TO EXTEND TIME**
LAURA G. McCABE (formerly Arras)) **TO DATE OF FILING**

1. IDENTITY OF MOVING PARTY

Laura McCabe, is the Petitioner before this Court. She was the Appellant in the Court of Appeals (71152-1), and the Respondent in King County Superior Court (09-3-04793-0 SEA).

2. RELIEF SOUGHT

Ms. McCabe begs the court to accept the Petition she mailed on October 27, 2014. Misunderstanding the rules, she failed to properly effect filing. Her petition arrived one day late. October 27 was the *filing* deadline: the Court needed to *receive* her petition by that date, not the next day.

Motion to Extend Time
To Date of Filing



ORIGINAL

L.G. McCabe, pro se
5260 18th Ave. SW,
Seattle, WA 98106

3. GROUND FOR RELIEF

RAP 18.6(c) ranks the interest in finality very highly, but the Court *does* have the power to extend the time in order to avoid a miscarriage of justice. RAP 18.8(a) and (b). Here, **justice and the children's interests cannot be served if the Court refuses to consider this petition.** The Court has the power to perform any act to secure fair and orderly review. RAP 7.3.

4. FACTS

The mother of two children, ages eight and eleven, appeals to the Court to review a modification of the children's permanent parenting plan.

In 2012, the father petitioned for modification on the basis of false accusations against the mother¹. All expert witnesses (e.g. independent medical examiners, domestic violence assessors, mental health and pediatric specialists, etc.) ultimately determined the father's allegations be meritless. The Guardian ad litem (GAL) opposed a residential modification. The court found no statutory basis to restrict the mother's custody rights.

Yet, the court modified the plan anyway. As a threshold issue, it found the "significant change of circumstances" granting judicial discretion to modify was satisfied *three years* prior to trial, when the mother moved 6.9 miles (within Seattle). The court reduced the children's monthly overnight stays with their mother from 12 to four, and terminated her parental decision-making rights.

The mother appealed on the grounds that the decision contradicted the plain

¹ The court ultimately found all his accusations (including neglect, mental illness, drug use, and violence) to be 100% groundless, but the father was not penalized for filing falsely, misleading the court, or maintaining an action in bad faith.

language of RCW 26.09. Division I affirmed on September 25, 2014; she immediately began preparing a petition for review to this Court.

Trying her best under difficult circumstances to follow the rules, the mother mistook her petition for review for a *brief* authorized by Title 13. If that had been right, her filing period would have begun three days after Division I mailed its decision - but it was not.

Sincerely believing her petition was timely, she mailed it on Monday, October 27. She thought she acted properly within the 30-day filing period. She failed to understand that her petition needed to be *received* by the 30th day. RAP 18.6(c).

5. ARGUMENT

In the interests of justice, the mother begs the Court to waive the one-day filing defect and accept her petition as timely. She has a license to practice law but she does not, and has not worked in the field of law for many years. She is not professionally equipped to represent herself in this case, and is *not acting pro se here by choice* - but only by dire financial necessity.² Ms. McCabe is not an experienced family lawyer, and has never before prepared a petition for Supreme Court review.

Because she mistakenly thought her petition was a brief, she thought it would be filed on the date of mailing. Rule 18.6 told her that if the 30th day fell on a weekend, the window extended to Monday, and the clock started three days after a document is mailed. It's true that a *brief* authorized by Title 13 (governing Supreme

² The trial process, including the costs of expert evaluations mandated by the court, the GAL and a family law attorney, left the mother \$70,000+ in debt and unable to afford appellate counsel. She currently has no savings, and no income.

Court review) is timely filed if *mailed* within the time for filing. RAP 18.6(c). But, she had made a stupid mistake: her petition for review wasn't a brief.

Courts generally hold pro se litigants to the same standard as experienced counsel. *In re Marriage of Olson*, 69 Wn. App. 621, 626, 850 P.2d 527 (1993). But where, as here, the interests at stake are those of young children, the Court may regard the interests of justice, RAP 1.2(a), and even RAP 18.6(b), as empowering the Court to take a parent's inexperience into account. The Court might excuse a pro se petitioner's mistaken belief that the "received by" language of RAP 18.6(c) does not apply to a petition under Title 13.

This petition is vitally important to two specific children, but it also presents issues of law that could potentially affect others.

6. CONCLUSION

Ms. McCabe tried her best to comply with the Rules, but failed. Still, her children deserve the full benefit of the wisdom of the State's highest court. This petition is ultimately theirs, yet they have no voice here. Their overwhelmed mother fell short by a single day. On the facts of this case, this constitutes extraordinary circumstances sufficient to justify clemency. Please allow this appeal to be heard.

Respectfully submitted on November 26, 2014,

Laura G. McCabe
Respondent (pro se)

CERTIFICATE & AFFIRMATION OF SERVICE

I do hereby certify and affirm that I deposited a copy of this Motion for Extension of Time in the U.S. mail, First Class postage prepaid, today: November 26, 2014, addressed to counsel for Jonathan J. Arras at:

Goddard Wetherall Wonder, PSC
155 – 108th Avenue N.E., Suite 700
Bellevue, WA 98004
Attn: Brook Goddard

L.G. McCabe
Seattle, Washington

OFFICE RECEPTIONIST, CLERK

To: Laura McCabe
Subject: RE: 90940-7

Received 11-26-14

From: Laura McCabe [mailto:lauragmccabe@gmail.com]
Sent: Wednesday, November 26, 2014 1:09 PM
To: OFFICE RECEPTIONIST, CLERK
Subject: 90940-7

Attention Clerk,

Hello,
Attached is a Motion to Extend Time to Date of Filing, for Supreme Court Case No. 90940-7.
In the Division I Court of Appeals this was cause number 71152-1-I.

The final page of the attached pdf is an Affidavit of Service stating that I mailed a copy of this document to the opposing party's lawyer.

Thank you,
Laura McCabe
lauragmccabe@gmail.com