No. 97003-3

Court of Appeals No. 77854-4-I

IN THE SUPREME COURT FOR
THE STATE OF WASHINGTON

Parenting of:

E.J.S.,

Minor Child,

BRIAN M. RIBNICKY,

Petitioner,

v.

KATI J. SOTANIEMI,

Respondent.

ANSWER TO PETITION FOR REVIEW

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INTRODUCTION

Petitioner Brian Ribnicky asks this Court to review an unpublished decision affirming RCW 26.09.191 restrictions in the parties' parenting plan. He did not appeal from, and does not seek review of, the .191 restriction based on his long-term problem with alcohol that gets in the way of his ability to parent. He challenges only the .191 restrictions based on domestic violence and assault.

The appellate decision does not present either issue Ribnicky asks this Court to review. Ribnicky first asks whether "non-substantive hearsay evidence" can support .191 restrictions. He ignores the appellate court's correct holdings: (1) that the parenting evaluator did not repeat hearsay; (2) that Ribnicky failed to support that claim; and (3) that he invited error regarding the evaluator's notes. He ignores too his own testimony, and other substantive evidence, amply supporting the trial and appellate decisions.

Ribnicky also asks this Court to consider whether Respondent Kati Sotaniemi's stock grant was income for purposes of calculating child support. He omits that the appellate court declined to reach this issue because Ribnicky failed to provide adequate information about the stock and failed to provide adequate briefing.

This Court should deny review.

FACTS RELEVANT TO ANSWER

The parties began dating in late 2011 and had their only child, E.S., in February 2014. RP 23; CP 270, 688. They went to trial for entry of a parenting plan in August 2017. RP 1; CP 687. The court entered RCW 26.09.191 restrictions based on Rybnicky's alcohol abuse and domestic violence. CP 689-90. Ribnicky conceded the former on appeal. Thus, Sotaniemi's facts focus on the latter.

A. Respondent Kati Sotaniemi elected not to testify, finding the process too painful given the history of abuse in the parties' relationship.

On the first day of trial, Sotaniemi notified the trial court, through counsel, that she did not receive a notice of trial attendance and would not attend the trial. RP 6. It was simply too difficult for her given the level of conflict and history of abuse:

> So, Your Honor, it is unusual that I have a client who is not appearing at this trial. The evidence is going to show you that the amount of conflict between these parties is quite severe and very, very difficult for my client. Dr. Wheeler will testify as to her observations, well noted throughout her review, of my client's physical reaction when she was describing the abuse, the emotional and the physical abuse that she has suffered.

RP 17. Ribnicky did not object, assert a desire to call Sotaniemi as an adverse witness, or in any way ask to limit the issues at trial. RP 6, 17. He did not respond at all. *Id.*

B. Ribnicky addressed domestic violence, and the trial court found his testimony lacked credibility.

Knowing full well that Sotaniemi would not testify, Ribnicky took the stand and addressed the history of verbal and physical abuse in the parties' relationship. RP 48. He claimed that the verbal "abuse" was mutual, and denied being physically violent. *Id*. He then raised a particularly troubling incident during the parties' March 2015 Florida vacation, after which Sotaniemi obtained a Domestic Violence Protection Order. RP 48-52, 412-18, 510-13; CP 151-60.

In March 2015, when E.S. was just one, the parties vacationed in Miami, Florida to celebrate Ribnicky's 40th birthday. RP 48. On the evening at issue, Ribnicky testified that he drank a small amount of champagne and "a couple of beers." RP 48-49. But Ribnicky admitted to parenting evaluator Dr. Jennifer Wheeler that he drank half a bottle of champagne, six beers, and "some wine." Ex 69 at 3.

Ribnicky testified that while the parties were laying on the bed watching television, E.S. bit Ribnicky's arms "continuously." RP 49. He claims that he "screamed, No," then "tapped" E.S. on his bottom with the remote control. *Id*. Ribnicky claimed that the "tap" was "very gentl[e]," even using a teddy bear to demonstrate in court. *Id*. He admitted that E.S. cried, but claimed it was only because he

screamed loudly. *Id*. Ribnicky denied grabbing Sotaniemi or blocking her from leaving, but acknowledged to Wheeler that he engaged in at least one incident of physical aggression, such as "grabbing." *Compare* RP 50-51, *with* Ex 69 at 17.

The next day, Sotaniemi left with E.S. and checked into a hotel while Ribnicky was scuba diving. RP 50-51. Then followed a series of emails initiated by Ribnicky and spanning several days, in which he apologized for his actions and promised not to "hurt anyone again." Ex 106. Ribnicky began with: "it really hurts me inside that I did this … [I]'m sorry and will do better." Ex 106 at 4. He then twice asked Sotaniemi to return to the vacation home. *Id*. Continuing to apologize, Ribnicky asked for a "last chance" to "rebuild" (*id*.):

> I'm so devastated and can't keep from crying thinking how it's all my fault and I miss you guys. My heart hurts so much. I now know what I've done and how much you guys mean to me…
>
> I swear I won't hurt anyone again and will do what it takes to be better. Can we please start to try being a family again?
>
> I know this is my fault, but please let me work to fix it. …

The trial court asked Ribnicky a series of questions about this incident, plainly doubting his account:

> Q. So this incident on March 23, 2015, as you testified about it, it sounds like it was a relatively gentle spanking with a remote control in your hand?

A. Yeah. I mean, I -- yeah, I think I might have said spanking too, but I am saying it was a tapping with the remote control in my hand … it was basically a wrist movement.

Q. [Regarding the email string, Ex 106 at 3] the first sentence says, “I know I’ve hurt you so much, and I will probably never be able to make it up to you, but please let me try.”

Would you agree that that looks like you’re apologizing for something more serious than just raising your voice and tapping or spanking, doesn’t it? And I phrased that question poorly, but it just looks like it’s a bigger deal than just tapping or spanking and raising your voice, doesn’t it?

A. Well, I said, “I hurt you,” so I would be referring to Kati and that thing, so I don’t think this refers to the tapping or spanking of my son.

Q. Okay. “And I will probably never be able to make it up to you.” Looks like something pretty serious happened.

A. I believe I recall at this time, I mean, because we would have so many arguments at this time, so this wasn’t very -- you know, this wasn’t the first argument. … [L]ike I said, I know what to say to Kati, so I was basically apologizing for all those arguments, you know, calling her fat and lazy and all that previous stuff. …

Q. The last two sentences are, “You can always call the cops, you have a Taser, pepper spray and the alarm remote at home. I won’t hurt you guys.”

Why would you be talking about calling the cops and Taser and pepper spray and the alarm if you’re not talking about physical issues?

A. No, I’m not talking about physical. Again, I raised my voice and that -- you know, and that scared my son and that also -- you know, argument with her also scared her. So I was just saying that, you know, if she thinks it’s going to get physical, then she can just always call the cops and, you know, she had all this other stuff at home.

RP 510-12. The court later found that Ribnicky's testimony regarding domestic violence was not credible. CP 690.

Ribnicky's testimony continued, as he explained that after the Florida incident, Sotaniemi obtained a restraining order, requiring Ribnicky to temporarily move out. RP 51; CP 151-60. Through a "settlement agreement" and agreed temporary parenting plan, Ribnicky agreed: (1) to attend Alcoholics Anonymous, behavioral therapy, and couples counseling; (2) to follow all chemical dependency evaluation treatment recommendations; and (3) to have supervised visits only, twice weekly. RP 51-52; CP 47, 51, 168-71.

C. Ribnicky called the parenting evaluator, asking her to address domestic violence as well.

Ribnicky then called Wheeler and asked her to address Sotaniemi's domestic violence allegations. RP 146-47. Wheeler opined that there is a pattern of mutual "psychological verbal aggression" and one episode of "physical domestic violence" (*id*.):

> Q. Okay. I want to talk a little bit about certain allegations that Mother presented to you during the -- you know, in the course of the -- of your investigation such as her domestic violence allegations against the father. And I have noticed when I read your report that you stated that there was a pattern of mutual psychological aggression by both parents that resulted in each parent feeling controlled and demeaned by each other. So that sounds accurate? Is that the accurate (inaudible)?
>
> A. That's -- yes. It's a general summary of how I characterized their dynamic.

> Q. Did you find any pattern of domestic violence in this case?
>
> A. Certainly from Mother's perspective, that that is what she is experiencing. I would say that the pattern is -- is as you just described it, limited to psychological verbal aggression, mutual, both directions between the parents. In terms of physical domestic violence, I did not find evidence of a pattern, although there was an episode.

Ribnicky then asked Wheeler to "elaborate" on her report about the Florida incident. RP 148. He offered Wheeler's interview notes with both Ribnicky and Sotaniemi into evidence, without redaction or limitation. RP 169-70.

Wheeler opined that Sotaniemi "experience[d] an incident of violence that was very frightening to her" and that she "genuinely [has] fears of Father and the risk he poses." RP 150, 153. She testified that Sotaniemi reported "having been grabbed" and that Ribnicky admitted "an act of physical aggression":

> Q. [Y]ou testified just now to -- to the Court that you believe [Ribnicky] told you that during that incident in Florida, he blocked [Sotaniemi's] access -- I mean, exit and physically restrained her.
>
> A. What my testimony was intended to be is that I can't testify that I specifically remember him using the word "grab." He may have used a word like "blocked" instead of "grab." I'm not testifying that he definitely said blocked.
>
> Q. Okay. But do you remember that he did say something that he physically restrained her?
>
> A. That somehow he physically touched her in some -- in some way. … my recollection was that he -- he, himself,

> admitted to having touched her during this altercation in some way or another or blocked her access from leaving. In some way he did something that he acknowledged that to me meant an act of physical aggression; that that came from him as well.

RP 206-07. Wheeler reiterated that Ribnicky "agreed that he had done something physically during that incident to restrict or block [Sotaniemi] from leaving." RP 209, 210-11; Ex 69 at 17.

D. Ribnicky's appeal challenged only one of the two RCW 26.09.191 restrictions imposed.

The final orders impose RCW 26.09.191 restrictions on Ribnicky based on a history of domestic violence, assault, and Ribnicky's long-term problem with alcohol. CP 693. The court expressly found that Ribnicky "did not object to [the] assertion" that his "long-term problem with alcohol … gets in the way of his ability to parent." CP 689-90. This was "amply supported by the evidence, including without limitation [Ribnicky's own] testimony and Dr. Wheeler's testimony." *Id*. The court based the domestic violence .191 restriction on all the evidence including, but not limited to, a photograph of Sotaniemi's bruised body following the Florida incident (Ex 118), the post-incident emails between the parties (Ex 106), and Ribnicky's lack of credibility regarding domestic violence. *Id*.

E. Ribnicky's statement of the case is inaccurate.

Ribnicky provides little if any factual background, instead relaying only some of this matter's procedural history. It is often inaccurate, or worse. Sotaniemi responds as needed.

Ribnicky states that Sotaniemi's domestic violence allegations "were presented in the form of the parenting evaluator's notes containing the unsworn statements of the Mother to her." Pet. at 2. He omits that he raised domestic violence knowing full well that Sotaniemi would not testify and that he offered the notes into evidence without limitation or restriction. RP 48-51, 169-70.

Ribnicky claims Wheeler "concluded that there was no domestic violence." Pet. at 2. That is inaccurate at best. Wheeler opined that Sotaniemi "experience[d] an incident of violence that was very frightening to her" and that she "genuinely [has] fears of Father and the risk he poses." RP 150, 153. Although she found a "pattern" of verbal abuse, she did not find a "pattern" of "physical domestic violence." RP 146-47. Rather, she characterized the Florida incident as "an act of physical aggression." RP 206-07.

Ribnicky claims that the trial court's domestic violence .191 restriction is based "primarily on [Sotaniemi's] hearsay statements to the parenting evaluator." Pet. at 2 (citing CP 693-715). This too is

false. The court expressly based its domestic violence .191 restriction on Ribnicky's lack of candor on the subject, as well as the photo of Sotaniemi's bruised body, and the email correspondence following the Florida incident. CP 690.

Ribnicky claims that in closing, he "emphasized that the trial court should not rely on the unsworn statements of the Mother as substantive evidence to impose restrictions on him." Pet. at 2. He ignores the appellate court's correct holdings: (1) that Wheeler did not repeat Sotaniemi's out of court assertions; and (2) that Ribnicky's closing on this point was vague, unspecific, and untimely. Unpub. Op. at 5-6.

Ribnicky next mischaracterizes the appellate court's decision. Pet. at 3. Sotaniemi responds in the argument, *infra*.

REASONS THIS COURT SHOULD DENY REVIEW

A. The appellate decision does not present the issues Ribnicky asks this Court to review.

Ribnicky's first, and principal, issue presented for review is whether a trial court may impose RCW 26.09.191 restrictions "based on non-substantive hearsay evidence." Pet. at 1. His argument that the appellate decision creates a conflict in the law rests on the assertion that the appellate court affirmed "the trial court's findings in support of its imposition of RCW 26.09.191 restrictions on the Father,

based on 'substantial evidence' that consisted entirely of hearsay evidence presented through the parenting evaluator … ." Pet. at 5, 7-8 (same), 16 (same). That is false. The appellate court correctly rejected Ribnicky's assertion that Wheeler merely repeated hearsay, and correctly held that Ribnicky waived the argument in any event. Ribnicky's petition fails to address the court's actual holdings. This Court should deny review.

1. Ribnicky ignores the appellate court's correct holding that the parenting evaluator's testimony did not repeat Sotaniemi's out-of-court statements.

Ribnicky's appeal is premised on the false assertion that Wheeler merely repeated hearsay. Pet. at 5, 7-8, 16. Wheeler testified about Sotaniemi's experience of domestic violence without once re-stating her out-of-court assertions. Unpub. Op. at 5. As the appellate court held, Ribnicky does not provide any citations to the record purporting to show otherwise. *Id.*; Pet. 5-16.

Ribnicky himself elicited Wheeler's testimony that Sotaniemi "experience[d] an incident of violence that was very frightening to her" and that Ribnicky had admitted physically restraining Sotaniemi from leaving during the Florida incident. RP 150, 206. Ribnicky also elicited Wheeler's testimony that Sotaniemi feared Ribnicky and that she had a reasonable basis for her fears and anxiety. RP 150-51.

Wheeler opined, without objection, that Sotaniemi experienced "emotional and physical abuse." RP 178.

The appellate court correctly held: (1) that Ribnicky failed to demonstrate that Wheeler merely repeated Sotaniemi's statements; and (2) that the record contradicted that claim:

> Ribnicky claims Wheeler's testimony constituted hearsay because she "relayed unsworn statements that had been offered by the Mother during the evaluator's investigations."
>
> Ribnicky fails to provide any specific citations to the record where the parenting evaluator relayed Sotaniemi's unsworn statements. A review of the record reveals Wheeler's testimony focused on her recommendations concerning the parenting plan rather than hearsay statements. We are not obligated "to comb the record" where counsel has failed to support arguments with citations to the record.

Unpub. Op. at 5 (citations omitted). Ribnicky waived appellate review for the additional reason that he failed to timely object at trial. ***Bercier v. Kiga***, 127 Wn. App. 809, 825, 103 P.3d 232 (2004) (citations omitted). During Wheeler's entire examination, Ribnicky never once claimed that her testimony was hearsay. Rather, Ribnicky raised a single hearsay objection to a photograph of Sotaniemi following the Florida incident. RP 175-77. This photo, whose admission Ribnicky no longer challenges, shows Sotaniemi covered in bruises. Ex 118. The court rejected Ribnicky's claim as to how they got there. CP 690.

In short, the factual predicate for Ribnicky's principal issue presented for review is false. Since he fails to demonstrate that the trial court's decision rests on hearsay, he cannot demonstrate that the appellate holding affirming the trial court conflicts with existing law that hearsay is not "substantive evidence." Pet. at 5-6. Rather, the appellate decision simply does not present that issue. This Court should deny review.

2. Ribnicky ignores the appellate court's holding that he invited any error with respect to the parenting evaluator's notes, so waived appellate review.

Ribnicky claims that the appellate court affirmed based "entirely" on Wheeler's notes, and "opined" that the trial court could rely on those notes because Ribnicky "failed to give a limiting instruction under ER 105 … ." Pet. at 3, 5, 10-12. This is false.

The appellate court held that Ribnicky waived any error as to Wheeler's notes by offering them into evidence without restriction:

> Under the invited error doctrine, a party may not set up an error at trial and then complain of it on appeal. The doctrine applies when a party takes affirmative and voluntary action that induces the trial court to take an action that party later challenges on appeal. Ribnicky cannot complain the trial court improperly admitted or considered Wheeler's notes when he offered Wheeler's notes containing Sotaniemi's allegations into evidence without restriction and without requesting a limiting instruction.

Unpub. Op. at 6 (citations omitted). Contrary to Ribnicky's unsupported assertions, the appellate court did not address whether the trial court: (1) *did* consider the notes as substantive evidence; or (2) *could* consider the notes as substantive evidence. Compare *id*., *with* Pet. at 10-11. Nor did it hold that Ribnicky had to ask the court for a limiting instruction. Pet. at 6, 10-12. Instead, the court held only that a party invites an alleged error when it offers evidence into the record without limitation or restriction, later claiming that the trial court erroneously considered it for an impermissible purpose. Unpub. Op. at 6. This is the epitome of an invited error. ***Grange Ins. Ass'n v. Roberts***, 179 Wn. App. 739, 774, 320 P.3d 77 (2013).

Moreover, Ribnicky acknowledges that "the Court of Appeals appeared to recognize that [Sotaniemi's] unsworn allegations could not be relied on as 'substantive evidence.'" Pet. at 11 (citing Unpub. Op. at 5). What he refers to is the court's correct holding that an expert may rely on inadmissible evidence, but that such reliance does not render the inadmissible evidence admissible. *Id*. This correct statement of the law does not present a conflict.

Nor does Ribnicky offer any support for his suggestion that the trial court (or appellate court) considered Wheeler's testimony for an impermissible purpose. Pet. at 10-13. Appellate courts presume

that the trial court presiding over a bench trial disregards inadmissible evidence. ***Detention of P.K.***, 189 Wn. App. 317, 325, 358 P.3d 411 (2015) (citing ***Marriage of Crosetto***, 65 Wn.2d 366, 368, 397 P.2d 418 (1964)).

3. Ribnicky ignores his own testimony admitting facts sufficient to support the RCW 26.09.191 restrictions.

Ribnicky did not appeal from the trial court's findings that he suffers from a long-term problem with alcohol that affects his parenting. BA 2-3; CP 689-90, 693. That finding is amply supported by Ribnicky's own admissions that he has a moderate alcohol use disorder, that he has a history of "excessive" drinking, that he has a "problem" with alcohol consumption, and that he became "aggressive" when drinking. RP 47, 307, 419, 424-25, 434; Ex 106. Again, Ribnicky never challenged the substance-abuse .191.

As for the domestic violence .191 restriction, Ribnicky himself raised verbal and physical abuse, admitting verbal abuse such as arguing, name-calling, and saying "mean things," including that Sotaniemi is "fat and lazy, controlling, and hypocritical and ignorant." RP 48, 420, 424-25. He attempted to minimize the Florida incident, underreporting his alcohol consumption. *Compare* RP 48-49, 51, *with* Ex 69 at 3. He claimed he only "tapped" E.S. and denied

grabbing Sotaniemi, despite admitting as much to Wheeler. *Compare* RP 50-51, *with* Ex 69 at 17. He profusely apologized for what appeared to be far more serious acts than he described. RP 510-13. This lacked credibility. CP 690.

Ribnicky dedicates a single paragraph to his claim that absent the alleged hearsay, there was insufficient evidence to support the domestic violence .191. Pet. at 16. This Court need not address such an insufficient argument. ***Dickson v. Kates***, 132 Wn. App. 724, 733 n.10, 133 P.3d 498 (2006) (citations omitted). That said, the evidence Ribnicky ignores amply supports the domestic violence .191.

Domestic violence includes physical harm and fear of imminent physical harm. RCW 26.09.191(2)(a), 26.50.010(3). Setting aside Wheeler's notes for the sake of argument, Wheeler testified, without objection, that Sotaniemi has experienced a pattern of domestic violence. RP 146-47. She agreed that there was a frightening episode of physical violence in Florida. RP 149-51, 211-12. She attested that Sotaniemi genuinely feared Ribnicky. RP 150-51, 153, 178-79, 188-89. Her testimony came in the context of: (1) Ribnicky apologizing profusely for hurting E.S. and Sotaniemi; and (2) the court disbelieving his account. Ex 106; CP 690.

The Florida incident was not isolated – it occurred after years of yelling, swearing, name-calling, and other aggressive drunk behavior. RP 48-51, 419-20, 424-25, 434. The Florida incident also was not *de minimis* – it left Sotaniemi covered in bruises and needing a protective order. RP 149-51, 153, 178-79, 188-89, 211-12, 510-13; Exs 106, 118; CP 151-60.

In short, the appellate decision does not actually present the issue Ribnicky asks this Court to review: whether RCW 26.09.191 restrictions may be based on hearsay. Pet. at 1. This is equally true for the second issue presented for review. *Infra*, Arg. § C. This Court should deny review.

B. Ribnicky's remaining arguments on the RCW 26.09.191 restrictions fail to meet any ground for review.

Ribnicky argues that since the domestic violence allegations "came solely through [Wheeler's] description of statements by" Sotaniemi, Ribnicky was denied the right to cross-examination. Pet. at 7-8. He raises similar due process concerns. Pet. at 13. He argues that the appellate court misapplied ***Mathews v. Eldredge*** "through the prism" of ***Aiken v. Aiken***, rather than applying it "directly to the case at bar." Pet. at 13-14 (addressing ***Mathews***, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed. 18 (1976); ***Aiken***, 187 Wn.2d 491, 387 P.3d 680

(2017)). Ribnicky omits the appellate court's correct holding that he failed to preserve this issue:

> Unlike ***Aiken***, Ribnicky never sought to cross-examine Sotaniemi. At the start of trial, Sotaniemi's counsel informed the court that Sotaniemi would not be attending trial. Ribnicky did not object to Sotaniemi's absence, he did not seek to compel her attendance under CR 43, and he did not ask to shorten time to compel her attendance. We conclude Ribnicky failed to preserve this issue for appeal.

Unpub. Op. at 8-9. Ribnicky also omits that he relied on ***Aiken***. *Id*. at 8; BA 23-25; BR 28-30. Thus, he cannot now complain that the appellate court considered it. Pet. at 13-14.

Ribnicky also seems to misunderstand this point, arguing that he did not have the burden to elicit Sotaniemi's testimony. Pet. at 15. The point is not that Ribnicky *had to* seek Sotaniemi's testimony, but that he could have and elected not to. Unpub. Op. at 8-9.

In short, this Court should not review an issue the appellate court declined to consider because it was not properly preserved.

C. This Court should decline to review the distribution of restricted stock units.

Ribnicky asks this Court to accept review to determine whether Restricted Stock Units ("RSU") should be included in income for purposes of calculating child support. Pet. at 1, 17-20. But because the record is inadequate, the appellate court declined to reach this issue. This Court should deny review.

Ribnicky claims, without any support, that the trial court failed to include RSUs in Sotaniemi's income when calculating child support. Pet. at 17-20. What he actually refers to is income reflected in Sotaniemi's W-2 comprised of a nonrecurring signing bonus, relocation expenses, and a stock spread award. BR 44-45; CP 793. Ribnicky conceded on appeal that the non-recurring income is excluded. BA 45. Stock grants are not included as income for purposes of calculating support unless the stock is sold. ***Marriage of Ayyad***, 110 Wn. App. 462, 468-69, 38 P.3d 1033 (2002).

Ribnicky attempts to distinguish ***Ayyad***, and to persuade this Court to adopt a few foreign cases. Pet. at 17-20. But he ignores that the appellate court elected not to review this issue because the record and briefing were inadequate:

> Sotaniemi's 2016 earning statement shows only that she received a $94,629.32 "stock award spread." And although Sotaniemi's 2016 W-2 appears to match up with her earning statement, the record does not address the nature of Sotaniemi's stock grant. Specifically, the record does not address whether Sotaniemi actually had possession of any stock or whether there are any restrictions upon Sotaniemi selling any stock actually delivered to her. Additionally, Ribnicky submits limited briefing to address whether a stock grant should be considered income to determine child support. He acknowledges that a "stock spread award" is not the same thing as the stock option addressed in ***Ayyad***, and he concedes this is an issue of first impression. His citations to out-of-state cases are unhelpful without comparison and analysis of the out-of-state child support statutes.

Unpub. Op. at 21-22 (citations omitted). Without more about the nature of the asset at issue, the court simply could not review its distribution. *Id*. This is in keeping with well-settled law that appellate court's need not consider arguments lacking adequate briefing or record support. *See, e.g.,* ***Green Collar Club v. Dep't of Revenue***, 3 Wn. App. 2d 82, 93, 413 P.3d 1083 (2018); ***Dickson***, 132 Wn. App. at 733 n.10. This Court too should deny review.

CONCLUSION

This Court should deny review.

RESPECTFULLY SUBMITTED this 7th day of May 2019.

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