

70590-3

70590.3

No. 70590-3-I

---

THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

---

SOLOMON M. MEKURIA,

Appellant,

v.

ASTER MENFESU,

Respondent.

*Handwritten:* X  
2019 OCT 21 PM 12:03  
STATE OF WASHINGTON  
COURT OF APPEALS  
DIVISION ONE

---

BRIEF OF APPELLANT

---

Solomon M. Mekuria  
Appellant, Pro Se

10421 Meridian Ave. S., Unit B  
Everett, WA 98208  
(425) 350-9576

## TABLE OF CONTENTS

TABLE OF CONTENTS.....	i - ii
TABLE OF AUTHORITIES .....	ii - vi
A. SUMMARY OF ARGUMENT.....	1
B. ASSIGNMENT OF ERROR.....	3
C. ISSUES PERTAINING TO ASSIGNMENT OF ERROR.....	5
D. STATEMENT OF THE CASE.....	6
E. ARGUMENT.....	8
1. <u>This court may reverse if there is substnatial evidence for my claims or the judge's findings are not supported in the file.</u> .....	8
2. <u>The Motion for Revision was improper and never should have been considered.</u> .....	11
3. <u>DUE PROCESS issue: Judge Cahan was bias, in favor of the mother's attorney.</u> .....	13
F. CONCLUSION.....	19

## TABLE OF AUTHORITIES

### **Washington Supreme Court Cases**

<u>Barnard v. B.O.E.</u> 19 Wash. 8, 17, 52 P. 317 (1898) .....	14
<u>Cowiche Canyon Conservancy v. Bosley</u> 118 Wn.2d 801, 819, 828 P.2d 549 (1992).....	10
<u>Dimmel v. Campbell</u> 68 Wn.2d 697, 699, 414 P.2d 1022 (1966) .....	13
<u>In re Disciplinary Proceeding Against Marshall (Marshall I)</u> 160 Wn.2d 317, 330, 157 P.3d 859 (2007) .....	9
<u>In re Disciplinary Proceedigns Against Marchall (Marshall II)</u> 167 Wn.2d 51, 66-67, 217 P.3d 291 (2009).....	9
<u>In re Disciplinary Proceeding Against Poole</u> 156 Wn.2d 196, 209 n.2, 125 P.3d 954 (2006)) .....	9
<u>In re Marriage of Moody</u> 137 Wn.2d 979, 976 P.2d 1240 (1999) .....	11, 12
<u>In re State ex rel. McFerran v. Justice Court of Evangeline Starr</u> 32 Wn.2d 544, 548, 202 P.2d 927 (1949) .....	14
<u>Noble v. Safe Harbor Family Pres. Turst</u> 167 Wn. 2d 11, 17, 216 P.3d 1007 (2009)).....	10
<u>Sherman v. State</u> 128 Wn.2d 164,205, 905 P.2d 355 (1995) .....	16
<u>State v. Lewis</u> 115 Wn.2d 294, 298-99, 797 P.2d 1141 (1990).....	9
<u>State v. Post</u> 118 Wn.2d 596, 826 P.2d 172, 837 P.2d 599 (1992)....	15, 16

<u>State v. Ramer</u>	
151 Wn.2d 106, 113, 86 P.3d 132 (2004).....	11
<u>State v. Rohrich</u>	
149 Wn.2d 647, 654, 71 P.3d 638 (2003).....	9
<u>Sunderland Services. v. Pasco</u>	
127 Wn.2d 782, 903 P.2d 986 (1995)).....	8
<u>Willener v. Sweeting</u>	
107 Wn.2d 388, 393, 730 P.2d 45 (1986).....	9

### **Washington Court of Appeals Cases**

<u>Brin v. Stutzman</u>	
89 Wn. App. 809, 951 P.2d 291 (1998).....	10
<u>In re Marriage of Balcom</u>	
101 Wn. App. 56, 1 P.3d 1174 (2000).....	12
<u>In re Marriage of Dunkley</u>	
15 Wn. App. 775, 778, 551 P.2d 1394 (1976).....	11
<u>In re Marriage of Goodell</u>	
130 Wn. App. 381, 388, 122 P.3d 929 (2005).....	12
<u>In re Marriage of Hansen</u>	
81 Wn. App. 494, 498, 914 P.2d 799 (1996).....	9
<u>In re Marriage of Lutz</u>	
74 Wn. Wpp. 356, 370, 873 P.2d 566 (1994).....	8
<u>State v. Carter</u>	
77 Wn. App. 8, 12, 888 P.2d 1230 (1995).....	15
<u>State v. Dugan</u>	
96 Wn. App. 346, 354, 979 P.2d 885 (1999).....	16
<u>State v. Madry</u>	
8 Wn. App. 61, 68, 504 P.2d 1156 (1972).....	14, 16

**United States Supreme Court Cases**

In re Murchison  
349 U.S. 133, 136, 75 S. Ct. 623, 99 L.Ed. 942 (1955)..... 14

Marshall v. Jerrico, Inc.  
446 U.S. 238, 242, 100 S. Ct. 1610, 64 L. Ed. 2d 182  
(1980) ..... 13

**Washington Statutes**

RCW 26.09.260(2).....2, 6

RCW 26.09.191.....2, 6

RCW 26.09.002.....3

**A. SUMMARY OF ARGUMENT**

Solomon M. Mekuria appeals a denial of adequate cause for his Petition for Modification of Parenting Plan. CP 21

Mekuria, the father, sought a major modification and change of custody for the extant Final Parenting Plan. CP 11.

Solomon Mekuria also brings up on appeal, for the first time, that the trial court judge should have recused herself because of possible affiliation with, and biased for, opposing counsel Elizabeth Helm. A fair hearing is a due process and Constitutional issue which may be raised for the first time on appeal. Bias of a judge impedes upon this Constitutional right.

After a Commissioner found adequate cause for a major modification of the Final Parenting Plan (CP 451), the Honorable Regina Cahan, denied adequate cause and dismissed the Major Modification action. CP 527.

Menfesu, the mother, argues, the child's injuries are minor and there is no evidence that the alleged injuries of the child are caused by the mother, her sight impairment should not be considered as a basis for major modification because this was previously known and litigated at trial, and Guardian ad Litem should not be appointed to investigate whether there is a concern with the

mother's eye sight and the alleged injuries. CP 457

Judge Cahan abused her discretion and made an untenable ruling took a view that no other reasonable judge would take. The child has been injured several times under the mother's care, including bruises and a burn. The mother admitted under oath that she is blind, cannot drive and that the burn injury occurred and the mother stated that she did not know about it because the child did not tell her and the mother could not feel it. See CP 39, 231.

This is a confession that the mother's blindness impairs her parenting ability to the detriment of the child's safety and physical welfare. If the mother is not inflicting injury upon the child, especially since the mother confessed under oath to being blind and confessed to the child's injuries, including the burn, then the mother is neglecting the child and her home is a dangerous environment for the child. This is a substantial change of circumstances since entry of the original order. CP 11. A change of custody is warranted under RCW 26.09.260(2)(c) because any harm (if any) in the change of custody does not compare to the harm of leaving the child in the mother's care. And custody under the care of the father is in the child's best interests.

The imperative of RCW 26.09.191(2) which mandates

restrictions for child abuse, willful refusal to perform parenting functions, and those of .191(3), which allows restrictions due to a physical impairment and neglect of performing parenting functions, all give the court authority to seek restrictions to protect the child from the mother's neglect, after adequate cause is found.

Multiple physical injuries and the uncontested fact that a burn occurred under the mother's care and the uncontested fact that the mother did not notice the burn (when any other parent who can see would notice it), are clear facts that undeniably establish adequate cause.

Given the utmost high standard and public policy for concern for the child more than any other interest in family court, under RCW 26.09.002 and case law cited below, the court should have found adequate cause, and at least ordered further investigation into the mother's home, if not transferred custody immediately to the father, pending final resolution.

There is substantial evidence in the record to reverse the judge's untenable decision.

Moreover, no reasonable judge would have taken the same view, given the evidence.

This court should reverse Judge Cahan's ruling and find that

there is adequate cause, or in the alternative, remand for a finding of adequate cause and reinstate the action to move forward to trial.

**B. ASSIGNMENT OF ERROR**

1. The trial court erred by not finding adequate cause for the father's major modification action.
2. The trial court abused its discretion by not finding that there was a substantial change of circumstances, specifically that the mother's blindness is not a substantial change of circumstances.
3. The trial court erred by not finding that the mother's admitted blindness (and admitted reaction to the child burning herself) posed a risk to the child's safety.
4. The trial court erred by not finding that there was adequate cause and substantial evidence that the child's present environment is detrimental to the child's physical welfare.
5. The trial court erred by not finding that the mother's admitted blindness (and admitted reaction to the child burning herself) constituted a "long-term...physical impairment which interferes with the parent's performance of parenting functions".
6. The trial court erred by not considering the child's safety,

welfare and best interests first and foremost.

7. The trial court admitted and/or did not strike the inadmissible Motion for Revision by the mother and considered it when making its ruling.
8. Judge Cahan should have recused herself, given the appearance of bias, due to her service with the NW Women's Law Center and their close work and affiliation with NW Justice Project, where opposing counsel Elizabeth Helm works.

**C. ISSUES PERTAINING TO ASSIGNMENT OF ERROR**

1. Should this court reverse the order denying adequate cause and find adequate cause and order that trial be reinstated, or remand for the trial court to do so? [pertains to Assignments of Error 1 through 6]
2. Should this court order that the mother's Motion for Revision (CP 457, 473) be stricken and that Judge Cahan should not have considered it. [pertains to Assignment of Error 7]
3. Should this court hold that there is concern about the appearance of bias by Judge Cahan toward Elizabeth Helm because of their employers' affiliations with one another and therefore Judge Cahan should have recused herself? [pertains

to Assignment of Error 8]

4. Should this court remand for an order that Judge Cahan recuse or withdraw herself from this case? [pertains to Assignment of Error 8].

**D. STATEMENT OF THE CASE**

On August 2, 2013, the parties had a full dissolution trial before the Honorable Monica Benton in King County Superior Court. A Final Parenting Plan was entered on August 18, 2010. CP 1. Judge Benton slightly amended the order and entered an Amended Parenting Plan on September 27, 2010. CP 11.

In the extant 9/27/2010 Amended Final Parenting Plan, there are no RCW 26.09.191 restrictions, or any finding of parental misconduct, including any physical disability that impairs the performance of parenting functions. See Sections 2.1 and 2.2 of Amended Final Parenting Plan. CP 11.

On March 5, 2013, Solomon M. Mekuria filed a Petition to Modify this final parenting plan. CP 21.

In his Petition, Solomon M. Mekuria sought a change of custody due to a substantial change of circumstances, under RCW 26.09.260(2)(c). See Section 2.8 of Petition. CP 21.

Mekuria claimed, among other things, that there is a detrimental, neglectful environment to the child, in the mother's home, due at least in part to the mother's blindness. Mekuria claims that the mother's blindness is a new circumstance, not found in the Final Parenting Plan, which affects her performance of parenting functions to the point in which the mother actually refuses or is incapable of performing parenting functions. See Section 2.13 of Petition for Modification. CP 21.

Mekuria submitted pictures of the child's physical injuries after residential time with the mother. CP 211.

The mother admitted to the child being burned while under the mother's care and that the mother did not notice the burn because the child did not inform her and the mother could not feel it. See Declaration of Aster Menfesu re Ad Cause, p.4, line 3, CP 39. See Motion for Revision, p.4 line 15, CP 457, See Declaration of Aster Menfesu in Response to Pet's Mot for Ad Cause page 2, line 15, CP 231.

Family Law Commissioner Bonnie Canada-Thurston found adequate cause for a major modification and appointed a GAL to further investigate the matter. CP 451, 448.

The mother filed a Motion for Revision. CP 457, 473. The

mother's reason included: (1) The court erred when it determined that there was sufficient basis for a finding of adequate cause for a major modification of the parenting plan based on the photographs of five alleged injuries. (2) The court erred when it considered Ms Menfesu's sight impairment as a basis for a major modification. (3) The court erred when it appointed a Guardian ad Litem to investigate whether there is a concern with the mother's sight and whether the mother's sight deteriorated.

The father objected to the Motion for Revision. CP 513. The father's reason's included: (1) there was new content in the Motion for Revision that was not before the commissioner, (2) the mother's attorney Elizabeth Helm was testifying in the Motion for Revision, and (3) no new declarations/testimony should have been permitted at all in the Motion for Revision CP 479.

Judge Cahan granted the Motion for Revision and held that there was no adequate cause, and in doing so, the Judge held that there was no substantial change of circumstances and there was no detriment to the child under the mother's care (that outweighed any harm that would be caused by a change of custody to the father).

The father Solomon Mekuria now appeals.

## E. ARGUMENT

### 1. This court may reverse if there is substantial evidence for my claims or the judge's findings are not supported in file

The appellate courts may review, disturb, reverse and/or remand a trial courts findings if there is ***no substantial evidence*** in the record to support such findings. In re Marriage of Lutz, 74 Wn. Wpp. 356, 370, 873 P.2d 566 (1994). . (Supreme Court reversed finding of fact #3 and remanded for new findings because it was “based upon ***fears...rather than*** more ***objective*** evidence, such as...expert opinion.” Id. at 795.)

Challenged trial court's findings of fact are upheld if supported by substantial evidence. In re Disiplinary Proceedigns Against Marchall (Marshall II), 167 Wn.2d 51, 66-67, 217 P.3d 291 (2009). In re Marriage of Hansen, 81 Wn. App. 494, 498, 914 P.2d 799 (1996).

Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of a declared premise. In re Disciplinary Proceeding Against Marshall (Marshall I), 160 Wn.2d 317, 330, 157 P.3d 859 (2007) (quoting In re Disciplinary Proceeding Against Poole, 156 Wn.2d 196, 209 n.2, 125 P.3d 954 (2006)).

A discretionary decision rests on "untenable grounds" or is based on "untenable reasons" if the trial court relies on **unsupported facts** and the court's decision is "manifestly unreasonable" if "the court, despite applying the correct legal standard to the supported facts, **adopts a view 'that no reasonable person would take.'**" State v. Rohrich, 149 Wn.2d 647, 654, 71 P.3d 638 (2003) (quoting State v. Lewis, 115 Wn.2d 294, 298-99, 797 P.2d 1141 (1990)). Appellate courts may determine whether the trial court's findings of fact are supported by substantial evidence. Willener v. Sweeting, 107 Wn.2d 388, 393, 730 P.2d 45 (1986). "Substantial evidence is evidence in sufficient quantum to **persuade a fair-minded person** of the truth of the declared premise." Brin v. Stutzman, 89 Wn. App. 809, 951 P.2d 291 (1998), citing Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 819, 828 P.2d 549 (1992).

No fair minded person would DENY adequate cause after seeing the mother admit that she is physically impaired (blind) and that she did NOT tend to our child's burn because she could not see it (and she excused herself because the child did not inform her of the burn).

The substantial evidence shows that the child continually bruises or had injuries under the mother's care. This warrants a finding of adequate cause.

A trial court abuses its discretion when its decision or order is manifestly unreasonable, exercised on untenable grounds, or exercised for untenable reasons. Noble v. Safe Harbor Family Pres. Turst, 167 Wn. 2d 11, 17, 216 P.3d 1007 (2009)).

RCW 26.09.260(2) permits a finding of adequate cause (and eventual modification) when there is a detriment to the child in the current custodial parent's home and that detriment is a substantial change of circumstances and any harm caused by a change in custody is less than the harm caused by leaving the child in that custodial parent's home. Then the best interests of the child are considered in entering a parenting plan.

The focus after finding the change of circumstances is the child's welfare. The "welfare of the children is of supreme importance." In re Marriage of Dunkley, 15 Wn. App. 775, 778, 551 P.2d 1394 (1976).

The judge abused her discretion and disregarded the child's welfare.

**2. The Motion for Revision was improper and never should have been considered**

After adequate cause was found by a Commissioner, the mother filed a Motion for Revision. CP 457, 473. But, that motion should have never been considered. It was full of inadmissible content. The mother's attorney was testifying and adding new evidence and allegations that were not before the Commissioner.

When reviewing a court commissioner's ruling, a trial court reviews the record before the commissioner de novo. State v. Ramer, 151 Wn.2d 106, 113, 86 P.3d 132 (2004); In re Marriage of Moody, 137 Wn.2d 979, 992-93, 976 P.2d 1240 (1999).

A superior court judge's review of a court commissioner's ruling, pursuant to a motion for revision, is limited to the evidence and issues presented to the commissioner. In re Marriage of Goodell, 130 Wn. App. 381, 388, 122 P.3d 929 (2005).

The superior court's review is not limited to whether substantial evidence supports the commissioner's finding, but it is "authorized to determine its own facts based on the record before the commissioner". Id.

The Supreme Court in Moody held that the superior court acted properly when it refused to consider new issues raised and

new evidence provided by the former husband in the motion for revision. Moody at 992-93.

It is error for the superior court to consider additional evidence on revision. In re Marriage of Balcom, 101 Wn. App. 56, 1 P.3d 1174 (2000).

The content in the Motion for Revision made it inadmissible.

The mother's attorney added emails that were written AFTER the hearing before the commissioner. This was wholly improper.

The "The Sections II Facts" is full of new testimony and reference to things not before the Commissioner.

The mother and/or her attorney also re-litigate and re-allege issues that were resolved at the original trial. To re-litigate resolved matters violates the doctrines of res judicata, collateral estoppels and judicial estoppels. Moreover, it is personally harassing to this Appellant to have to continue to defend what has already been resolved.

The Revision should have never been heard.

**3. DUE PROCESS issue: Judge Cahan was bias, in favor of the mother's attorney**

“The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases.”

“Even where recusal is not required, it may be well-advised. Mayberry v. Pennsylvania, 400 U.S. 455, 463, 91 S. Ct. 499, 27 L. Ed. 2d 532 (1971), the U.S.

“Washington cases have long recognized that judges must recuse themselves when the facts suggest that they are actually or potentially biased. See Dimmel v. Campbell, 68 Wn.2d 697, 699, 414 P.2d 1022 (1966) (“It is incumbent upon members of the judiciary to avoid even a cause for suspicion of irregularity in the discharge of their duties.”).

In re State ex rel. McFerran v. Justice Court of Evangeline Starr, 32 Wn.2d 544, 548, 202 P.2d 927 (1949), the court stated “[t]here can be no question but that the common law and the Federal and our state constitutions guarantee to a defendant a trial before an impartial tribunal, be it judge or jury.” It quoted the court’s 1898 decision in State ex rel. Barnard v. B.O.E. for its observation that “[t]he principle of impartiality, disinterestedness, and fairness on the part of the judge is as old as the history of courts.” McFerran at 549 (quoting Barnard v. B.O.E., 19 Wash. 8, 17, 52 P. 317 (1898)).

In State v. Madry, the court held, “Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness.” State v. Madry, 8 Wn. App. 61, 68, 504 P.2d 1156 (1972) (quoting In re Murchison, 349 U.S. 133, 136, 75 S. Ct. 623, 99 L.Ed. 942 (1955)). Citing to the then-recently-enacted canons of the CJC of the American Bar Association, the Madry court stated at page 70:

“The appearance of bias or prejudice can be as damaging to public confidence in the administration of justice as would be the actual presence of bias or prejudice. The law goes farther than requiring an impartial judge; it also requires that the judge appear to be impartial. Next in importance to rendering a righteous judgment is that it be accomplished in such a manner that it will cause no reasonable questioning of the fairness and impartiality of the judge. A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned.”

Beginning with State v. Post, 118 Wn.2d 596, 826 P.2d 172, 837 P.2d 599 (1992), the Supreme Court has characterized a judge’s failure to recuse himself or herself when required to do so by the judicial canons as a violation of the appearance of fairness doctrine.

The court also narrowed the scope of the appearance of fairness doctrine from one under which a party could challenge whether decision-making procedures created an appearance of unfairness to a reformulated threshold: whether there is “evidence of a judge’s or decision maker’s actual or potential bias.” Post at 619, n.9.

Like the protections of due process, Washington’s appearance of fairness doctrine seeks to prevent the problem of a biased or potentially interested judge. State v. Carter, 77 Wn. App. 8, 12, 888 P.2d 1230 (1995).

Under this doctrine, evidence of a judge’s actual bias is not required; it is enough to present evidence of a judge’s actual or potential bias. Post at 619 n.9.

“The CJC recognizes that where a trial judge’s decisions are tainted by even a mere suspicion of partiality, the effect on the public’s confidence in our judicial system can be debilitating.” Sherman v. State, 128 Wn.2d 164,205, 905 P.2d 355 (1995).

Public confidence in the administration of justice requires the appearance of fairness and actual fairness. State v. Dugan, 96 Wn. App. 346, 354, 979 P.2d 885 (1999). Actual and potential bias is equally relevant. Post, at 618-19.

“The law goes farther than requiring an impartial judge; it also requires that the judge appear to be impartial.” Post at 618. (quoting State v. Madry, at 70).

Before becoming a judge, Regina Cahan stated on her profile on VotingForJudges.org, “I volunteer my services for the Northwest Women’s Law Center...”<sup>1</sup> The website of NW Women’s Law Center (now known as Legal Voice), reads on its “About Us” page, in part:

“...we participate as amicus curiae (friend of the court) in cases affecting women...and provide assistance in litigation...and advocacy to organizations and attorneys throughout the region...

...Our Self-Help Program provides free legal and practical information for women...who cannot afford attorneys, or do not know where to turn to solve legal problems...”

The Respondent’s counsel is Elizabeth Helm of Northwest Justice Project (NWJP), where she has worked since 2006.

The website of NWJP at [www.NWJustice.org](http://www.NWJustice.org), reads in part, on its “Frequently Asked Questions” page:

**“What kinds of civil legal problems does NJP handle?”**

---

<sup>1</sup> This profile can be found at the following URL on the world wide web: <http://www.votingforjudges.org/08pri/div1/king/king10rc.html>. It is noted that NW Women’s Law Center is now known as “Legal Voice” and its website is [www.LegalVoice.org](http://www.LegalVoice.org)

NJP generally handles civil legal problems facing low income people due to lack of income, problems with education, employment or loss of employment, disabilities, discrimination, consumer abuse or illegal business practices, physical or family safety, as well as barriers low income people face when applying for government services, seeking help, or accessing the courts or other means of resolving disputes or addressing their needs. NJP also helps low income groups address problems of concern to the group.

These problems often occur in situations involving domestic violence, ...or cultural barriers to accessing social services or justice systems, as well as the economic development needs of low income communities and organizations serving them.

#### **How does NJP assist clients with civil legal problems?**

NJP has several specialized units or programs that serve distinct or particularly vulnerable populations, including...survivors of domestic violence...

...In addition, NJP contracts with several private attorneys around the state who have agreed to accept cases for eligible clients if NJP lawyers in that region are not able to handle the case. These lawyers are paid by NJP (not the client) at a highly reduced rate from what they would normally charge for their services....

...What are NJP's case service priorities?

NJP's case service priorities vary among field offices and among the specialized units. In general, the cases involve complex legal problems or issues that generally will not be handled by private attorneys, such as:

- Disputed custody cases involving domestic violence or children at risk of harm"

So, both NWJP and Legal Voice specialize in family law advocacy for low-income women, especially those who allege domestic violence. And the mother and her attorney have been attempting to claim this matter involved domestic violence. They clearly lost at this allegation at trial and there is no "DV" found in the

Final Parenting Plan. CP 11, Section 2.1.

The offices of NWJP and Legal Voice are both in downtown Seattle and within 1.5 miles of each other.

NWJP  
401 2<sup>nd</sup> Ave. S, #407  
Seattle, WA 98104

Legal Voice  
907 Pine Street, #500  
Seattle, WA 98101

At the very least, there is the appearance that Attorney Elizabeth Helm has worked with Judge Cahan, at some point, and they are “on the same side” of a particular legal issue—a major thrust of their advocacy. This lends to the concern that Judge Cahan was biased in favor of Ms. Helm’s position.

This mere appearance of bias should have caused Judge Cahan to recuse herself.

The judge is required to disclose on the record when an attorney appearing in court or who has signed pleadings worked directly with the judge before the judge assumed the bench. Wash. Ethics Advisory Comm., Op. 90-14 (1990).

Because of the astonishing ruling by Judge Cahan (thinking that a blind parent’s neglect is no big deal), there had to be some bias at least. No reasonable person would make such a finding,

unless there was bias of some sort in favor of the mother or her attorney as the child's physical well-being was not considered.

**F. CONCLUSION**

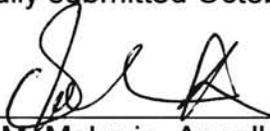
The trial court abused its discretion by denying adequate cause on revision and dismissing the father's Petition for Modification of Parenting Plan.

The trial court abused its discretion by considering an inadmissible and inappropriate Motion for Revision.

For both of the reasons above, this court should reverse the denial of adequate cause and order that the Commissioner's ruling be restored. CP 451.

There is an appearance of bias with Judge Cahan in favor of opposing attorney Elizabeth Helm. This court should order that Judge Cahan recuse herself under the appearance of fairness doctrine.

Respectfully submitted October 07, 2013



---

Solomon M. Mekuria, Appellant, pro se

**Superior Court of Washington  
County of**

In re:

SOLOMON MEKURIA

Petitioner,

and

ASTER MENFESU

Respondent.

*No. 70590-3-I*

No. 09-3-05584-3 KNT

**Return of Service  
(RTS)**

***I Declare:***

1. I am over the age of 18 years, and I am not a party to this action.
2. I served the following document to office of Elizabeth A Helm (attorney for Respondent): BRIEF OF APPEALANT

3. The date, time and place of service were:

Date: *October 7, 2013* Time: *11:31 AM*

Address: Northwest Justice Project  
401 2<sup>nd</sup> Ave. South, Suite 407  
Seattle, WA 98204-3811

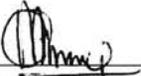
*2013 OCT -1 11:12:08*

4. Service was made leaving the document with the receptionist at the address above in a conspicuous place, per CR 5(b)(1), at the address above.

**Other:** Attached herewith is a true conformed copy of the Notice of Appeal with the time stamp from Northwest Justice Project's received stamp machine, indicating the time and date that I delivered Elizabeth Helm's copy.

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

Signed at Seattle, Washington on *October 7, 2013*

  
\_\_\_\_\_  
Signature

*Mahlet*  
\_\_\_\_\_  
Print or Type Name