

No. 38595-3 II

COURT OF APPEALS  
DIVISION II

THE COURT OF APPEALS

00 AUG 10 PM 2:42

DIVISION II

STATE OF WASHINGTON  
BY  DEPUTY

OF THE STATE OF WASHINGTON

---

Gerardo Grosjean

Petitioner/Appellant

And

Butsaba Grosjean

Respondent

---

ON APPEAL FROM PIERCE COUNTY SUPERIOR COURT

Pierce County Cause No. 06-3-02987-8

---

APPELLANT'S BRIEF

---

GERARDO GROSJEAN

8300 Phillips Rd SW #38

Lakewood, WA. 98498

(253) 228-6670

Pro Se

## TABLE OF CONTENTS

	<u>Page</u>
TABLE OF STATUTES	4
I. ASSIGNMENT OF ERROR	5
II. ISSUES	5
A. For purposes of RCW 26.09.520(1), is it in the best interest of the child to relocate to California where his only family is his mother who works eight to 10 hours 5 days per week or maintain the child in Washington with his brother, sister and father whom has custody for the prior fifteen months?	
B. For purposes of RCW 26.09.520(3), The child already resides with the father, goes to school in Washington, has regular schedule speech therapy appointments and has his regular doctors in Washington. The person objecting the relocation is the same person that has custody of the child.	
C. For purposes of RCW 26.09.520(6), The child is four (4) years old, already resides with the father, goes to school in Washington, has regular schedule speech therapy appointments, has his regular doctors (Pediatrician and Child Neurobehavioral Specialists) in Washington as well upcoming appointments with the University of Washington Autism Center, Tacoma campus.	

- D. For purposes of RCW 26.09.520(7), Are the quality of life, resources and opportunities available in Monterey, California better than in Tacoma, Washington?
- E. For purposes of RCW 26.09.260(1), (2). There are not finding regarding these issues.

III.	STATEMENT OF THE CASE	6
IV.	ARGUMENT	7
V.	CONCLUSION	11

**Table of Statues:**

Page

RCW 26.09.520 and 260

5,7

RCW 26.09.520(1)

5,6

RCW 26.09.520(3)

5

RCW 26.09.520(6)

5

RCW 26.09.520(7)

6

RCW 26.09.520(2)

6

I. ASSIGNMENT OF ERROR.

The court abused its discretion in finding adequate cause and failed to make specific findings regarding the requirements outlined in the relocation statute RCW 26.09.520, and RCW 26.09.260

II. ISSUES.

- A. For purposes of RCW 26.09.520(1), is it in the best interest of the child to relocate to California where his only family is his mother who works eight to 10 hours 5 days per week or maintain the child in Washington with his brother, sister and father whom has custody for the prior fifteen months?
- B. For purposes of RCW 26.09.520(3), The child already resides with the father, goes to school in Washington, has regular schedule speech therapy appointments and has his regular doctors in Washington. The person objecting the relocation is the same person that has custody of the child.
- C. For purposes of RCW 26.09.520(6), The child is four (4) years old, already resides with the father, goes to school in Washington, has regular schedule speech therapy appointments, has his regular doctors (Pediatrician and Child Neurobehavioral Specialists) in Washington as well upcoming appointments with the University of Washington Autism Center, Tacoma campus.
- D. For purposes of RCW 26.09.520(7), Are the quality of life, resources and opportunities available in Monterey, California better than in Tacoma, Washington?

E. For purposes of RCW 26.09.260(1), (2). There are not finding regarding these issues.

### III. STATEMENT OF THE CASE.

Appellant, Gerardo Grosjean, and Butsaba Grosjean were married on November 21, 2002 at Bangkok, Thailand, date of separation was August 24<sup>th</sup>, 2006 in Tacoma, Washington (CP 547). The first court date was on September 05<sup>th</sup>, 2006 were custody was set as three (3) days with the father and four (4) days with the mother each week this was with the purpose of keeping the mother with financial assistance (RP 10-05-06).

On March 29<sup>th</sup>, 2007 we returned to court and child custody was changed to 50% of the time with each parent seven days with the father and seven days with the mother (RP 03-29-2007).

On June 21<sup>st</sup>, 2007 there was a court proceeding in front of Judge Tollefson were a decision was rendered concerning the relocation of the child to California. The petition for relocation was denied and the child stayed with the father from that date giving the mother liberal visitation. (RP 06-21-2007) and (RP 06-29-2007).

On January 4<sup>th</sup>, 2008 there was a second proceeding in front of Judge Tollefson were full residential time and custody was awarded to the father (RP 01-04-2008).

On the week of September 2<sup>nd</sup>, 2008 there was a trial where the guardian ad litem change her testimony once again, all evidence brought up by the mother was exclusively

hear say and eye witnesses such as school officials, speech therapist and independent witness to the facts were overlooked as well as the eleven points cited on RCW 26.09.520 (CP 09-02-2008, CP 09-04-2008, CP 09-05-2008 and CP 09-05-2008 ruling). Even as a trail of paper work showed the deceitful nature of the mother on this case, and her allegations of control by the father such as:

1. Allegations of not allowing her to use the phone (CP 3), there was a list of outgoing calls provided by the phone company for the dates that the mother alleged not to be allowed to call out. This list had hundreds of dollars in phone calls made by the mother to California, Florida, England, Thailand and others (CP 9 to 15) and (CP 55 to 75).
2. Limiting her money to 10 dollars per month (CP 3), the mother had access to both checking and savings accounts as they were join accounts; she did use the debit card and wrote checks during the marriage (CP 163).
3. Allegations of sexual nature (CP 3), they were initiated by the mother (CP 36 to 40).
4. Allegations of DV and all other abuse allegations (CP 3), these allegations are unfounded (CP 149 lines 11 thru 23 and CP 150 lines 1 thru 7).

#### IV. ARGUMENT.

Pro Tempore Judge Ronal Thompson made emphasis on his decision as of why to change custody to the mother (RP 09-05-2008 ruling) (page 3 line 20 thru page 4 line 8).

“The question now is where should this child go? Should the child go to California or should the child stay here? There is

certainly good reason on both sides, to move the child to California in one instance or to keep the child here in the other instance. Father is available almost full time, has no employment at the present time because he is on L&I, so that gives him, if you will, an advantage, because he is present at all times. Mother, on the other hand, is employed full time, has the benefit of insurance coverage, has the benefit of providing if you will, full medical and dental, if you will services for the child. And that is certainly a plus on her favor, very much so. So, the court has to weight these things.”

Pro Tempore Judge Ronal Thompson second point on his decision continued on (RP 09-05-2008 ruling) (page 4 line 17 thru page 5 line 12).

“The guardian ad litem issued three reports, all of them prior to the time that she had a flare-up with the respondent’s prior attorney. All three reports state that it’s in the best interest of the child to be with the mother. I have no real reason and find no real reason to disagree with the guardian ad litem. I’m going to find that the requirements of the relocation statute are satisfied, that the custody of the child be, primary custody be awarded to the mother; that the Parenting Plan presented by the mother be adopted; that the child support be set forth as provided for in the mother’s Order of Child Support; that the father have reasonable and liberal visitation pursuant to the terms of the Parenting Plan.

Again, father, you've done a great job as a father and I hope that continues. I can't divide this child between the two of you. I think equity, and we are in a court of equity, I think equity demands this child be, at the present time anyhow, the primary care be with the mother, and that's what I am doing in this case. Anything further?"

Judge Thompson's first point on considering designation of custody was that the mother has insurance medical and dental insurance for the child should not have any bearing on the decision since the child would have insurance regardless of which parent has custody (RP 09-05-2008 ruling) (page 3 line 20 thru page 4 line 8).

Judge Thompson's second point on considering designation of custody was the guardian ad litem's reports, and that the reports were prior to the guardian ad litem's were "prior to the time that she had a flare-up with the respondent's prior attorney." But if we follow the dates of the reports we can find that:

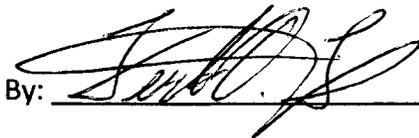
The first report was written in haste on June 13<sup>th</sup>, 2007 but it did not have collateral contacts, the second report had collateral contacts which the guardian ad litem contacted by phone the night prior to submitting her report and was signed June 19<sup>th</sup>, 2007. This second report was basically the same report as the first one but with some of the collateral contacts and it was written two days prior to the court date even as the guardian ad litem had 7 months to produce them. The GAL made all her collateral contacts thru phone

conversations the day prior to turning in her report of June 19<sup>th</sup>, 2007 disregarding all but one of the collateral contacts provided by the father (Exhibit 27 page 4). The date of the “flare-up with the respondent’s prior attorney” happen in court on June 19<sup>th</sup>, 2007 during examination by the attorney of the petitioner (RP 06-21-2007) in its entirety. It continue as the guardian ad litem wrote a derogatory and insulting letter to my attorney dated November 9<sup>th</sup>, 2007 (Exhibit 72). This is an important letter because it shows the guardian ad litem involvement in the case, as well as her bias concerning the final report which was dated by the guardian ad litem only one day prior to her derogatory letter to my attorney. The guardian ad litem further ignored the father’s request to contact additional collateral contacts such as Tammy Ell the Business Manager at the child’s clinic (Exhibit 17) or Cindy Swendsen, MA,CDP. Domestic Violence Evaluator (Exhibit 10).

V. CONCLUSION.

The court abused its discretion in finding adequate cause and failed to make specific findings regarding the requirements outlined in the relocation statute RCW 26.09.520, and RCW 26.09.260. Nothing in the record supported the findings of Pro Tempore Judge Ronald Thompson. The ruling of the trial court should be reversed and Mrs. Grosjean's petition for custody and relocation of the child should be dismissed.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of August, 2009.

By:  \_\_\_\_\_

Gerardo Grosjean.

Petitioner Pro-Se.

8300 Phillips Rd SW #38

Lakewood, WA. 98498

COURT OF APPEALS DIVISION II OF THE STATE OF WASHINGTON

IN RE THE MARRIAGE OF: )  
 )  
Butsaba Grosjean, )  
Respondent. )  
And )  
 )  
Gerardo Grosjean, )  
Appellant. )

No. 38595-3-II

DECLARATION OF SERVICE

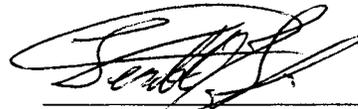
09 AUG 10 PM 2:12  
BY \_\_\_\_\_  
SMITH  
COURT OF APPEALS  
DIVISION II

STATE OF WASHINGTON )  
 ) SS.  
COUNTY OF PIERCE )

GERARDO GROSJEAN, being first duly sworn, on oath deposes and says that: I am over the age of 18 years, am competent to be a witness herein and make this affidavit on my own personal knowledge.

That on the 10<sup>th</sup> day of August, 2009 I personally mailed to the office of Michael Spratt, attorney for respondent, a copy of the following documents: APPELLANT'S BRIEF.

August 10<sup>th</sup>, 2009



GERARDO GROSJEAN.  
PRO SE  
8300 Phillips Rd SW #38  
Lakewood, WA. 98498  
253-228-6670