

THE COURT OF APPEALS OF THE
STATE OF WASHINGTON DIVISION II

WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES.

Respondent,

vs.

Brad M. Goodspeed

Appellant,

) **Thurston County**

) **Cause No.**

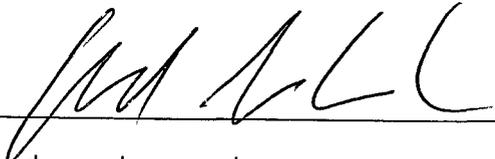
) **13-2-01847-8**

) **Court of Appeals**

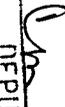
) **Cause 47356-9-II**

) **APPELLANT BRIEF**

Respectfully Submitted Dated this 2nd Day of March, 2015



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BY 
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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	2
I INTRODUCTION.....	3
II BACKGROUND.....	4
III ISSUE.....	9
IV LEGAL ARGUMENT.....	9
V ASSIGNMENT OF ERROR.....	19
VI CONCLUSSION.....	31
VI RELEIF REQUESTED.....	36

TABLE OF AUTHORITIES

Table of Cases

Marriage of Pollard, 99 Wn. App. 48, (2000)

Pages 10,16

Marriage of Peterson, 80 Wn. App 148 (1995).

Pages 11,13,16,17

RCW'S & WAC'S

RCW 34.05.542(3).....3

RCW 26.19.071(6)9,10,11,13,14,16,17, 36

RCW 26.19.020.....10

WAC 388-02-0645..... 3

I. INTRODUCTION

This is an appeal from a series of rulings through the administrative Law Process of the Washington State Department of Social and Health Services and subsequent petitions for judicial review through Thurston County Superior Court as permitted under RCW 34.05.542(3) and WAC 388-02-0645.

It is important to note that while this Appeal is based on the most recent decision of the Judicial Review by Thurston County Superior Court under Cause No. **13-2-01847-8** from a hearing held on June 13, 2014 and a decision filed on July 17, 2014 that a earlier hearing was held on March 1, 2013 for a Judicial Review by Thurston County Superior Court under Cause No. **12-2-01198-0**. (CP 5 and 6)

While this requested review by the Washington State Court of Appeals No. **47356-9-II** is for the Cause **13-2-01847-8**, the results of the first Judicial Review, administrative hearing and the entire record of the referenced first hearing are fully incorporated into the

record of the second hearing and by reference made a part thereof (CP 5 and 6, Appellant Brief In 2-18 Pg. 2).

In the Judicial review of the first ALJ decision cause 12-2-01198-0 the Honorable Eric Price determined that the initial order was improper and remanded back for further proceedings by the Department of Social and Health Services Administrative Law Judge. It defies logic that all the same facts remain as to Mr. Goodspeeds income, but it diminished because of his continued downward spiral of his finances and this was brought on specifically by the Wrongful terminal of his ground lease at the Yakima Air Terminal as determined by Division III of the Court of Appeals Cause 293068. It is impossible to imagine how the ALJ can state "He attempted to paint a dire picture of his finances. Mr. Goodspeed clearly wanted to minimize the amount of his monetary obligations to support his daughter. For these reason, I find Mr. Goodspeed's testimony and evidence regarding his income lacks credibility." (CP 5 and 6, VRP page 22 In 19- In 24)

II Background

Appellant has a child with a Ms. Olga Y. Rodriguez in 2000, Hannah Lavonne Goodspeed, minor child. Ms. Rodriguez and Mr. Goodspeed lived together from approximately 2001-2009 that involved the building of a new home, leasing of a property on Murango, in Ephrata and leasing of a property on "I" street in Ephrata. (CP 5 and 6, declaration of Brad Goodspeed in Original Agency Record, CP10)

Mr. Goodspeed's ability to contribute was greatly reduced as of January 2010 as his business was shut down due to a conflict with the airport. Until this point Mr. Goodspeed and Ms Rodriguez had no discussion about child support. On January 9, 2012 Mr. Goodspeed was served notice of Finding of Financial Responsibility, (CP 5 and 6 declaration of Brad Goodspeed in Original Agency Record, CP10)

Mr. Goodspeed requested a Hearing for February 2, 2012 . Mr. Goodspeed was served a Notice of Finding of Financial Responsibility by DSHS for 646.00 per month for child support

and he appealed and a hearing was scheduled and held on April 4, 2012. (CP 5 and 6, declaration of Brad Goodspeed in Original Agency Record, CP10)

The original hearing was presided over by administrative law judge Sherry Clark Peterson. And a final order was issued on May 3 2012 and a corrected final version issued and filed September 12, 2012 requested by Ray Tupling as her attorney. Mr. Tupling is not an attorney but a friend of Ms. Rodriguez. Mr. Goodspeed has requested the reference to Mr. Tupling at an attorney be stricken, but that was ignored and allowed to stand. (CP 5 and 6, Original Agency Record, CP10)

A petition for Judicial Review was filed on June 6, 2012 in Thurston County Superior Court, Cause 12-2-01198-0. (CP 5 and 6, Original Agency Record)

A judicial review hearing was held March 1, 2013 and oral arguments heard before the Honorable Eric Price. Subsequently an order reversing and remanding was entered on March 12, 2013 in the above referenced Cause. (CP 5, 6 and 10).

A remand hearing was held June 3, 2013 and presided over by administrative law judge Sherry Clark Peterson. And a final order was issued on August 5, 2013. (CP 5, 6 and 10).

A petition for Judicial Review was filed on June 6, 2012 in Thurston County Superior Court, Cause 13-01847-8. (CP 5 and 6, Original Agency Record, CP10)

A judicial review hearing was held June 13, 2014 and oral arguments heard before the Honorable Eric Price. Subsequently an order affirming The Administrative Law Judges decision was entered on June 17, 2014 in the above referenced Cause (CP 17)

Mr. Goodspeed is 59 years old, has high blood pressure and weighs 240 pounds. Much of the health issues have been a result of the stress of the financial crisis he has gone through the last 5 years.

He is a private pilot with no valid medical certificate and runs a wine tour business with 2 leased limousine. The wine tour business is down approximately 70%

over the levels of 2007-2009. The income of his FBO (fixed base operator that provides rental, storage, maintenance and fueling of aircraft) had sales reduced by over 90% with the dispute that arose with the airport in Yakima. On December 10, 2013 Division III Court of Appeals issued an order reversing and directing the City and County of Yakima to pay damages, attorney fees and interest on the losses to his company M.A. West Rockies Corporation. Unfortunately, Mr. Goodspeed had to assign his company and his interest in the case to his lenders in exchange for not foreclosing, demanding a personal guarantee and "riding out the appeal". One of the reasons he has maintained the property was to protect his future ability to borrow for business purposes from the effect trust from the Yakima Air Terminal case. At 58 years of Age Mr. Goodspeed can not fix his credit in his productive lifetime to have the borrowing potential to borrow funds from conventional sources that could be available through the private trusts that now will be made whole in the Yakima Air Terminal Case.

III Issue

Did the Superior Court Judge error in affirming the Administrative Law Judge decision in the second review in case **13-2-01847-8** when she imputed income to the Petitioner based upon the Approximate Median Net Monthly Income Chart as found in the Washington State Child Support Schedule?

IV Legal Argument

RCW 26.19.071 (6), together with Page 2 of the Washington State Child Support Schedule, sets forth under what circumstances income may be imputed for the purpose of determining one's child support obligation. It is important to note that under both the quoted statute and the Child Support Schedule that the imputation of income based upon the Approximate Median Net Monthly Income Chart, as the Administrative Law Judge did in this case, is done as a last resort.(Emphasis added).

The statute states in no uncertain terms that "A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily

underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation.”
(Emphasis added)

Numerous Washington cases have ruled on this language, to-wit:

In Re Marriage of Pollard, 99 Wn. App. 48, (2000)

1] A trial court exercises broad discretion in modification of the child support provisions of a divorce decree. *In re Marriage of Blickenstaff*, 71 Wn. App. 489, 498, 859 P.2d 646 (1993). We review a trial court's decision regarding child support for abuse of discretion, recognizing that such decisions are seldom disturbed on appeal. *In re Marriage of Griffin*, 114 Wn.2d 772, 776, 791 P.2d 519 (1990). In setting child support, the trial court must take into consideration all factors bearing upon the needs of the children and the parents' ability to pay. *Blickenstaff*, 71 Wn. App. at 498 (citing former RCW 26.19.020). Overall, the child support order should meet each child's basic needs and should provide any “additional child support commensurate with the parents' income, resources, and standard of living.” RCW 26.19.001. To facilitate these goals, the Legislature directs that the child support obligation should be “equitably apportioned between the parents.” RCW 26.19.001.

[2] In proceedings to modify child support, the trial court applies the uniform child support schedule, basing the support obligation on the combined monthly incomes of both parents. RCW 26.19.020; .035(1)©; .071(1); *In re Marriage of Brockopp*, 78 Wn. App. 441, 445, 898 P.2d 849 (1995). Voluntary unemployment or underemployment will not allow a parent to avoid his or her financial obligation to the children who are the subjects of the support order. *In re Marriage of Shellenberger*, 80 Wn. App. 71, 81, 906 P.2d 968 (1995). When assessing the income and resources of each household, the court must impute income to a parent when that parent is voluntarily unemployed or voluntarily underemployed. RCW 26.19.071(6).

The court determines whether to impute income by evaluating the parent's work history, education, health, age and any other relevant

factor. RCW 26.19.071(6); *In re Marriage of Peterson*, 80 Wn. App. 148, 153, 906 P.2d 1009 (1995), review denied, 129 Wn.2d 1014 (1996). If the court decides the parent is “gainfully employed on a full-time basis,” but also underemployed, the court makes a further determination whether the parent is purposely underemployed to reduce his or her support obligation. RCW 26.19.071(6); «3» *Peterson*, 80 Wn. App. at 153.

[3] In this case, the trial court found that Ms. Brookins was “working as a mother in the home full time raising children” and refused to impute income because it found that she was “not voluntarily underemployed with an intent to avoid child support[.]” This finding is open to two interpretations. One, the court may have meant that Ms. Brookins was a full-time worker, voluntarily underemployed, but not with an intent to avoid child support. Pursuant to RCW 26.19.071(6), however, an underemployed parent may not escape imputation of income unless he or she is gainfully employed on a full-time basis and is not underemployed to reduce the support obligation. Because Ms. Brookins’s full-time work as a mother and homemaker is not “gainful,” «4» she does not come within this provision of RCW 26.19.071(6).

«3» The relevant part of RCW 26.19.071(6) provides that:

“The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent’s work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent’s child support obligation.”

«4» “Gainful” is described in *Peterson*, 80 Wn. App. at 153, as employment compensated by a wage or as the person’s usual or customary occupation. Ms. Brookins presented no evidence that she earned a wage for mothering or that the job of full-time caregiver was similar to other jobs in her work history. *Id.* at 154.

Two, the court may have meant that Ms. Brookins was not voluntarily underemployed. The facts do not support this interpretation. Clearly Ms. Brookins's choice to leave the military and her former salary of over \$22,000 per year (based on a 1995 W-2 form) was voluntary, motivated by her desire to raise the two young children of her new family Blickenstaff, 71 Wn. App. at 493 (voluntary means the result of free choice; intentional rather than accidental). While laudable, these actions cannot adversely affect her obligation to the two older children she had with Mr. Pollard. As noted in *Atkinson v. Atkinson*, 420 Pa. Super. 146, 152, 616 A.2d 22 (1992) (Del Sole, J., dissenting), "[b]y choosing not to allow a parent to escape child support obligations because of the existence of a new family we are recognizing the needs of children to the love, support, and sacrifice of both parents." If the shoe were on the other foot, and a noncustodial father sought to reduce his child support obligation because he chose to stay home with his children from a new marriage, most courts would impute income to such a voluntarily unemployed or underemployed parent. See, e.g., *Brody v. Brody*, 16 Va. App. 647, 651, 432 S.E.2d 20 (1993) ("If the roles in this case had been reversed, and the father chose to leave his job and stay home to care for the children of another marriage, we would not, without more, uphold an elimination of his obligation to support his other children. The mother should be held to a like standard.").

Under either interpretation of the findings, the trial court abused its discretion in finding that Ms. Brookins was not voluntarily underemployed and in failing to impute income to her. Accordingly, we reverse the order of child support modification for abuse of discretion. Remand is necessary to recalculate child support.

[4] We note that the determination of the child support obligation need not end with imputation of income, however. Once the incomes, including imputed incomes, of the parents have been determined and a presumptive support obligation has been set, the trial court has discretion to deviate from the standard calculation on the basis of a parent's duty to support other children. RCW 26.19.075(1)(e). Deviation from the standard support obligation is appropriate when it would be inequitable not to do so. In re Marriage of Burch, 81 Wn. App. 756, 760, 916 R2d 443 (1996). As stated in RCW 26.19.075(1)(e)(iv), "[w]hen the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households," including

the costs of substitute child care and the income of a new spouse (RCW 26.19.075(1)(a)(i)). If the trial court on remand decides that reason exists for deviation, it will exercise its discretion in considering the extent to which the factors affect the support obligation. RCW 26.19.075(4).

In this case, that is the subject of this second judicial review, Mr. Goodspeed has a documented history of self employment in industries that have suffered dramatically from the Real Estate and credit meltdown of 2008. This was exasperated by the activities of the Yakima Air Terminal to cut off his aviation business access in an attempt to acquire the property. Mr. Goodspeed had no idea that Ms. Rodriguez was seeking child support until the Notice and Finding of Financial Responsibility was served on January 9, 2012. Mr. Goodspeed work history and activities were already a matter of being historical. In nature and "cast in stone". The argument he is somehow underemployed falls flat on its face and completely defies the administrative record of this case and was simply arbitrary on the part of the Administrative Law Judge.

In re Marriage of Peterson, 80 Wn. App 148 (1995).

IMPUTED INCOME

The child support statute directs the trial court to make two inquiries when considering whether to impute income. First, the trial court evaluates the parent's work history, education, health, age, and any other relevant factor to determine whether that parent is voluntarily unemployed or underemployed. RCW 26.19.071(6). If a parent is underemployed but also "gainfully employed on a full-time basis," the court must make a further determination as to whether the parent is "purposely underemployed to reduce the parent's child support obligation." If not underemployed for that reason, the parent may not have income imputed to him. RCW 26.19.071(6). «2»

«2» RCW 26.19.071(6) provides in relevant part:

"The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation."

[3] Gainful employment, a term left undefined by the child support statute, could arguably be defined in two ways. One definition focuses on whether the employment is compensated by a salary or wage, while the alternative definition looks to the nature of the employment and whether it is the person's usual or customary occupation. See BLACK'S LAW DICTIONARY 678 (6th ed. 1990) (defining "gainful" and "gainful employment"). We note that, in other contexts, the Legislature has defined gainful employment in accord with the first definition. See RCW 7.68.020(5) (crime victim's compensation law defines "gainfully employed" as "engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood"); WAC 296-18A-420(2) (vocational rehabilitation regulations define "gainful employment" as "any occupation . . . which allows a worker to be compensated with wages or other earnings").

Under the first definition, Peterson's employment is gainful because he earns approximately \$18,000 per year. Applying the term gainful in this manner does not allow parents to remain underemployed without consequence; the statute specifically addresses parents who reduce their income to lower child support and allows the trial court to impute income to them at an appropriate level. The trial court in the present case did not find, and, in fact, Hales did not contend, that Peterson had purposefully sought his current employment to reduce child support.

Under the second definition, Peterson's current employment and income appear to be consistent with his work history. Peterson has little experience in traditional legal practice, and Hales does not argue that his work with the union, for which he earned between approximately \$15,000 and \$24,000 annually, was not gainful. Because his present income falls within this range, it is difficult to conclude that his employment as legal counsel and bail bond agent is not gainful when compared with his work and income history. This conclusion is also consonant with the purpose of child support, which is to ensure that a child maintains a lifestyle commensurate with what the parents would have provided had they stayed together.

The trial court's decision in this case is not consistent with either definition of gainful. Instead, the court found Peterson's employment not gainful by comparing his income, age, and education to national averages. We agree with Peterson that this is an untenable basis for imputing income under the statute. Although the definitions of gainful vary somewhat, neither permits an interpretation requiring a parent to earn income at or near the top of his or her capabilities as gauged by that person's education and age. The language of the statute and the scheme for calculating an underemployed parent's income do not embody a legislative policy determination that parents should be considered ungainfully employed whenever they are more educated than the average person but earn less than the national median income for their age.

Because Peterson was gainfully employed full-time and no finding was made that he was purposely underemployed to reduce his child support obligation, the statute does not allow income to be imputed to him. Remand is therefore necessary to recalculate child support. «3»

«3» In light of our disposition, we need not address Peterson's argument that the trial court abused its discretion in refusing to grant a deviation based on residential time or spousal income.

RCW 26.19.071(6). If the parent is not underemployed for that reason, the court may not impute income to him or her. RCW 26.19.071(6); Pollard, 99 Wn. App. at 53; Peterson, 80 Wn. App. at 153.

Peterson illustrates the importance of making the requisite findings in that case, the trial court found that the father was voluntarily Under-employed because he had a law degree and was a member of the Washington State Bar, yet he earned only \$1,500 per month. The trial court imputed a \$2,118 net monthly income to the father. The appellate court reversed and remanded the case for recalculation of child support because the parent was gainfully employed on a full-time basis and the trial court made no finding that the parent was purposely underemployed to reduce his child support obligation. Peterson, 80 Wn. App. at 155.

Here, the evidence showed that Mr. Goodspeed was gainfully employed and he was only making \$2,000 to \$2,500 per month.

Mr. Goodspeed testified as to what his income was and provided signed income tax returns "under the penalty of perjury" as noted at the bottom of the 1040 return form just above the signature block. There was no evidence that Mr. Goodspeed is not gainfully employed and working full time. In spite of this evidence, the ALJ found that Mr. Goodspeed is voluntarily underemployed. It may be that the ALJ believes Mr. Goodspeed under-reported his income. However, all the evidence in the record and the testimony of Mr. Goodspeed indicated that his income was in fact 2,000-2,500 a month.

The ALJ did find that Mr. Goodspeed was voluntarily underemployed the purpose of reducing his child support obligation. With such a finding, the ALJ erroneously imputed income to Mr. Goodspeed. RCW 26.19.071(6); Peterson, 80 Wn. App. at 155. The ALJ imputation of income to Mr. Goodspeed is based on untenable grounds or untenable reasons and constitutes an abuse of discretion. Accordingly, the review Court should have reversed and remanded for a recalculation of child support obligation by DSHS.

In this case, that is the subject of the second judicial review, Mr. Goodspeed is exactly that, gainfully employed. He has identified that employment and the earnings derived from that employment. While earnings are limited, due to the nature of the industries he is self employed with, there has not been one shred of evidence in the record that he is purposely underemployed to some how reduce his support. (emphasis added). The record was clear; Mr. Goodspeed was simply seeking a temporary reduction of support so he could meet his legal obligations and attempt to restructure his life so he could contribute more to Hannah's financial welfare. Mr. Goodspeed has been portrayed as a dead beat dad by the opposing party, and the official record defies that logic. With an unrealistic an unsustainable imputed income, Mr. Goodspeed would not be able to meet his obligations and the State would move to revoke his drivers license and passport, further guaranteeing his inability to earn a living driving limousine and revocation of his passport that could affect his ability to work for Radix Marine as another potential income source. With his limited financial resources, lack of formal degrees and education and financial calamity experienced in his life, he has no liquid resources to sell to supplement the requested support imposed.

Imposition of unrealistic support, based on his current earning capacity, will begin a snow ball effect that will impair his ability to pay any support by taking away one of his primary sources of income with revocation of his drivers license. It would also possibly impair his ability to improve his income with Radix Marine with the potential of revocation of his passport and drivers license.

V ASSIGNMENTS OF ERROR

In the case at Bar, the ALJ made no such findings yet imputed income based upon the Approximate Median Net Monthly Income Chart.

What did the ALJ find in the first Order subject to the first Judicial Review:

On page 3 of the Decision, the ALJ imputes income because "... the Noncustodial Parent's income is unknown." Yet, the Appellant presented copies of his federal income tax returns for 2010 and 2011 and in fact testified that he made \$25000.00 to \$30000.00 a year. The ALJ simply ignored this testimony even though there was no evidence to the contrary. To impute a net monthly income of \$3735.00, the equivalent of a gross salary of

\$60000.00, is simply arbitrary and capricious. (CP5 and 6 of original agency record)

On page 3 of the Decision, the ALJ finds that “imputation at minimum wage was not appropriate due to Mr. Goodspeed’s prior earning history.” What prior earning history? There is no evidence as to what his prior earning history was and there was more than enough evidence to show that he has suffered financial disasters in every aspect of his business endeavors which adversely affects his current earning ability (CP5 and 6 of the original agency record).

**What did the ALJ find in the second Final Order
RE Remand subject to this review that was affirmed
by the Thurston County Superior Court order
subject to this appeal.**

I do not want to be redundant, however the details and facts of the ALJ Final Second order were not clear and concise and even the Honorable Eric Price was having trouble understanding her math, statements and assertions. If

If a Superior Court Judge that deals with this kind of issue every day has issue tracking, it would be all but impossible for a "fair minded" person to be able to track and come to a reasonable and fair conclusion. I have taken her findings of her order and foot noted with the Honorable Eric prices findings and comments at the hearing, where applicable, of June 13, 2014..

1. On page 5 of decision It appears some confusion or misapplication of funds on the part of the ALJ. Mr. Goodspeed testified that the sales at his FBO business had gone from approximately 3,000,000 to 300,000 (not a debt of 300,000 as stated in the order) Paragraph 7.(CP 5,5 and 10, VRP p 9 ln 8-15)

2. On page 5 of decision it appears the ALJ has "co mingled" my corporation bills when She states that " A review of exhibit 12,pp 23-24 shows Mr. Bradspeed (sp) was able to come up with 8935.30 to pay a deposit and rents in March 2010 to the Port Authority. If you read the order it is for "M. A. West Rockies Corporation and corporation funds are totally distinct and separate from personal funds that would be available after expenses and

subject to any profits in normal generally accepted principals. This in itself completely taints the ALJ decision as she has co mingled corporate income with that of his personal income in her flawed decision. (CP 5,6 and 10, VRP p8 ln 25- p9 – ln 1-11) (CP 5,6 and 10,VRP p 10 ln21- p12 ln 6). The Court Continue to struggle with the concept of M. A. West Rockies being a sovereign entity and that the finances of M. A. West Rockies as a sovereign corporation would be separate and distinct from that of Brad Goodspeed, an individual. (VRP p 12 ln 7- p 13 ln 10). The court could not separate these distinct issues and the entire process that if he did receive funds from M. A. West Rockies Corporation, he would have either 1099 or a w-2 to support that income and the subsequent income would be reflected in his personal tax returns of 2010 and 2011 that were supplied as part of the evidence of his income both hearing processes. Again, the mere co mingling of the “revenue” and expenses of the corporation can not be co mingled with the “income” of Brad Goodspeed. (CP5, 6 and 10)

3. On page 6 of her order she claims he receive 1,000.00-2,000.00 a month to manage the property. He never made a claim as such and she does not cite an exhibit or location of document to

identify the source of this information. (CP5, 6 and 10,VRP p 21,In 7, p 13, In 10.)

4. On Page 6 of the order end of the 4th paragraph she states "Based on one trip a month, Mr. Goodspeed should be earning 433.33 pr month to 2,166.00 per month based on one trip a month. This entire sentence makes no sense. If he make 2 trips every week he would make 800-900.00 for the month (100x 2 a week x 4.2 weeks in the month is 800-900 a month. He has never had a month where he would go 2 times a week for an entire month. Exhibit 12 page 3 stated "I have made one trip a week for the last 6 months" This would be closer to 400-450 a month and consistent with his income and evidence put forth for earnings. (CP5, 6 and 10). The Judicial review agreed that this made no sense to Judge Price either (VRP p 29 In 11- 21). He goes on to further to say the order was written by the ALJ in haste and where to two interpretations, the ALJ clearly used her conclusions about Mr. Goodspeed's credibility to draw conclusions adverse to Mr. Goodspeed (VRP p 29 In 11-2, CP 5, 6 and 10)

5. On page 7 of the order 2nd paragraph she states "Mr

Goodspeed should be earning \$39,000 per year, or \$3250.00 per month” (CP 5,6 and 10) This defies the record and logic. Mr. Goodspeed testimony in both records was he worked on property management, wine tours and fulfilling his Radix Marine contract obligations. Let us not forget the multiple litigation he is involved in, hearings, motions and discovery he must partake in while defending pro se as he does not have the resources to hire legal council just like here. She has made the arbitrary decision that he could get full time work doing consulting work. Mr Goodspeed testimony shows a good balance of juggling his various jobs, completing his obligations while doing the things required to improve his finances in the future. Mr Goodspeed’s testimony was “1 trips a week for 80% of the time over the last 6 months” (CP5, 6 and 10 VRP p 36 ln 1-19). He also stated “I received 100.00 per day for the trips above referenced one to two times a week and parties for Radix and I have already been paid for it”. (CP5, 6 and 10, VRP P32 Ln 20-22). He also testified that He worked on Radix Marine and it amounted to 5-6 days a month. 5-6 days a month x 150.00 a day is 750-900 a month on the top side and these services were already paid for with stock. They provide no income in present time. (CP5, 6 and 10,VRP P48 Ln 3-5, Ln 8-14, P 47

Ln9-24).

6. On Page 7 of the order 3rd paragraph She states if he made one trip a week for a month. Again she has “assumed” that he had a backlog of one trip a week from here until Hannah turns 18. He made multiple testimony that the wine tour business was down 70% from the levels of 2007 and 2008. Specifically in the (CP 5,6 and 10, VRP P 55 In 14-20) He stated that “he has 3 for June, 1 for July, and 1 for August”. This would be 1500 for the 5 trips with an average tip of 30.00 and a 5 hour tour for 270.00. This would average to 500.00 per month for the months immediately following the hearing. One must also consider that those 3 months are 3 of the best 8 months he does wine tours. This is simply arbitrary and defies logical math and thinking (CP5,6 and 10)

7. On Page 7 of the order 4th paragraph at the bottom she references that he does not include any expenses for M. A. West Rockies and “at the very least there should be a deduction for 8935.30 paid in rents to the port authority”. This is again co mingling and defiance of

basic accepted accounting principals. M. A. West Rockies is a Corporation and he is not entitled to deduct expenses for the corporation, nor accept money personally. Co mingling of business income and expenses for the calculation on his child support in itself should reverse the decision (CP5, 6 and 10).

8. On Page 8 of the order 3rd paragraph down she states there was an unpaid storage bill on the aircraft. She stated it was unclear if the storage bill was a debt to the business acquired by Blue Ribbon Holdings. This is yet another misstatement of fact. In (VRP P49 Ln 19-25 and P 50 Ln 1-3) it is clearly spelled out there was no purchase of the existing business. This is an inference of something not right Mr. Goodspeed feels in an attempt to undermine his testimony (CP5, 6 and 10)

9. On Page 9 of the order 1st Paragraph there is improper "assumptions" and arbitrary decisions inferred and made. He was asked to provide my bank statements for the last 12 months, preferably the last 18 months. (CP5, 6 and 10,VRP P50 Ln 18-25 P51 Ln 1-25, P52 Ln 1-25), All the opposing parties had 7 days to object, ask for clarification, ask for additional documents. (CP5, 6

and 10,VRP P52 Ln 11-15). The statement that because of money order purchases it was "suggesting cash was being converted to money orders form" This defies logic why would anyone deposit funds into their checking account and the withdraw Chase money orders for the 4.00 fee. Throughout his testimony he testified he was reimbursed expenses from the girls company Blue Ribbon Holdings LLC. Careful examination will see this activity was in March 2012 a few weeks after the daughters started the company and hired some of the previous operators employees. They were gun shy and wanted money orders or cashiers checks for payroll and the daughters had just set their account up and could not get immediate credit for collected funds from Customer checks due to the size and amount of funds. He received funds to reimburse him for expenses that were paid for by him for Blue Ribbon Holdings LLC. Obtaining money orders and cashiers checks for the employees would have fallen under the prevue of the expenses under the consulting agreement. He also made many fuel purchase on his debit card and was reimbursed by Blue Ribbon Holdings LLC as provide by his consulting agreement. This went on for several months until the Girls accounts had a good history and you will note charges to his account from Aeroflight. If

they had issue or questions, they should have requested clarification within the 7 days instead of arbitrary decisions with no supporting documents to support their arbitrary contentions and notions (CP5, 6 and 10).

10. On page 9 of the order paragraph 4 “When Mr. Goodspeed and Ms. Rodriguez lived together, he was very good at hiding assets. I find there is some evidence of this in the bank statements where multiple money orders were purchased and there was no corresponding withdrawal from the bank. Ms. Rodriguez estimated Mr, Goodspeed’s actual income was 5,000.00 to 7,000.00 per month. These figures are consistent with the bank statements Mr. Goodspeed provided”. Under cross examination Mr Goodspeed asked Olga if she had any documentation to prove the 5,000 to 7,000 per month. She answered “That’s, uh from all the stuff that you provided”. (CP5, 6 and 10,VRP P74 Ln 14-25 P 75 Ln 1-10). She could not provide or identify one shred of evidence, just accuse me. Mr. Goodspeed never shared any of his business with Olga, She could care less what he did and never even asked him (CP5, 6 and 10).

11. On page 9 of the order paragraph 5 the ALJ states “Mr. Goodspeed is either purposely deceptive regarding his income or he is voluntary underemployed for the purpose of reducing his child support. **I find that Mr. Goodspeed is voluntarily underemployed for the purpose of reducing his child support obligation.**” (emphasis added). There is not one shred of evidence in the record to support this statement and it is completely arbitrary. Mr. Goodspeed had provided income tax returns, detailed testimony of his daily activities, income, contracts, past income, anticipated income. He was in a Chapter 13 in 2010 and 2011 and the filings and schedules fully disclosed his assets, income, expenses, he was in a Chapter 11 and once again, fully disclose the income, expenses, assets, liabilities, have gone through 2 – 341 hearings and the State was served notice of the filing and did not attend the 341 hearing if they doubted or called into question his filings (CP5, 6 and 10)

. The state did however, make a motion to dismiss his 11 for non payment of child support on the 3rd of April for support due April 1, 2014 and subject to this appeal review. He listed his obligation at

350.00 a month, more proper for his actual income level supported by all the evidence in this case other than the testimony of a jaded ex partner that stated he has not been involved in Hannah Life for the last 12 years when in fact he rented a house up until 3 years ago when she elected to move out. This is in both records of both hearings and no one contested those facts. It is unrealistic to even come to the conclusion that he has to "be voluntarily under-employed for the purpose of reducing his child support". The tax returns and income are from 2010, 2011 and he was not even asked or assessed child support until the spring of 2012. This defies logic, the record and completely supports his contention this order and decision is arbitrary and capricious at minimum (CP5, 6 and 10).

12 On page 11 of the order paragraph 1 the ALJ states " Mr. Goodspeed was not forthcoming about his earnings". This is completely false and arbitrary. The tax returns were not prepared simply for this case, but other examinations for other cases as well as begin the process of preparing myself for a potential Chapter 11 filing that I felt could be forthcoming at any time (CP5, 6 and 10).

13. On page 11 of the order paragraph 2 the ALJ again commingles M A West Rockies expenses and interjects them in his evidence chain as "personal funds" this defies logic, the law, generally accepted accounting. If she had any questions she could have asked for clarification (CP5, 6 and 10)

14. On page 11 of the order paragraph 3 the ALJ states he was vague and evasive regarding my interest in various entities. He answered directly, honestly and in great detail despite her attempts to characterize a public traded company Radix Marine as some how his company and he should provided copies of its checkbooks. It appears that his entire testimony is questioned without any evidence to do so other than the flawed testimony of Olga and her partner Mr. Tuppling (CP5, 6 and 10).

VI CONCLUSION

The review court struggled with many aspects of the case. There was many parts the court could not make sense of the statements, theory or the math itself. Transcripts were admitted

that the Judicial review Judge did not have a chance to review from the first hearing. The fact that the entire record of the previous hearing had been referenced and made a part of the review record of the second case is significant. The commingling of corporate revenues and expenses were co mingled with personal income and expenses in itself should be enough to reverse the ALJ decision. (CP5, 6 and 10) (VRP p29 In 11- pg 30 In 4).

The review court also struggled with the State taking a position in this hearing. Clearly the state is not to take a position and is to remain neutral when they are simply acting as a collection agency for child support the minor child is not receiving any benefits from the state. In other words, the State of Washington did not have " a dog in this fight"

Judge Price wrote "Clearly the State below (referring to office of Mr. Ping) advocated for a particular outcome. Moreover, that particular position was adopted by the Administrative Law Judge. Either that position should not have been taken below, or the

position taken here today should have been in line with defending the agency's order" (VRP pg 27 ln 10-15)

Many aspects of the order is not supported by the evidence when you consider both hearings, not just the second review. In the first Judicial Review of this case, Judge Price was able to determine that there were grounds for reverse and remand (CP5, 6 and 10). In the second review, the Administrative Law Judge drew conclusions and interpretation of evidence that clearly did not make sense to the Judge making the judicial review. Clearly the Administrative Law Judge was on a mission to make a ruling based on her assertions of the credibility of Mr. Goodspeed based on her own feelings about Mr. Goodspeed. One can only draw this conclusion looking at the evidence of both reviews. In her second findings of fact she was very lengthy in her "findings" many of which were flawed, unsupported, confusing and hence arbitrary and capricious in nature.

The State taking a position simply fanned the flames of coming

to a conclusion. It is like the interview of jurors after many trials stating defendant "must be guilty of something", or they would not be in the defendants chair. The State taking a side in this case does exactly that. You have the full weight and power of the State of Washington with its endless supply of tax payer money to fight the little guy that was bankrupted by the Yakima Air Terminal wrongfully terminating his lease. This case reminds me so much of that exact theory. The full weight and power of a public agency saying M. A. West Rockies was delinquent in its rent and the veracity scales of comparing Brad Goodspeed in one hand and the Yakima Air Terminal in another. The presiding Judge in that case went with the public agency as one might expect in the rush of an unlawful detainer trial. It was only after the Court of Appeals Division III was able to take the time and carefully examine the evidence that they determined the was not delinquent, but actually paid in advance.

Needless to say Mr. Goodspeed was financially destroyed and lost in the excess of 3,500,000 and is now homeless and destitute. Yet. Even with the reference of the devastation brought onto his

life to the Administrative Law Judge, she accused Mr Goodspeed "painted a dire picture" as it was the truth (CP5, 6 and 10) . Mr Goodspeed life has been ruined financially and he has been ruined by a public agency acting under the color of law.. Here we have the exact same thing an Administrative Law Judge seething and looking for a way to impose income on Mr. Goodspeed because he must be being untruthful and evasive. The only difference in Mr. Goodspeed testimony or any of the evidence between the first ALJ decision and hearing and the second is his life continued to spiral downward financially to the point he lives in an aircraft hanger.

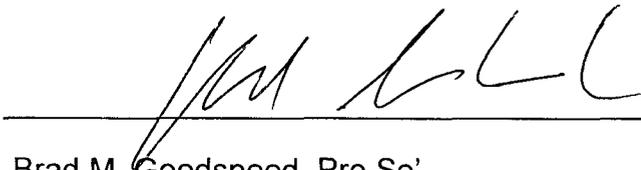
Recently the ALJ system has come under attack and suspicion, Judge Price referenced this in his statements. It is this exact behavior that has basically imposed a sentence on Mr. Goodspeed he can not keep up the support obligations with his current income. With the litigation now ensuing out of the Yakima Air Terminal Case, He is subject to 6 subpoenas to produce records over a 15year period an there are now 7 law firms involved

in the case, the City has sued their own law firm for malpractice and just last week ACE insurance sued the city and county of Yakima, in Federal Court, asking the Federal judge to rule they have no liability in the case as they do not insure intentional acts. This is relative to this case as simply put, Mr. Goodspeed was telling the truth and the evidence supports he was telling the truth and his life financially is in ruins and he was telling the truth. This goes back square on that the ALJ decision was arbitrary and capricious based on all the truthful testimony he put forward.

VII Relief Requested

For all of the reasons above, the Court of Appeals should Reverse the decision of the Judicial Review and remand this case back for proper, legal and equitable calculation of the Support obligation based on the record and **RCW 26.19.071**. Mr. Goodspeed should also be awarded fees and costs associated with bringing this Appeal as permitted by the statute..

Submitted this 2nd day of March 2015,

A handwritten signature in black ink, appearing to read "Brad M. Goodspeed", written over a horizontal line.

Brad M. Goodspeed, Pro Se'

2810 West Washington Ave

Yakima, Washington 98903

509 654 6700

**The Court of Appeals
of the
State of Washington
Division II**

BRAD M.
GOODSPEED

Appellant

v.

STATE OF
WASHINGTON,
DEPARTMENT
OF SOCIAL
AND HEALTH
SERVICES

Respondents

Case No. 47356-9-II

**Thurston County
Superior Court**

No 13-2-01847-8

**DECLARATION OF
SERVICE**

FILED
COURT OF APPEALS
DIVISION II
2015 MAR -5 PM 1:07
STATE OF WASHINGTON
BY S
DEPUTY

TO; The Court, State of Washington Department of Social and Health Services, their attorneys of record and all interested parties:

The undersigned declares and states as follows:

I am a citizen of the United States of America, and of the State of Washington, over the age of 21 years and competent to be a witness therein.

On February 17, 2015, I mailed a copy of the Opening Brief of Appellant, in the above entitled action to:

**WASHINGTON STATE COURT OF APPEALS DIV II
950 BROADWAY
TACOMA, WASHINGTON 98402**

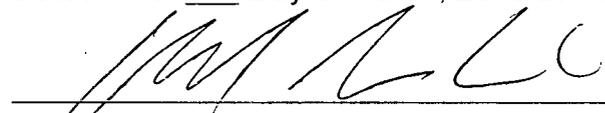
Placing said documents in a sealed envelope with first class postage prepaid thereon.

I Also hand delivered to the Attorney General office in Yakima Washington original copies of The Opening Brief of Appellant (see attached stamped cover sheets).

I also faxed an original set to the Washington State Court of Appeals Division II.

Declarant states the foregoing is true and correct to the best of her knowledge and belief, subject to the penalty of perjury under the laws of the State of Washington.

Dated This 2nd Day of March, 2015 at Yakima Washington.



Pro se'

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CLERK OF THE COURT
YAKIMA OFFICE
2:36 CKH
MAR 02 2015

**THE COURT OF APPEALS OF THE
STATE OF WASHINGTON DIVISION II**

WASHINGTON STATE DEPARTMENT)
OF SOCIAL AND HEALTH SERVICES.)

Respondent,

vs.

Brad M. Goodspeed

Appellant,

) **Thurston County**

) **Cause No.**

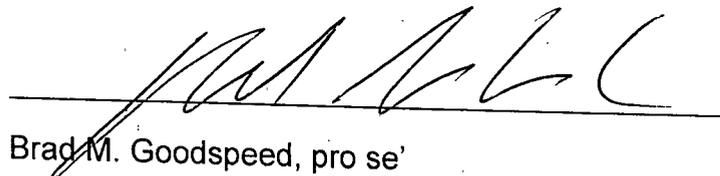
) **13-2-01847-8**

) **Court of Appeals**

) **Cause 47356-9-II**

) **APPELLANT BRIEF**

Respectfully Submitted Dated this 2nd Day of March, 2015

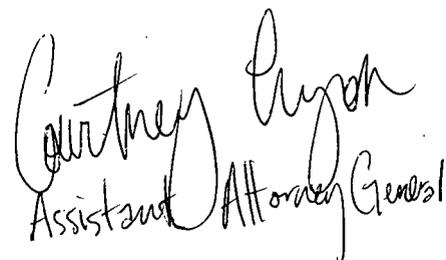


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