

FILED

FEB 22 2016

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By: _____

NO. 337171

IN THE COURT OF APPEALS, DIVISION III

OF THE STATE OF WASHINGTON

TIFFANY A. CLARK n/k/a ZAPHIA,

Appellant,

vs.

WALTER N. CLARK III,

Respondent.

REPLY OF APPELLANT

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A. INTRODUCTION/ RE-STATEMENT OF THE CASE

Items to be highlighted are the patterned behaviors of the Respondent, Walter Clark III, throughout the case (2012-2016'). Appellate, Tiffany Zaphia, did stay within RAP 10.2 (b) and (c) on December 9th, when she respectfully asked for more time to prepare her brief, in order to provide appeal courts with adequate information. Contrary to Mr. Clark, whose disregard to courts time. All parties received a notice failure to comply with RAP 10.2 (c), and the possible sanctions involved. Respondent sent his response brief out over 14 days late, which is formatted incorrectly, in turn referencing the pages, and the issues may be timely to appeals courts. I urge Appeals Courts to take proactive action in this case, and prevent more loss of public funds due to Mr. Clark's pattern of conflict in the judicial process and provide appellant with a brief containing moot points, as outlined in RAP 18.9.

B. ARGUMENT

1. Appellant's brief did sufficiently reference the case issues to the best of the clerk's record in compliance with RAP 10.3 & RAP 10.4.

Docket was inaccurate, trial courts provided ill service to appellant by not following RCW 4, as noted in detail in Appalment's brief (A. Br. p.24-26).

As seen in the first trial, (CP2,35) evidence entered to docket weeks apart.

Respondents brief was incorrectly formatted, referencing his brief may be slightly timely. Nonetheless, (R. Br. p.5, #6) was a Moot point. Although; RAP 10.4(c) does state that, 'even when an Appellate fails to comply with the Rules by not assigning specific findings set out verbatim in the brief, where it is clear which findings and conclusions are being challenged, Appellant court will still consider them.'

Contrary to Mr. Clark, whose blatant disregard to courts time is evident. (R.Br. Nos 1-3) were grossly incorrect.

2. Abuse of discretion of courts did in fact occur in this case.

Contrary to what had been improperly noted on Mr. Clarks brief (R. Br. Nos 3) which was not for the child, and not in the search of justice. Outlined in (A. Br. Nos 3) RCW 26.09.184 (1). (A.Br. Nos 1) explains this point. Respondent apparently did not read 'OBJECTIVES'.

Trial Courts obvious disregard to relevant information was abuse of discretion. Noted throughout (A. Br. p. 5,9). Also, cited in her brief. *In re Marriage of Eklund*, 143 Wn. App. 207, 214-216, 177, P .3d 189 (2008). Mr. Eklund faced opposing pattern of conduct, that is similar situation that Appellate is facing.

Respondent (R. Br. Nos 1-4) points on Eklund case was moot.

3. Abuse of discretion of courts did occur during multiple hearings by means of both U.S. Const. V, XIV; Wash. Const. art. 1, section 3, as well as criteria RCW 26.187 (3).

Standard of proof when a parent child relationship is involved.

Trial Courts had allowed prima fase allegation about mother's care, (A. Br. p.18). and visitation days, to be basis for a Major permanent modification to determine a parenting plan. Evidence stated otherwise.

Parenting plan visitation (CP 20,21) placed child with father on the start of each week, Monday and Tuesday. Medical care was designated for Mondays, yet care did not meet courts standards. Mother was held 100% responsible for father's actions, that is abuse of discretion of courts. Also, pertaining

to academics; homework was sent home with child at start of the week, again, child was with father when the courts requests were not met. Much like contempt causing harm, which was at fathers. Mother has always studied with her son, hence academics in kindergarten Child tested in the upper extreme'. Courts failed to enter the evidence Appellant provided when they denied appellant a statement at trial. Although point still stands true in reference to the parenting plan set dates in first Trial Final orders.

In fact, Mr. Clark was the party who had failed to exercise parental responsibilities (A.Br. Nos 4). Respondents moot point (R. Br. Nos 2).

4. Judgement of this magnitude cannot be made on mere opinion of a particular pharmaceutical. Trial Courts, while disregarding crucial evidence of environmental factors.

Trial courts and Mr. Clark, both ignored medical evidence of Appellant, competence, and her parenting capabilities, (R Br. Nos 3. p11-12) was in fact abuse of courts discretion.

Medical and professional opinions of Appellant and her son's needs were not factored in appropriately according to RCW 26.09.260.

Trial courts did not utilize GAL recommendation to make a correctly weighed out decision, although guidelines were drawn out for mother to retain full custody of son.

Courts also abused discretion and failed to follow statutory procedure in the Modification of the parenting Plans and factor in best interest of child.

Trial courts disregarded the evidence of environment provided by father (A.Br. p 13-15) and third party (Cp52) whose home inhabited by no one who had been added to the case.

Litigation over custody was handled without weighing out the possible risk by changing custody to parent in contempt.

5. Evidence was neither provided, nor sought out against appellant within proper procedure laws, in relation to environment in Mothers care, in regards to RCW 26.09.220.

Reliable character declarations by qualified individuals, in favor of Mother were provided, most were added to the docket, (CP 2,35,37). Re-established, by professional opinion(s) in 2015', (CP.161); and by the Gal recommendation (CP 134).

Mr. Clarks response on (CP124 line 5-6) showed clearly that he has no interest in Tiffany's' health evaluations to be reported to anyone. Due to his own opinion at all points in the proceedings. Respondent (R. Br. p 2 #3) was a moot point.

Respondent may have overlooked what proper discretion of courts means (R. Br. Nos 2) by stigmatizing Appellate and her son (CP178) for the effects that his relentless careless actions had caused them. His patterned negative, and irresponsible nature was recorded from 2012-2016'.

Respondent (R. Br. p. 5) fell completely moot, due to the complexity of factual evidence of father's choice of environment'(s) that actual risk to child was for extended period of time; contrary to mother's environment. appellant acted within parental rights to care for her child at every "phase" in his life (on record from 2012-2016).

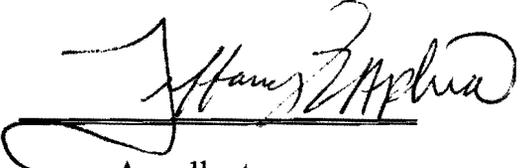
C. CONCLUSION.

This court can confidently conclude that abuse of proper discretion by the Trial courts had occurred at both hearings, when they had Ruled to disregard crucial evidence, in favor of the party, whose patterned non-performance of the parenting plans, and responsibilities (CP 29, 178) was ignored for over a year or longer. Appellant further requests that this court utilize RAP 17.2(a)(2) and modify the plan to promote justice and facilitate the jurisdiction on the merits. Appellate is asking this court for full custodial rights of her son, along with the decision making for her son, she wishes to regain her rights, and civil liberty's reinstated pertaining to her mental health records, on the merits. Gals recommendations had outlined a plan (CP 139 lines,7-8) and visitation (CP 134 lines,12-16), to award every third weekend to the father with his son; this is more than enough, due to the fathers, and his third party care environment provided through out case. The appellant also brings up a crucial point, the child involved is a cancer survivor; it is not just physical needs he may

require, it is an open eye, and open heart. Appalment is a Certified Massage practitioner, with the means to care for the child in ways that are more beneficial to his needs than the Respondent can provide. Appellant further requests relief from all costs of proceedings through the case, which started in 2012', on the merits that mother moved to Chelan county to ease the circumstances for all parties involved in 2012'. Appellate procedure costs should also be awarded and based on the merits of the case., as noted in. Furthermore, the Appellant respectfully asks the courts to seek to the furthest extent of RAP 18.1, against Respondent, due to the length of time in which the relief from Mr. Clark for Appellant and child had been sought (CP 29,106). His conclusion statement in reference to fees, to simply further negate the process, Appellate courts may be able to be the proactive decider to remedy the Appellant and her son of the ongoing matters that have worsened due to, fathers and, third party, actions since 2012'. Time together, and quality attention will be required for child and mother relationship personal selves to be repaired, due to what Mr. Clark's actions that have patterned what is noted in RAP 18.9(a).

worsened due to, fathers and, third party, actions since 2012'. Time together, and quality attention will be required for child and mother relationship, and personal selves to be repaired, due to what Mr. Clark's actions that have patterned what is noted in RAP 18.9(a).

Respectfully Submitted,



Appellant

CERTIFICATE OF SERVICE

I hereby certify that under penalty of perjury of the law of the State of Washington that on the

18th Day of February, I filed the forgoing document; Reply of Appellant, as follows; VIA

Certified mail to the following;

Division III Court of Appeals
Clerk/ Administrator
Renee S. Townsley
500 N Cedar St
Spokane W.A 99201

Sent VIA E-mail to the following;

Guardian et Litem
Thomas E. Janisch
Tom@janischlaw.com

Respondent
Walter Clark III
clarkwn@gmail.com

Dated this 18th Day of February, 2016'.



Appellant

CERTIFICATE OF SERVICE

I hereby certify that under penalty of perjury of the law that I am over the age of 18 and am competent to be a witness. On the 18 Day of February, I caused a true and correct copy of the forgoing document, Reply of Appellant; to be delivered to the following; VIA U.S Mail.

Respondent

Walter N. Clark III

7621 Westlund Rd Arlington W.A 98223

Dated this 18 Day of February of 2016'.

X April S. Organek

X April S. Organek,
Serving party