

NO. 62808-9-1

COURT OF APPEALS, DIVISION 1
OF THE STATE OF WASHINGTON

MONTY RICHARDSON,

Appellant,

v.

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES,

Respondent.

RESPONSE TO BRIEF OF RESPONDENT

MONTY RICHARDSON

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INTRODUCTION

I, Monty Richardson am here because I was **WRONGLY** accused and charged (now 4+ years ago) with allegedly putting my daughter's life at risk to a high enough level which if accurate would warrant a cps neglect charge. I am only here because the **ACCURATE** child-risk-relevant details of the August 30th 2005 event (as has been detailed in previously submitted statements) do NOT warrant such charge .

I am here because I never ever ever smoked crack cocaine in my daughters presence; I never neglected, placed at risk, or scared my teething dramatic-crying -for-mom-stage daughter during our 10-15 minute visit in the door-less room with my sister nearby in the small house post a minor amount of cocaine usage earlier in the day. I am here despite my engrained childhood-learned pattern to frazzle, fear, stupefy, stumble and shutdown in speaking up; admittedly I remain speaking -up here now mostly because I have a more tenacious and social- truth -and- justice-passionate , as well as and quality social-services-demanding, wife who knows this about me, became confirmed (via her first hand exposure to my family, this event and her own simultaneous false accusation experience), and her evolved skills at unearthing my addiction truths. Admittedly my then recent history of relapse which was "very very very scary" ^{hard and} ~~and~~ ^{Ms. Terrence} ~~harming~~ ^{own} to my emotionally fragile angry sister and to my health-safety and family stability.

This unfortunately triggered angry and false accusations to the cps agency which despite later retraction / ^{admission} by the accuser remain on my record as a charge of child neglect. I (and my wife whom was also temporarily falsely accused)experienced severe obstruction to speak up and allow the fuller and more accurate facts included in the CPS charge-determining-process partly due to our already overstressed family's new stress and inadequacies to self-defend , and significantly as well due to the failings of the CPS and later judicial process to adequately facilitate justice. Previous statements submitted address the details.

RESPONSE TO RESPONDENTS INTRODUCTION

Again, as earlier presented, the minor amount, belated timing, non readily-discernable-ness (by accuser) of the cocaine usage provide significant reasonable doubt as to whether or not the accused was truly legally "under the influence" of cocaine -let alone a significant chargeable neglect risk factor. The later evening non-child-related substantial true "under the influence" level testimony became unjustly fused and confused with this, again as has been discussed in earlier submitted statements. The usage of crack cocaine nor any illegal had NEVER this date or ever been in the room or presence of the baby. As emphasized in earlier testimony this was never an established fact and again the emotionally unstable, ~~frequently-~~ ^{periodically} in paranoid state) accuser herself later very sincerely and emphatically ^{corrected} retracted under oath this earlier not-under-oath gossip/accusation to Suzy Vigessa (whom stealthfully dodged counter-testimony from family witness Ms Blessing); moreover the smoke scent (which helped plant this fear in accuser) was likely due to Ms T's very cigarette wafting in to the room from her own outside smoking. (Accuser had been previously been asked not to smoke in various outside locations due to Ms B's complaints of this but ignored requests). (Note: Mr R's cocaine usage had previously (off duty) been inserted inside a cigarette.) As argued in previously submitted statement, integrity of record keeping, sufficient communication, investigation integrity, adequate facilitation of legal response recourse, were severely compromised particularly at the CPS level . As detailed earlier, at least sans adept legal representation (for an already struggling-with-life average CPS falsely accused citizen) , the 4 levels of potential correction and remediation at the various 4 levels of review require too "heavy of a burden", too complex and frazzling "coaching in legal RCWs" legal technicalities , too "advanced "legal basis" "theories/argument" etc to be a legitimate, fair, viable means to respond...yet we persevere.

RESPONSE TO THE COUNTERSTATEMENT OF THE CASE

Please note the lapse visit time discrepancies in (the belated 3ish year later) time testimonial recollections; 10-15 minutes was also a legally provided time estimate. ^{not 30-45 minutes} As emphasized on previously submitted statements, the "under the influence" level, "cocaine affect re^m motor skills and judgment " pertained to the context of high usage amounts such as the later-in -the -evening- return-to- home admission of high. "(sans contact with child and not the charged alleged- neglect-event). Please note

the transcript context (and best yet the actual audio which was inaudible at critical moments) of Mr R's plea to cps to not lose his child, to over-emphasize he "gets" the message not to use even a dab of cocaine pre baby contact, "it's stupid, wrong, "very, very very scary" to (out of context) KMR (miss-said/ pertaining to family's ^{stability} longevity thus ^{retract} Kally-) words re emphasizing how "stupid", "wrong", "very scary" (legally for Mr R) to "even hold her for 15 minutes"; Mr. R's extreme fear of loss (especially ^{of potentially} ever losing his daughter), history of non-thinking-frazzled, over-apologizing/plea-ing (fear of speaking up and potentially provoking more wrath from ^{an} authority figure especially CPS, and out of context words in a frazzled non-represented setting. (for clearer explanation please ~~in court~~ query Mr R further in person in court.) Again there is MUCH available substantiation that the transitory baby's crying was her at-the-stage normal (scary) teething pain, and emphatic communication for instant mom and milk contact). Again as submitted and extensively explained in previous documents absolutely NO "in the room baby cocaine smoking" ever ever occurred (as detailed prior, this "sticking" was only an arbitrary assumption largely due to inadequate fuller testimony disallowed/misunderstood at the ALJ hearing). And yes many family members were concerned for Mr R's welfare due to drug use, the long-term impact it may have if not-effectively intervened, on the welfare of the family and the baby, but NO not accurately ^{dep} nor maintained that the immediate safely welfare of the baby was at risk or true fear. (Again as detailed previous, false accusations ^{to} CPS ~~and then~~ ^{later} explained and retracted and corrected by an apologetic (and ^{m.s.t. maybe} should be held legally accountable perhaps) (originally) falsely accusing emotionally compromised sister of Mr R.) Please again note that as per dismissing/avoiding Ms Blessing testimony due to her "not being home during the event", this is misleading because Ms Blessing was key witness in being in communication with the later false accuser and had returned home to a healthy normal baby and heard directly from the later-(changing story-false) accuser the original very different, non safety-neglect, account of the day. etc.

More Respons

Please note the previously emphasized extensive submissions re the accuracy and integrity of the CPS alleged "investigation" and "determination"/glimpsing assumptions. Please note the earlier submissions re the alleged "review" (Ms. V's notes primarily "founded" solely on Ms T's false ^{later} retracted private phone conversations and stealth avoidance of Ms B's attempt to contact). Previous submissions detail the

motivations and complications (re all parties involved) explaining the determinations.

Please note elsewhere and ahead the complications re Ms Blessings attempt to provide key witness and critical ~~defendant representation~~ ^{careful} personal support at the ALJ hearing (including the ALJ in their not following through on their promise to Ms Blessing to testify which was the only reason Ms Blessing had not objected (via Mr R) to supposedly "temporarily" wait in the waiting room for her turn..... breech of trust in the ALJs personal words of assurance);

Please note the obvious extensive and likely normal and inherent (for non represented cps neglect defendees) complications and problems in "competing" achieving perfect legal technicalities and requirements. We submitted viable evidence as was available to us at the time; compromised and belated contacted with Deana and Shyla, the response-to- the-hearing-results-timing nature of the letters, the novice-legal-aptitudes of the defendant and aid ~~as highly probable~~ ^{overall late-submissions} are all factors.

MORE RESPONSE TO ARGUEMENT

A. General Principles governing Judicial Review, B, Judicial Rievew of Agency orders in Adjudicative Proceedings C. Response to New evidence discussion. Out of time, please see discussion

D. There is not nor ever was substantial evidence to support the mis-finding of negligent treatment 2. Severe LACK of adequate "Careful consideration of the records, (misunderstanding of and mere cursory glimpses of the) demeanors and motivations of the parties, reasonableness (not an easy normal reasonable family) of the testimony and the (SEVERE ~~and unfairly and mis-happening excluded~~ lack of totality of (largely misunderstood and inaccurate)" evidence presented" (in conjunction with outright compromised CPS "investigative" errors, misleading (and violations), and defendant's lack of legal expertise etc) presented, ^{all} GROSSLY impeded the ALJ's "findings".

14. The brief exclusionary and grossly remiss "investigation" of Ms. Vigessa was not Credible.

17. Response much discussed elsewhere..... including the response to the testimony re Mr. R's (misleadingly and unfairly labeled) ridiculously alleged "clearly false testimony". The message/context of the statement was merely that upon he and his daughter seeing each other, his daughter made a positive

forward movement to see him (prompting Mr. R then to pick her up and spend a few moments with his daughter); In communicating this, due to the reality and complexities of remembering exact and perfectly expressed minor details of several years ^{post} a minor ^{aspect} of an event especially when there were other kids/cousins with KMR at this specific time indeed ambling around and likely ^{walkway} toward him as well....this is an unreasonable, ^{potentially prejudiced} and unjust assumption by the ALJ that Mr. R's motivation was to clearly lie or too ^{walkway} impaired to recollect especially regarding a recollection and (understandable slightly jumbled in a ^{legal} non-~~rep~~ed grill environment to boot) jumbled expression of a non controversial ancillary(no motivation to lie/non justifiable (again, out of context as it was very post event/event) impairment accusation) aspect of the pre "event" anyway . (It is of some' strong opinion that this was outrageously ridiculous if not pathetic for a professional to make uncalled for attack of this.)

. There was and is no truth to the accusation nor evidence that the appellant himself nor his sister "allegedly attempted to downplay the earlier assertions made to ms ^{MS.T} against her brother...." when she ^{MS.T} honestly (and later reemphasized in a non-~~legal~~ accepted letter) apologized for her previous deceptions, ill, devious false accusations . (~~furthermore~~ this intermittently triggered false ~~substantiated~~ accusing pattern had been discussed in earlier submissions including further documented ^{via cps caller} Shyla's also non-accepted letter of testimony)

3.? Appellants' failure to call his wife to testify at the ALJ does constitute error; there is substantial ^{presented} evidence to suggest that Mr. R was at least accidentally mislead/tricked and ^{definitely} confused re the legitimate inclusion of his wife's witness. The ALJ had directly spoken to wife, personally assured ~~ms B~~ directly her opportunity to speak and had a moral and ~~seemingly~~ legal ~~as well~~ responsibility to include Ms. B as was originally legally promised/insured as a condition of Ms B's allegedly only temporary wait outside.

Please refer to earlier submissions

Out of time and redundant to reiterate.

Except to respond/note that Mr. R (and many similarly accused) need legal rep at least some support (as was planned to have wife (and formerly co-falsely accused) ^{MS} at least some form of aid/counsel/reminder of rights/communications coach etc in a highly stressful critical grilling session). Although those

experienced and skilled might not be able to understand this (or at least be familiar with Mr. R's needs) 1.

1. Indeed a "no" response was made due to (mis)understanding derived from the original ALL-referenced context of direct witness of the limited portion of the event (~~not~~ ^{rather than the} full family and full event witness), ~~his~~ ^{Mr. R's} original (accurate) understanding of ~~me~~ ^{Ms. B} being a viable witness (as he put on his list) was tragically in his confused mislead, stressed mind not allowable, ~~viable~~ ^{not}, ~~applicable~~ ^{not} to his now much narrower, confused, mislead understanding of the word witness (written clearer elsewhere/out of time 2. (and 3.) It logically follows that this new confusion would now over-ride Ms. B's (~~or others~~) right/viability to return to ^{witness} ~~speaking~~.

4. Ditto- same stuff, mindset, please remember ^{Mr. R.} ~~this~~ was/is not a professional witness and a witness who got and gets readily off-track in various similar speak-up situation, he doesn't want to provoke, make waves incur more wrath of an authorityetc. This writing aid too ^{at best only partly} concurs ^{with Ms. Dorsey's point} that it didn't make sense ~~or~~ that why the prosecuting "witness" Ms Vigessa whom ^{also} had not been present for the events of August 29th be yet allowed to testify and not Ms B....but to Mr. R and possibly many others that apparently doesn't process the same as the defendant witness....especially perhaps as that was never ~~emphasized or~~ asked of Ms Vigessa; her witness role ^{Ms. V's} was never "dismissed" previously as has Ms.'s B's alleged "damage control?" witness role even though Ms B was so much closer and broader scope of the overall incident.

Case in point again is respondents brief pg 23 "Furthermore Ms B was not present at the family home on August 29th...." thus actually it pretty logically follows that a person not prone to speaking up would not think it viable/acceptable to see else speak this otherwise seemingly logical right to include Ms B as witness just as Ms V's right. (~~Justice must commence with the understanding of such limited, previously harmed/fearing cognitive differences which person's who don't think to even attempt a brief don't have or utilize.....; and require legal support as was at least attempted with a novice wife then stolen!... We and grievously many others similarly in eps legal defense are not professional representatives, nor do not have substantial competitive legal experience nor affordable access to it, substantiated prior, have been severely compromised by the initial agency's errors of action and inaction and have been merely trying to the best of our/ of their current capabilities to help more accurately expose whatever the alleged neglect event and the surrounding complexities.)~~

Off track, Out of time to try much here, already discussed in earlier submission and again

Response to the obscure small hidden print disclaimer, "... the ALJ does not critique the quality of the investigation cps conducted, review the logic of the reasoning process cps used or scrutinize the CPS staff..." 1. Inanity of this disclaimer clause....would it not at least follow that critical witnesses be actively involved, required to participate,..... would not a reasonable mind not see the horrific and rampant possibilities/lack of almost any accountability for very very very scary compromised actions for an agency to be able to slip into a legal "justice" system....how easy it is to write-off any (not just the more clueful and rights-demanding) accusee with such ^{disclaimer} verbiage. Would not a reasonable mind see that when the compromised ^{investigative} quality (including officially recordings which at least in our case were horrifically , often blatantly/totally prove-ably fictitious(as was much of our earlier recordings, see earlier submitted objections document) ^{impacts} which the decision making is influenced/ perceived through and likely dramatically effecting the "non reviewable logic of the cps reasoning process,....moreover not allowing respectful legitimate scrutiny of the investigators conduct.....^{Is} it not reasonable to deduce that many many errors could and likely do get passed on through and ultimately steal the constitutional justice or just common what-you-learn-in kindergarden kind of fairness else common sense? Where does the check and responsibility to keep in check , true accountability....with such cheap sloppy disclaimer clauses. Is the justice system to spineless, ~~not unlike the empathetic yet suddenly red-faced temporarily cps director 3 years to just be a cog and simply pass the cover-up buck.~~ People, citizens with much more at stake than ourselves, who have had their children taken are being processed in a system that is (or at least) was so legally ~~set up~~ fraught with inequity. Please please please pay more attention and consideration to this reality before slamming down the gavel; there is needless, grievous fear and trembling to respond to what may be highly legitimate requests for justice and tragic delay in rejoining of innocent families...it's been heart wrenching to meet with and research this area of social work. Side tracked. Out of time. Most of remainder of response is already also addressed in previousw submissions.

Response to F. As acknowledged earlier subsequent "good behavior" ~~does~~ not warrant changing the founded finding. Sometimes such is taken in the overall evaluation-especially should there be bad behavior. Mr. R felt this important to add yet more importantly it is not the key issue. The issue being that the true account did not and does not meet ~~accurate definition meet the~~ requirements of assigning the

neglect charge Mr. R ⁶⁷ was erroneously assigned.

Response to G. out of time,

Mr. R and aid have been greatly burdened by the agency's actions and inactions and have diligently done ~~(there non-legally-expertise)~~ best to elucidate such errors and failures; legally- novice nevertheless cogent, logical "arguments and the theories" to the reasonable mind have indeed been met if not exceeded, "couching" in ominous RCWs and statutes were broached /tried (time and resources disallowed greater preparation) to the best of abilities and we ~~a~~ citizen who went dangerously beyond their financial resources to even speak to you and further stressed their lives to persist here)

Rcws 34.05.570 a-i again please see earlier submissions c. the agency has engaged in unlawful procedure and decision making process and failed to follow a prescribed procedure, d. The remaining charge has not been re-evaluated based on accurate corrected findings thus has erroneously sustained the neglect charge/erroneously applied the law *e. the order is not supported by evidence that is substantial when viewed in light of the whole record before the court , which includes... g. facts are shown to support the grant of a motion that were not reasonably discoverable by the challenging I part ~~at the~~ appropriate time for making such motion, and I. the order is arbitrary as the evidence was initially arbitrarily "founded" ~~or~~ arbitrarily ~~(if not capriciously prejudiced)~~ ^{prejudicing and} witness Ms T's original testimony ignoring Ms B's persistent attempts to have her witness testimony included, in addition to later ALJ exclusion of Ms B's testimony and arbitrary exclusion of Ms T's corrected under-oath ALJ's .

Again, Mr. Richardson did not knowingly not-choose to call his wife; furthermore Janet Blessing was originally chosen and called directly by the ALJ to Ms Blessing and the ALJ directly violated Ms Blessing's previously (at the beginning of the hearing) founded ~~own~~ right to testify else be allowed contact/counsel with Mr. R and b e included in this unknowing alleged "choice" to not follow through on her responsibility and right to testify. A fuller careful evaluation of this case and our request ~~to~~ demonstrate that the early legal Agency's were remiss in following prescribed procedures to facilitate justice. Including the superior courts judge ^{who indeed} who failed to view the evidence is substantial when viewed

in light of the whole record etc. (Regarding the comment re the judge's bias against him due to wife recently appearing before judge Canova on another matter ^{see} (defending our boxer-dog to ^{appeal} ~~over-ride~~ the illogical arbitrary postman-dog fine slanderous dangerous-dog ⁴ "attack" label when the (guarding-only and without-history-of-violence) dog stopped a full, safe, 24 feet away as testified by the postman himself; Legal know-how and lack ^{of} time (initially a week apart) to request if possible a new and more reasonable/logical Judge whom could view this next case ~~in a~~ less biased ^{by} Ms B's earlier court contact) and would have the capacity to reach a verdict with more common-sense / see bigger picture/fuller evidence and reason outside of mere earlier agency appeal error technicalities ^x ~~as he~~ ^{in my} ~~ultimately~~ ^{the judge} repeated) out of time

We firmly believe that Mr. Richardson IS entitled to relief based on substantial evidence in light of the whole record, ~~reviewed not just on minor and (under the handicap) ^{with the need to} miss relatively minor technicality as well as prejudices inherent in any case concerning any possibility of cocaine usage in the same paragraph as a 6 month old.....~~ but also carefully reviewed by a reasonable mind with the corrected, accurate facts.

~~we~~ ^{we} put, your honor, now in your hands an opportunity to reasonably, carefully and fairly seek /dig out the truths. ~~we~~ ^{we} firmly and under-oath testify to what we have brought to you. ~~we~~ ^{we} not only ask you to correct the charge but again would like and ask to be allowed the opportunity to remand else be allowed /required in person opportunity to meet with the CPS persons involved in our "legal" ^{investigation} persons, we would like sincere apologies from the individuals and agency, confirmation of the correction of our CPS records, and assurances that future vulnerable accusees be allowed quality investigation and direct fair and just response avenues .

CONCLUSION

Again, I Monty hate that I was caught up in my ^{addictions} ~~addiction~~ off -duty/non-direct contact with my child; I am grieved that I caused much grief, fear, and loss for my family in many areas of our life, I am very sorry that my actions initiated all the family- cps intervention-related problems leading up to being here at the court of appeals. I am very sorry and was guilty of a lot of wrongs and trouble-triggering . I hate

re-re-re-visiting this nightmare, again airing my and my family problems and appear ~~and~~ before another judge. . . It's very difficult to be here. I am a private person and have much shame ~~and hate~~ that I've struggled with addiction, that I put such stress on my family. My focus now is on a healthy life, daughter and family life ahead; I hate the stress and life distractions my more-bulldogged wife has incurred to assist in this case; I'm sad that we did not have the proper resources to ^{professionally} respond- even the filing and photocopy fees were/are a risk to our ^{current} financial survival ~~currently~~ (I lost my job and now working only holiday season thus last ditch chance to get any legal help was out of the question) I realize my wife is already overwhelmed, and has legal-skills limitations, (she ~~is~~ struggles, procrastinates, writes best at the last minute though out of time to finish and edit; has no debate or legal argument or legal skills training as she's emphasized and I realize and apologize when her tones and words in this brief-aid get strong, messy and questionable).

~~Admittedly I am here also because I married not only pit-bull against drugs but also a bulldog for justice. due to my witness/writer-aid's impassioned convictions for accuracy/honesty and integrity even of agencies/as well as persons. Admittedly your honor we (my aid and self) are not great at this process, we're too broke, messy and inept to be here. I failed to speak up effectively. I have a stupid past history of off child-duty cocaine. I have a crazy family of origin's with much unbelievable and stupid drama, I learned early in life it was not safe to speak up for myself nor expect, and I keep fumbling at this. this whole legal and family issue is extremely stressful to me (and to be around my wife when she tries to write) and my being a great dad, my sobriety, my mental health, my job are all seem important than the stress and grief of this broaching this very liking futile appeal again. It would have been so much easier to have just been guilty as charged and I am definitely guilty of the non-cps-chargeable aspects of head-of-family neglect (addiction related, financial, health, relationship strains etc.) as written in previous submissions. We received the brief late, stalled in reading it and struggle last minute/Xmas writing stress to do this~~

Unlike my aid/wife I am not much a fighter for rights by nature, I did/do not have the stamina, emotional capacity nor time to write without aid, and I'm too confused about how and why we can try to get this problem corrected in ~~our condition~~ in this appeal court. I do want to ^{especially with past head injuries} say again that we are very thankful for the various opportunities our connection with cps allowed for us including that I was pressured to get needed addiction help and especially the very great childcare services of ChildHaven. Our daughter is healthy, beautiful and doing great.

My problem now is, your honor and Ms Dorsey, is that I honestly did not put Kally at the risk warranting a true cps neglect. I was/am NOT guilty of the specific neglect CPS neglect ^{charge} assigned me and believe, as this brief emphasizes, that this case due, to my own weaknesses and that of the agencies, did not

~~the~~ ^{be} justice . We ask that the Neglect Charge ~~should~~ ^{be} rightly corrected to Unfounded. Thank you very

TRACEL

RESPONSE TO RESPONDENT'S CONCLUSION

For the many above and previous stated reasons, for the sake of truth and justice, we ask this court remand else correct, overturn, the faulty assignment of Child ~~r correct the erroneous~~ neglect charge on Mr. Richardson's CPS record.

Respectfully Submitted, Monty Richardson, appellant 

Janet Blessing, (novice legal aid/brief- assistant/formerly co-accused/wife)


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IN THE SUPERIOR COURT APPEALS DIVISION 1 OF THE STATE OF
WASHINGTON
IN AND FOR THE COUNTY OF KING

Monty Richardson
Appellant

V.

Wash State DSHS
Respondent.

NO.628089

CONFIRMATION OF SERVICE
Of appellant brief of Monty Richardson

I Janet Blessing , being over the age of 21 and of sound mind, do legally declare that I have delivered December 28th, 2009 by U.S. Postal service a copy of the Response to respondent brief of the appellant Monty Richardson.

Respectfully, Janet Blessing



Service to both

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