

**No. 71053-2-1**

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

**BRITTANY FROMBACH, APPELLANT**

**V.**

**DYLAN FROMBACH, RESPONDENT**

**BRIEF OF RESPONDENT**

**Dylan Frombach  
29938 2<sup>nd</sup> Pl SW  
Federal Way, WA 98023**

**FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2014 JUN 30 AM 11:46**

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## INTRODUCTION

I, Dylan J. Frombach, strongly object to Ms. Frombach's blatant attempt to enter in new false and untrue statements that are not part of the record in this case. I also strongly object to her statement that this divorce was "premeditated" and "planned" by me. The record clearly shows that this divorce/case was initiated by Ms. Frombach **(RP Vol. II page 270: line 7, page 313: line 13)**. The record shows that Ms. Frombach filed for divorce ten days after she was released from jail for domestic violence **(RP Vol. II page 313: line 13)**. I object to her statements that I "hid" our records from her that were kept in our home. The record shows that she requested her items- including personal records, furniture, TV, clothes, lawnmower, etc- in November 2012 **(RP Vol. II page 236: line 14; CP 108, 112)**. All of those items were placed in the garage at that time. Ms. Frombach failed to make any arrangements to retrieve those items until November 2013 **(CP 112)**. I object to Ms. Frombach's claim that I stole "her car." Ms. Frombach omits the fact that her car is my car, with my name on the title, which was signed over to her after the signing of the final divorce decree **(CP 129)**. I object to Ms. Frombach's continued manipulation of facts and referral of the counseling sessions for our children as "secret." As the record shows, Ms. Frombach knew about these sessions and had agreed that our children should continue

counseling (**February 28, 2013 page 10: line 20; Ex 13, 104**). I object to Ms. Frombach's statement that the children began counseling while she was in jail. The record shows that Ms. Frombach was released from jail April 9, 2012 (**CP 10**). The record also shows that the children began counseling in October of 2012 (**Ex 13, 104**). I object to Ms. Frombach's statement that the social worker based her recommendations on the testimony of the children's counselor, when the record in fact shows that the social worker's recommendation was signed on June 20, 2013 (**Ex 102**), forty days before the testimony of the counselor on July 30, 2013 (**RP Vol. II page 282**). I object to Ms. Frombach stating that I was not the primary caregiver of our children during the last four years of the marriage. There is substantial evidence, including Ms. Frombach's own family's testimony, that I was at home with the children and was the primary caregiver and provided the primary caregiving duties for our children in those years leading up to Ms. Frombach's filing for divorce despite her and her family's attempt (with no evidence) to create an impression that I did not provide those duties and "did nothing" (**RP Vol. I page 158: line 5; RP Vol. II page 324, 335; RP Vol. III pages 418, 421, 429; CP 51**). I object to Ms. Frombach's statement that she does not have issues that would interfere with her voicing her opinion and making sound decisions regarding medical and education for the children. The record strongly shows that Ms. Frombach admittedly has issues for which she now refuses to acknowledge and seek any psychiatric help (**RP Vol. I page 89: line 3; RP Vol. II page 237: line 23, page 238: line 23, page**

**239: line 8, page 240: line 6, page 242: line 19, page 307: line 3, page 315: line 13; Ex 114, 116).** I object to Ms. Frombach's entire conclusion where she adds more false statements that, again, do not reflect the record. She is making allegations and claims that the family home is in "disarray" and is "not a stable environment for kids" when Ms. Frombach has no knowledge of the family home environment since she abandoned it and has not been inside since April 9, 2012. As the record shows, she herself is in her 40's and is still supported by her dad and lives at her mom's house **(RP Vol. I page 98: line 1, page 154: line 1)**. The record shows Ms. Frombach has a history of erratic behavior and emotional outbursts directed at our children **(RP Vol. II page 251-253, page 282, page 351; CP 100; EX 13, 102, 104, 114, 116)**. The record also shows that she had been prescribed medications for this erratic behavior in an attempt to treat her admitted ongoing emotional issues **(RP Vol. II page 239-241)**. Her habit of neglecting her own medical and health issues has carried over to her decisions and lack of decisions regarding the wellbeing of her own children **(RP Vol. II page 306: line 22, page 307, 316-318, page 351: line 10; RP Vol. III pages 435-437; EX 112, 113)**.

## STATEMENT OF THE CASE

On Saturday April 7, 2012 Brittany Frombach was arrested for domestic violence. She was released from jail on Monday April 9, 2012. On April 19, 2012 Ms. Frombach filed a Petition for Dissolution and a Motion for Temporary Orders. On June 5, 2012 the court entered a Temporary Parenting Plan which stated that the children would reside with the parents on a "50/50 basis" where the children would be with the parents on a "week on, week off" schedule with child exchanges on Fridays. A Notice of Hearing was filed on January 3, 2013 stating that trial would take place on March 25, 2013. On January 3, 2013 Ms. Frombach filed a Motion of Continuance in the trial date. On January 16, 2013 an Order Continuing Trial date was filed thus moving the trial date from March 25, 2013 to "a date in July 2013 or such later date." On February 11, 2013 Ms. Frombach filed a Motion and Declaration for Order Appointing Guardian Ad Litem and an Order to Show Cause Re: Contempt. On February 28, 2013 Mr. Frombach was found in contempt of the court order for joint decision-making regarding non-emergency health care and was ordered to pay a "civil penalty" of \$100. On June 28, 2013 Ms. Frombach filed a Motion to Change Trial Date, which was denied on July 8, 2013. This trial thus took place July 29, 30, and 31, 2013 under the Honorable Judge Brian Gain in Kent, Washington. On August 27, 2013 Judge Gain ruled Mr. Frombach as the custodial parent for the two

children and to “have decision making authority with regards to all major decisions including medical and educational.” This Motion Hearing was held October 4, 2013 under Judge Gain where the Decree of Dissolution, Findings of Facts and Conclusions of Law, and the Final Order of the Parenting Plan were all signed by Judge Gain, Mr. Frombach and his attorney, William Murphy, and Jeffery Caffee, attorney for Ms. Frombach. Ms. Frombach did not appear. The Decree of Dissolution, Findings and Facts and Conclusions of Law, and the Final Order of the Parenting Plan were filed on October 7, 2013. On October 30, 2013 Ms. Frombach filed a Motion To Strike, which was denied on December 4, 2013. On October 31, 2013 Ms. Frombach filed a Motion to Appeal. A Notice of Hearing was filed on April 10, 2013 regarding the Final Child Support Order. This Hearing took place on May 12, 2013 where the Order For Child Support was signed by Mr. Frombach, his Attorney, Mr. Murphy, Ms. Frombach, her attorney, Mr. Caffee, and Judge Gain. On May 12, 2012 Ms. Frombach’s attorney, Jeffery Caffee filed an Order for Withdrawal of Attorney.

## ARGUMENT

### **1. Ms. Frombach wrongly argues that “the court erred by admitting biased, unfair testimony.”**

The record clearly shows that on February 28, 2013, during the hearing for contempt, Commissioner Gallagher, did not suspend counseling for the children because it was agreed by Ms. Frombach and her attorney that the counseling with Nancy Paul could and should continue **(RP February 28, 2013 pages 10-12)**. The record also shows Ms. Frombach and her attorney had several months from the contempt hearing in February before the trial beginning July 29, 2013 to contact, interview, depose, or object to Ms. Paul as a witness but did nothing. Ms. Paul testified that she had never received any contact from Ms. Frombach. Ms. Paul also testified to the fact that she did not observe any manipulation or coercion by the father, Mr. Frombach **(RP Vol. II pages 282-323)**.

### **2. Ms. Frombach wrongly argues that “the court erred by accepting allegations, recommendations, and testimony from one side of the case without the consent or knowledge of the other.”**

Ms. Frombach claims that the testimony of Ms. Paul **(RP Vol. II pages 282-323)** and a previous meeting ultimately led Emily Brewer of Family Court Services to make her recommendation to the court that the father should

obtain custody of the children. The record shows this is not possible when Ms. Brewer's evaluation was entered one month prior to Ms. Paul's testimony **(CP 99)**. Ms. Frombach also states that Ms. Brewer had only heard one side of the story for months. The record shows that this was because of Ms. Frombach's lack of participation in the process **(RP Vol. III pages 375-376; CP 66, 69, 71)**. Ms. Frombach failed to attend the required parenting seminar, she failed to return the evaluation questionnaire, and failed to return financial/income verification documents until after multiple noncompliance notices had been sent to her. Eventually Ms. Frombach contacted Ms. Brewer and had her interview on April 9, 2013 **(EX 102)**. Mr. Frombach had been participating with the process and meeting all court requirements on schedule **(CP 54)**. Ms. Brewer confirmed in her testimony that she did not find it to be the case that the father had used the counseling sessions to manipulate the children **(RP Vol. III pages 410-414)**. Even after Ms. Frombach's failure to participate, the record shows she was awarded a continuance from the original trial date of March 2013 and had those months available for any additional discovery before trial in July. She, again, chose not to contact Ms. Paul. In Ms. Brewer's testimony, she stated that there were a variety of factors that came into play and contributed to her recommendations. Some of these factors included Ms. Frombach's arrest for domestic violence, concerns from her court-required psych evaluation, concerns of her discontinuing prescription antidepressants, and her not continuing the recommended counseling sessions to ensure that there were

no psychological conditions (**RP Vol. III page 377, 386-395; EX 102**). When Ms. Frombach was directly asked if she or the children could benefit from any counseling, Ms. Frombach replied “no” (**RP Vol. II pages 315-316**). When Ms. Brewer was asked if she continues to stick to her report and recommendations, her reply was “yes” (**RP Vol. III page 380**). When Ms. Brewer was asked if she believes Ms. Frombach should resume counseling that was originally recommended as a result of her domestic violence stipulated order, her answer was “yes” (**RP Vol. III page 414; EX 102**).

**3. Ms. Frombach wrongly argues that “the court erred by ruling there was sufficient evidence the father was the primary care giver.”**

For four years prior to Ms. Frombach’s filing for divorce, the record shows Mr. Frombach was a stay at home father and the primary caregiver of the children (**RP Vol. I page 158, RP Vol. II pages 324-334, 335-347; RP Vol. III pages 379-380, 418-421, 421-428, 429-457, 471-481; CP 51, 110, 111; Ex 102**).

**4. Ms. Frombach wrongly argues that “the court erred in the Parenting Plan Final Order by giving the father sole discretion in educational, medical, and non-emergency health care decision.”**

Mr. Frombach’s concerns regarding Ms. Frombach and the children were also addressed in trial. These being Ms. Frombach’s inconsistencies (**Ex. 115; RP Vol. II pages 270-278; RP Vol. III 444-445**), poor decision-making regarding medical and health of the children (**Ex 112, 113; RP Vol. II pages**

**307-309**), the failure to recognize and act on decisions regarding the wellbeing and emotional needs of the children, neglect (**RP Vol. II pages 316-318; RP Vol. III pages 436-437**), shifting blame, emotional outbursts and erratic behavior.

Originally, in Ms. Frombach's temporary parenting plan and parenting questionnaire the record shows she had requested to share a 50-50 parenting with Mr. Frombach and would remain living in Federal Way (**RP Vol. II 312-313**). But two weeks prior to the trial she changed her mind, filed a request for relocation to move in with her mother, Marilyn Malnack, and asked for full custody which would have resulted in the children uprooting the only life they have known in Federal Way and moving to Maple Valley (**RP Vol. III pages 378-379**). This is another example of Ms. Frombach's inability to recognize the best interest of her children. Her requested move would have resulted in taking the children out of the Gifted and Talented Program at school, moving away from their father, lifelong friends and family members, moving from the only home they have known and changing the children's lives substantially. Ms. Frombach now resides at her mother's house in Maple Valley. Ms. Frombach's mother, Ms. Malnack, has admitted to having difficulties with her daughter in her own testimony (**RP Vol. I page 152-153**). Ms. Malnack also admits to physically injuring her now ex-husband during a heated argument resulting in a hospital visit and his requiring of stitches (**RP Vol. I pages 148-149**).

Ms. Frombach, in her own testimony, admitted to making improper and inappropriate remarks to the children and has also, in her own words, admitted to having problems that require medications (**Ex. 13, 104, 114, 116; RP Vol. II pages 238-243, 251-253, 307**).

## **CONCLUSION**

Ms. Frombach has a history of unscrupulous methods to convince herself and others of how she wants her reality to be portrayed and perceived. The record shows she uses our children as excuses and as a scapegoat to her inappropriate comments and behavior directed at them. The record also shows Ms. Frombach has and suffers from some of the same dysfunctional and inappropriate behavioral symptoms as someone diagnosed with a sociopathic disorder. Ms. Frombach sees herself in an overly favorable light and is not bothered or empathetic by the consequences of her own actions. Ms. Frombach shows no consistency between what she says and does. She says and does what is convenient and would benefit her narcissistic motives at that given time.

I am just sick and tired and object to her continued portrayal of me as an uninvolved and unfit father when in fact the opposite is true. The family home is now more stable, consistent, cleaner, calmer and happier without Ms. Frombach's unpredictable presence.

Ms. Frombach claims that I have not encouraged a relationship between our children and her. I have never discouraged or denied the children's relationship with their mother. I have encouraged and supported the children to invite Ms. Frombach to sporting activities, school assemblies, and have encouraged communication with their mother and her family. I have

never denied Ms. Frombach extra time or days with our children when she has requested for special events. The record shows the opposite is true for Ms. Frombach. It has been brought to my attention that when talking with the children, Ms. Frombach and her family refer to me only as "Dylan" and not "your dad" or "dad, or father" which I believe is a direct violation of the parenting plan regarding disparaging remarks. This reference is disrespectful and upsets our children.

Since the ending of the 50-50 back and forth of our children and the implementation of the final parenting plan the children have settled back into the normal routines of their life that they knew before the separation. It has now been just shy of nine months since Judge Gain made his final decision regarding residency of the two children. They are still in their same home and neighborhood they have always known, see their same lifelong friends and family on a regular basis including their grandparents, Jim and Patricia Roten, they attend the same school they have since kindergarten, and are still both excelling academically and are enrolled in the Gifted and Talented Education Program at school. Our eldest child will be attending middle school this September and has been accepted into the Cambridge Higher Education Program. The children are both actively involved in their Church, attending mass regularly mid-week and every Sunday they are with me. They have been involved in team sports that I have assistant-coached. Any new change now would be a travesty and emotionally damaging to the children and their healing that has begun to take hold.

Anyone that would advocate for any more disruption or change in schedule in the children's lives would in no way care about their future or wellbeing. I respectfully ask this court to deny Ms. Frombach's request and affirm Judge Gain's appropriate and original ruling on this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dylan J. Frombach', written in a cursive style.

Dylan J. Frombach

Respondent

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