

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/31/2024 1:27 PM  
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CLERK

**Washington Supreme Court No. 1032129**

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**GENE KEITH STIGEN, APPELLANT**

v.

**LAURIE ANN STIGEN, RESPONDENT**

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**ANSWER TO PETITION FOR REVIEW**

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Superior Court of Pierce County  
The Honorable Andre Penalver

No. 21-3-03933-8

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### A. STATEMENT OF ISSUES

1. Should the Court accept review under RAP 13.4(b)
2. Did the Court of Appeals err in finding the trial Court was not required to make written findings about the valuation of assets?

### B. STATEMENT OF THE CASE

The parties, Gene Stigen (“Gene”) and Laurie Stigen (“Laurie”), were married on July 2, 1989 and separated on October 5, 2021. *CP 119*. Trial took place over a two-day period between March 1, 2023 and March 2, 2023. *CP 18-20*. After trial, the Honorable Judge Penalver entered a Final Divorce Order and Findings of Fact and Conclusions of Law, on March 31, 2023. *CP 21-34*. The final orders were signed by Gene’s attorney two days prior, on March 29, 2023. *CP 26, CP 34*. There is no record in the Court file indicating Gene had an objection to the form or the Orders or lack of express written valuation language in the Orders themselves, before Gene’s attorney signed the documents. The trial judge found that the family home at 16820 Park Ave. S. was community property.

*CP 20* and *CP 33*. The Court valued the family home at \$375,600.00 based on the Pierce County Assessor's Valuation.

*CP 39*. The Verbatim Report of Proceedings would be instructive as to whether either party testified about the assessed value and whether that testimony was accepted by the trial judge. The Court made specific findings about characterization of personal property, finding that 14 items listed at *CP 29-30* are community property and 9 items listed at *CP 30* are the separate property of either Gene or Laurie. In his oral ruling, the trial Judge made specific findings about the valuations of individual personal property items, which would later be acknowledged and scrutinized in Gene's Motion for Reconsideration. *CP 42, CP 43*. Valuation findings were made consistent with a spreadsheet at Exhibit 40 which was admitted without objection. *CP 19*. A copy of that spreadsheet was attached to Laurie's Trial Memorandum. *CP 135*. The Court found that Gene was found to lack credibility based upon an extensive list of findings at *CP 32-33* and therefore ordered

that Gene pay \$20,000 in attorney's fees for intransigence. *CP 31*.

Gene filed a Motion for Reconsideration on April 10, 2023. *CP 35-46*. With his Motion, Gene submitted new exhibits that were not a part of the trial record (Exhibit Nos. 112-114). Laurie timely objected to the submission of new exhibits in violation of CR 59. *CP 136-138*. The Motion for Reconsideration was denied. *CP 69-70*. The Court did not consider Exhibits 114-112 that were provided with Gene's Motion for Reconsideration.

Gene filed his Notice of Appeal on May 5, 2023. *CP 72*. Gene has not provided the Court with a Verbatim Report of Proceedings from either the trial, the trial ruling, the presentation hearing or hearing on Motion for Reconsideration. The Court of Appeals affirmed the trial court decision on May 29, 2024. Gene filed a Motion for Reconsideration, which was denied on Jun 26, 2024 due to untimely filing. Gene filed his Petition for Review on June 27, 2024.

### C. ARGUMENT

#### 1. **THE COURT SHOULD DENY PETITION FOR REVIEW**

To obtain this court's review, the Gene must show (1) that the Court of Appeals decision conflicts with a decision of the Supreme Court, (2) with a published Court of Appeals decision, (3) that this decision calls into a question a law under the United States or Washington Constitution, or (4) the Petition involves an issue of substantial public interest that should be determined by the Supreme Court. RAP 13.4(b).

Gene's Petition for Review fails to articulate any basis under RAP 13.4(b) that would authorize this Court to accept review. The Court of Appeals denied Gene's appeal, primarily because Gene failed to designate the trial record on appeal, and as such, the record was determined insufficient to review Gene's assignments of errors for abuse of discretion. Gene evidently disputes that the trial court made express oral findings as to the valuation of the parties' community and separate

property. The Court of Appeals necessarily needed to review the Verbatim Report of Proceedings from the trial judge's ruling in order to resolve that dispute.

The ruling was not contrary to any Supreme Court or published Court of Appeals decision. On the contrary, the Court of Appeals relied on both *In re Marriage of Haugh*, 58 Wn. App. 1, 6, 790 P.2d 1266 (1990) and *Olmsted v. Mulder*, 72 Wn. App. 169, 183, 863 P.2d 1355 (1993), to support its holding that the merits of Gene's arguments could not be reached when he failed to provide the reviewing Court with a sufficient record for review. Gene has not identified any other Supreme Court or Appellate decision that contradicts the appellate decision in this case.

Likewise, Gene has not raised any significant question of law under the Constitution, nor does the question of whether the trial court failed to value the parties' assets involve a substantial public interest that warrants Supreme Court review.



2. **THE COURT OF APPEALS DID NOT ERR IN FAILING TO FIND THAT THE TRIAL COURT WAS REQUIRED TO MAKE WRITTEN FINDINGS VALUING PROPERTY**

The Court of Appeals agreed with Gene in finding that the trial court is required to value the assets of the parties in order to create a record for appellate review pursuant to *In re Marriage of Greene*, 97 Wn. App. 708, 712, 986 P.2d 144 (1999). Gene fails to acknowledge, however, that *In re Marriage of Lawrence*, 105 Wn. App. 683, 686, 20 P.3d 972 (2001) has held that inadequate written findings can be supplemented by the trial court's oral decision. Gene's failure to supply the Appellate Court with the transcript from the Court's oral decision barred the Court from reaching Gene's argument on the merits, because it was not able to determine whether the Court's oral decision made adequate findings about property valuation.

D. CONCLUSION.

The Court should not grant review pursuant to RAP

13.4(b), because Gene has not shown that (1) that the Court of Appeals decision conflicts with a decision of the Supreme Court, or (2) with a published Court of Appeals decision, (3) that this decision calls into a question a law under the United States or Washington Constitution, or (4) that the Petition involves an issue of substantial public interest that should be determined by the Supreme Court. The Decision of the Court of Appeals is consistent with analogous Washington cases, and well settled law that a reviewing Court cannot reach the merits of an Appellant's arguments without an adequate record for review.

#### E. WORD COUNT COMPLIANCE CERTIFICATION

In reliance upon Microsoft Word software, which calculates the number of words in a Word document, this author certifies that this document contains 1,570 words, exclusive of words contained in the appendix, the title sheet, the table of contents, the table of authorities, the certificate of compliance,

the certificate of service, signature blocks, and pictorial images  
(but inclusive of text boxes, footnotes and endnotes).

DATED: July 31, 2024.

LAW OFFICE OF SOPHIA PALMER, PLLC



STACEY SWENHAUGEN, WSBA No. 41509  
ATTORNEY FOR RESPONDENT

**CERTIFICATE OF SERVICE**

I certify that I caused to be transmitted via U.S. Mail, postage prepaid, transmitted via the Appellate Court on-line portal, and/or emailed, a copy of the foregoing BRIEF OF RESPONDENT on the 31<sup>st</sup> day of July, 2024, to the following counsel of record at the following address:

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Stacey Swenhaugen

**LAW OFFICE OF SOPHIA M. PALMER**

**July 31, 2024 - 1:27 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
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**Appellate Court Case Title:** In the Matter of the Marriage of: Laurie Ann Stigen v. Gene Keith Stigen  
**Superior Court Case Number:** 21-3-03933-8

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