

FILED
Court of Appeals
Division III
State of Washington
5/19/2025 4:25 PM

FILED
SUPREME COURT
STATE OF WASHINGTON
5/19/2025
BY SARAH R. PENDLETON
CLERK

NO. 406962

Case #: 1041632

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

TAYLOR RAE MCAVOY,

Petitioner,

v.

ALEXANDER THOMAS SIEG,

Respondent.

ANSWER TO PETITION FOR REVIEW

ALEXANDER T. SIEG
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Cases

Faciszewki v. Brown,

187 Wn.2d 308, 313 n.2, 386 P.3d 711 (2016)

In re Marriage of Littlefield,

133 Wash.2d 39, 940 P.2d 1362 (1997).

Perez v. Garcia,

148 Wash.App.131, 198 P.3d 539 (2009).

Rodriguez v. Zavala,

188 Wash.2d 586, 398 P.3d 1071 (2017).

Constitutional Provisions

Wash. Const. art IV, § 23.

Statutes

RCW 2.24.050.

Rules

RAP 13.3(a).

RAP 13.4(b).

I. INTRODUCTION

On motion of the Respondent, a superior court correctly granted revision and denied a DVPO requested by the Petitioner for failing to prove their allegations by a preponderance of the evidence. Petitioner appealed, seeking review of the superior court's denial.

The Division III Court of Appeals correctly reviewed the superior court's revision order denying a DVPO for an abuse of discretion, found no abuse of discretion, and affirmed. The superior court's decision was within the range of acceptable choices and the result was fairly reached.

Petitioner now seeks review of Division III's unpublished opinion, without identifying any considerations governing acceptance for review. Instead—as with their brief on appeal—Petitioner attempts to relitigate the findings of fact and conclusions of law issued by the superior court based on the oral ruling of the commissioner the court correctly revised.

This Court should deny review.

II. RESTATEMENT OF THE ISSUE

Whether this Court should deny review where the Petition for Review does not state or meet any of the Considerations Governing Acceptance of Review.

III. RESTATEMENT OF THE CASE

Petitioner and Respondent had a romantic relationship for over a year, but an intimate misunderstanding led to their break-up.¹ CP at 51-53. At first the break-up was amicable, but as the relationship unraveled, Petitioner made various requests of Respondent, some of which they fulfilled, others not. CP at 53-86. Petitioner perceived Respondent declining their requests as controlling and petitioned for a protection order. CP at 1-29.

A temporary domestic violence protection order (“DVPO”) was issued by a court commissioner (“the commissioner”) on Petitioner’s request and later reissued as

¹ The details of this misunderstanding from the Statement of Facts in Respondent’s Appellate Brief are omitted here due to their intimate nature. Procedural facts have also largely been curtailed as the procedural arguments raised by Petitioner at the Court of Appeals are absent from their Petition for Review.

Petitioner did not attempt to serve Respondent until the same day the second order was entered. CP at 31-41, 43-49. The commissioner granted the petition, entering a DVPO for one year. CP at 90-100.

Respondent timely moved for revision and the superior court granted the motion after a full and fair hearing, denying any protection order on the merits. CP at 107-110, 114-119, 347-356. Petitioner was advised of their right to appeal and of the appellate process, but immediately attempted to file for a new protection order the next day in front of a different judicial officer and was denied. CP at 357-375, 377-384.

Petitioner then appealed the superior court's orders to the Division II Court of Appeals and Division II transferred to Division III for expedite review. App. at 1-2. The Division III Court of Appeals reviewed the superior court's denial of a DVPO for an abuse of discretion, found no abuse of discretion, and affirmed. App. at 3-9. And denied reconsideration. App at 10-11.

Petitioner now Petitions for Review.

IV. SUMMARY OF ARGUMENT

Petitioner seeks review under RAP 13.3(a), but does not state what, if any, considerations under RAP 13.4(b) their petition meets. Petition for Review at 3-9. Review should be denied because the Petition for Review does not state or meet any of the Considerations Governing Acceptance for Review under Washington's Rules of Appellate Procedure.

A petition for review is accepted by the Washington Supreme Court only if: the appellate court's decision conflicts with Supreme Court or a published Court of Appeals precedent; there is a significant question of law under the State or Federal Constitutions; or there is an issue of substantial public interest. RAP 13.4(b).

A. The Court of Appeals Decision Is Consistent With Washington Precedent.

This Court should deny review because Petitioner does not state how the Court of Appeals' decision conflicts with either a

decision of the Supreme Court or a published decision of the Court of Appeals. Petition for Review at 3-9. And it does not.

Here, the Court of Appeals correctly reviewed the superior court's denial of a DVPO for an abuse of discretion, found no abuse of discretion, and affirmed. App. at 5-8. In doing so, Division III correctly reviewed the superior court's ruling—rather than the commissioner's—under Washington precedent. *Faciszewki v. Brown*, 187 Wn.2d 308, 313 n.2, 386 P.3d 711 (2016). It correctly applied the legal standard for review under Washington precedent. *Rodriguez v. Zavala*, 188 Wash.2d 586, 590, 398 P.3d 1071 (2017). And it correctly found there was no abuse of discretion because the superior court's finding was within the range of acceptable choices, which is the correct legal analysis under Washington precedent. *In re Marriage of Littlefield*, 133 Wash.2d 39, 47, 940 P.2d 1362 (1997).

As with the revising superior court below, there is no indication the Court of Appeals misunderstood the law or applied the wrong legal standards in its review. Therefore, this Court

should deny review because Petitioner does not state how the Court of Appeals' decision conflicts with either a decision of the Supreme Court or a published decision of the Court of Appeals and it does not.

B. There Is No Significant Question of Law Under the State or Federal Constitutions.

This Court should deny review because Petitioner does not state or show a significant question of law under the State or Federal Constitutions. Petition for Review at 3-9. And there is not.

Here, neither party raised a federal constitutional question and the only thing resembling a question—let alone a significant one—concerning the Washington State Constitution was whether a superior court has the authority to review the records of a case and a commissioner's findings of fact and conclusions of law. It is well settled that the superior court has that authority under Washington's State Constitution. Wash. Const. art IV, § 23. And state law. RCW 2.24.050. And precedent. *Perez v.*

Garcia, 148 Wash.App.131, 138, 198 P.3d 539 (Wash. Ct. App. Div. 2 2009). So if that is the question, it has already been answered.

Therefore, this Court should deny review because Petitioner does not state or show a significant question of law under the State or Federal Constitutions and there is not one.

C. The Petition Does Not Involve An Issue of Substantial Public Interest.

This Court should deny review because Petitioner does not state or show there is an issue of substantial public interest. Petition for Review at 3-9. And there is not.

Here, the order reviewed is the superior court's denial of a DVPO between the Petitioner and Respondent, based on Petitioner's failure to prove their allegations by a preponderance of the evidence. App. at 5-8. It is not only highly fact-specific, which renders review purely for public guidance less fruitful, but the underlying facts concern intimate acts between parties that are anything but of public interest. They are arguably the most

private things two individuals can share. And this is supported by the Court of Appeals' decision to omit the intimate details of the parties' misunderstanding out of decorum and respect, as well as its decision not to print its opinion in the Washington Appellate Reports. App. at 2-3, 9.

Therefore, this Court should deny review because Petitioner does not state or show there is an issue of substantial public interest and there is not.

V. CONCLUSION

The Court of Appeals correctly reviewed the superior court's denial of a DVPO for an abuse of discretion, found no abuse of discretion, and affirmed. This Court should deny review because the Petition for Review does not state or show how the Court of Appeals' decision conflicts with either a decision of the Supreme Court or a published decision of the Court of Appeals, a significant question of law under the State or Federal Constitutions, or an issue of substantial public interest.

This document contains 1288 words, excluding the parts
of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 19th day of May,
2025.



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PROOF OF SERVICE

I certify that I caused to be served a true and correct copy of the foregoing document on all parties or their counsel of record on the date below as follows:

Taylor Rae McAvoy,
Pro Se

taylor.r.mcavoy@gmail.com

☒ E-served via Court Portal

☒ E-served via Email

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 19th day of May, 2025, at Olympia,
Washington.


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APPENDIX

In the Court of Appeals of the State of Washington

Division II

September 20, 2024

ORDER TRANSFERRING CASES

Division II has designated the listed case for transfer to Division III of the Court of Appeals to expedite review. CAR 21(a).

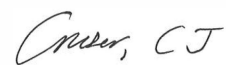
#	Case Title	Division II Case #	County of Origin	Superior Court Case Type
1	State of Washington, Respondent v Stefan J. Hasselbalch, Appellant	599929	Clark	Criminal
2	Dennis G. Woodruff, Appellant v American Optical Corp., et al, Respondents	599899	Pierce	Civil
3	Taylor Rae McAvoy, Appellant v. Alexander Thomas Sieg, Respondent	600048	Thurston	Civil
4	Brandon Reed Pablo, Respondent v. Zoie Isobel Pablo, Appellant	600153	Pierce	Domestic
5	State of Washington, Respondent v. Christopher Mastin, Appellant	602237	Pierce	Criminal
6	Delarrance Manuel, Appellant v. Jim Henderson et al., Respondents	599970	Pierce	Civil
7	State of Washington, Respondent v. Zachary Gene Boyce, Appellant	600111	Mason	Criminal
8	State of Washington, Respondent v. Joseph Raymond Sallinger, Appellant	602130	Thurston	Criminal

It is

SO ORDERED.

DATED this 20th day of September, 2024.

FOR THE COURT:



CHIEF JUDGE, Division II

I Concur:

Laurence B. King, C.J.

CHIEF JUDGE, Division III

Tristen L. Worthen
Clerk/Administrator

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*The Court of Appeals
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Division III*



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April 17, 2025

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CASE # 406962

Taylor Rae McAvoy, Appellant v. Alexander Thomas Sieg, Respondent
THURSTON COUNTY SUPERIOR COURT No. 2423031234

Mr. Sieg and Ms. McAvoy:

Enclosed please find a copy of the opinion filed by the court today. A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file the motion electronically through the court's e-filing portal or, if in paper format, only the original motion need be filed. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion. The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Tristen Worthen
Clerk/Administrator

TW/pb
Enc.

c: **E-mail** info copy to Kristin Jensen (Hon. James Lawler's case)

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

In the Matter of the Domestic Violence)	No. 40696-2-III
Protection Order for)	
)	
TAYLOR McAVOY.)	UNPUBLISHED OPINION
)	
)	

LAWRENCE-BERREY, C.J. — Taylor McAvoy appeals after the superior court granted revision of a commissioner’s order that had granted her petition for a domestic violence protection order (DVPO). We review the superior court’s denial of a DVPO for an abuse of discretion. We find no abuse of discretion and affirm.

FACTS

Taylor McAvoy and Alexander Sieg had a romantic relationship for over one year, but an intimate misunderstanding led to McAvoy losing trust with Sieg. As the relationship unraveled, various requests were made, including to return gifts and personal items. The loss of trust felt by McAvoy increased, and she perceived Sieg as becoming controlling. As a result, she petitioned for a DVPO.

A court commissioner heard and granted McAvoy’s petition. Sieg moved for revision, and the superior court granted his motion. In its ruling, the court agreed with McAvoy’s earlier description of the dispute as “he said/she said,” and found that

McAvoy had not met her burden of proof. Report of Proceedings (RP) (Aug. 29, 2024) at 21-22.¹

McAvoy appeals.

ANALYSIS

REVISION MOTION AND PROTECTION ORDER

RCW 2.24.050 states that “[a]ll of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court.”

While revision is much like an appeal, under RCW 2.24.050 and the developed case law the superior court judge is not required to defer to the fact-finding discretion of the commissioner like we defer to the superior court’s exercise of fact-finding discretion on appeal. A revision court may, based upon an independent review of the record, redetermine both the facts and legal conclusions drawn from the facts. Thus, the superior court on revision may review factual determinations for substantial evidence, but is not limited to a substantial evidence inquiry under RCW 2.24.050.

In re Marriage of Dodd, 120 Wn. App. 638, 645, 86 P.3d 801 (2004) (citations omitted).

On appeal, we review the superior court’s ruling, not the commissioner’s. *Faciszewski v. Brown*, 187 Wn.2d 308, 313 n.2, 386 P.3d 711 (2016).

Our review does not look to whether we would have come to the same conclusion as the superior court. Rather, we review the court’s decision to grant or deny a DVPO for

¹ The intimate details of the misunderstanding are omitted from our statement of facts because even an unpublished opinion is a public record, and we believe that decorum and respect for the parties requires this.

abuse of discretion. *Rodriguez v. Zavala*, 188 Wn.2d 586, 590, 398 P.3d 1071 (2017). A court abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds or untenable reasons. *In re Marriage of Littlefield*, 133 Wn.2d 39, 46-47, 940 P.2d 1362 (1997). “A court’s decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect legal standard or the facts do not meet the requirements of the correct standard.” *Id.* at 47.

RCW 7.105.225 provides in relevant part that:

(1) The court shall issue a protection order if it finds by a preponderance of the evidence that the petitioner has proved

(a) For a domestic violence protection order, that the petitioner has been subjected to domestic violence by the respondent.

(3) In proceedings where the petitioner alleges that the respondent engaged in nonconsensual sexual conduct or nonconsensual sexual penetration, the court shall not require proof of physical injury on the person of the petitioner or any other forensic evidence. Denial of a remedy to the petitioner may not be based, in whole or in part, on evidence that:

(c) The petitioner engaged in limited consensual sexual touching.

“Domestic violence” in this context is defined in relevant part as “nonconsensual sexual conduct or nonconsensual sexual penetration; [or] coercive control.”

RCW 7.105.010(9)(a). “Sexual penetration” in this context is defined as “any contact,

however slight, between the sex organ or anus of one person by an object, the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person . . . into the sex organ or anus of another person.”

RCW 7.105.010(33). “Consent” means “at the time of sexual contact, there are actual words or conduct indicating freely given agreement to that sexual contact. Consent must be ongoing and may be revoked at any time. Conduct short of voluntary agreement does not constitute consent as a matter of law.” RCW 7.105.010(5).

The superior court was presented with two different versions of the intimate misunderstanding. Both parties presented some corroborating evidence for their version of events. But there is no indication that the revising court misunderstood the law or applied the wrong legal standards in this case. So our role is limited to determining whether the court’s decision was within the range of acceptable choices, given the evidence before it.

The court found the evidence to be equally strong on both sides and agreed the evidence was a “he said/she said type of thing,” stating, “I’m faced with those differing versions of these events, and I cannot find that that is proof by a preponderance of the evidence.” RP (Aug. 29, 2024) at 21-22. This finding was within the range of acceptable choices for the revision court, given that the two versions of events were equally plausible. We conclude that the superior court did not abuse its discretion by granting

revision and denying McAvoy's petition for a DVPO.

PROCEDURAL ISSUES²

McAvoy raises various procedural challenges. We address each in turn.

McAvoy first contends she was never served with a copy of the transcript of the hearing before the commissioner after Sieg filed his motion for revision. Thurston County Local Rule 53.2(e)(3)(A) requires the party moving for revision to provide a transcript of the hearing before the commissioner to the *court* but it contains no requirement that the other party needs to be similarly served.

McAvoy next contends Sieg improperly served her with court documents by e-mail when she should have been served by a third party. But, in a pleading, McAvoy agreed to accept legal papers by e-mail and did not provide a street address or post office box where she could have accepted legal papers.

McAvoy further contends the revision hearing was untimely because, although there was good cause to continue it, no one filed a motion to continue. CR 1 states that the rules "shall be construed and administered to secure the just, speedy, and inexpensive determination of every action." Here, the local superior court judges recused themselves, due to Sieg's work before them, and there was delay obtaining a visiting judge to hear the

² Although not in her assignments of error, McAvoy raises issues related to superior court procedure as applied to her case. We address the arguments because the issues are sufficiently briefed.

No. 40696-2-III

In re Domestic Violence Protection Order

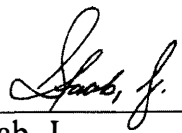
revision motion. The delay is understandable and, in such a case, we will not place procedure over substance to overturn a result fairly reached.


Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.


Lawrence-Berrey, C.J.

WE CONCUR:


Staab, J.


Murphy, J.

Tristen L. Worthen
Clerk/Administrator

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



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April 29, 2025

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CASE # 406962

Taylor Rae McAvoy, Appellant v. Alexander Thomas Sieg, Respondent
THURSTON COUNTY SUPERIOR COURT No. 2423031234

Ms. McAvoy and Mr. Sieg:

Enclosed is a copy of the order deciding a motion for reconsideration of this court's April 17, 2025 opinion.

A party may seek discretionary review by the Washington Supreme Court of a Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a petition for review in this court within 30 days after the attached order on reconsideration is filed. RAP 13.4(a). Please file the petition electronically through the court's e-filing portal. The petition for review will then be forwarded to the Supreme Court. The petition must be received in this court on or before the date it is due. RAP 18.5(c). If the party opposing the petition for review wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service on the party of the petition. RAP 13.4(d). The address of the Washington Supreme Court is Temple of Justice, P.O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

Tristen Worthen
Clerk/Administrator

TW/pb
Enc.

FILED
APRIL 29, 2025
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

**COURT OF APPEALS, DIVISION III, STATE OF
WASHINGTON**

In the Matter of the Domestic Violence)	No. 40696-2-III
Protection Order for)	
)	
TAYLOR McAVOY.)	ORDER DENYING
)	MOTION FOR
)	RECONSIDERATION
)	
)	

The court has considered Taylor McAvoy's motion for reconsideration of this court's opinion dated April 17, 2025, and is of the opinion the motion should be denied.

THEREFORE, IT IS ORDERED that the motion for reconsideration is hereby denied.

PANEL: Judges Lawrence-Berrey, Staab, and Murphy

FOR THE COURT:


ROBERT LAWRENCE-BERREY
CHIEF JUDGE

May 19, 2025 - 4:25 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 40696-2
Appellate Court Case Title: Taylor Rae McAvoy, Appellant v. Alexander Thomas Sieg, Respondent
Superior Court Case Number: 24-2-30312-7

The following documents have been uploaded:

- 406962_Other_20250519161519D3056917_2818.pdf
This File Contains:
Other - Respondent's Answer to Petition for Review
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A copy of the uploaded files will be sent to:

- Taylor.R.Mcavoy@gmail.com

Comments:

Sender Name: Alexander Sieg - Email: alexander.sieg@atg.wa.gov
Address:
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