FILED
NOVEMBER 19, 2026
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

CHARLOTTE R. SINCLAIR, Respondent, v. BRANDON K. SINCLAIR, Appellant.	)	No. 41784-1-III UNPUBLISHED OPINION

COONEY, A.C.J. — Brandon Sinclair appeals the superior court's renewal of a domestic violence protection order restraining him from contacting his estranged wife, Charlotte Sinclair, and their two children. We affirm.

BACKGROUND

Charlotte and Brandon[1] were married and have two minor children together. The parties separated, and their divorce proceeding remains pending. On December 9, 2024,

[1] We refer to the parties by their first names for clarity. No disrespect is intended.

the court entered a one-year domestic violence protection order against Brandon protecting Charlotte and both children. The court later modified the order to permit supervised visitation between Brandon and the children. Subsequent modifications authorized the parties to communicate through OurFamilyWizard about the children and other parenting matters, including travel and expenses. Charlotte relocated with the children to North Carolina, and an order modifying the protection order in light of the relocation was entered on June 30, 2025.

On November 24, Charlotte moved to renew the protection order before its expiration on December 9. Charlotte asserted that Brandon continued to minimize the prior domestic violence and had not accepted accountability for his conduct. She described an incident that occurred in July 2024 during which Brandon held a gun to his head and threw her cell phone when she tried calling for help. She also alleged that Brandon tackled her to the ground outside their home in September 2024.

Charlotte alleged that Brandon violated the abstinence requirements of his treatment program by purchasing cannabis in March and April 2025. She further asserted that Brandon continued to violate the protection order and cited an arrest in November 2024 for multiple counts of residential burglary and violation of the order. Charlotte alleged that Brandon purchased a "burner phone" and called her 11 times before the parties' mediation on May 29, 2025. Clerk's Papers (CP) at 40. She stated that she confirmed Brandon's identity during one of the calls and that he called again on June 2,

2025. Charlotte reported these calls to law enforcement, which resulted in two police reports.

Charlotte also stated she overheard Brandon tell the children during a FaceTime call that he needed to speak with her directly. She feared that direct contact would allow Brandon to manipulate or coerce her into resuming their relationship. Charlotte stated that she did not feel safe around Brandon and feared unwanted contact, stalking, and physical harm.

Charlotte submitted a forensic psychological evaluation of Brandon completed by Dr. Jameson Lontz on January 16, 2025. Dr. Lontz recommended, among other things, that Brandon complete domestic violence programming, anger management, and psychotherapy. Charlotte stated the evaluation echoed concerns she also had about Brandon's need for control and lack of accountability for domestic violence.

In response to the renewal motion, Brandon filed a declaration that asserted he completed the psychological evaluation and complied with its recommendations. He stated that treatment helped him recognize patterns of control he exerted in relationships and manage emotional distress without impulsive and harmful reactions. Brandon acknowledged that some conduct during the marriage was unacceptable and accepted responsibility for his prior actions. After 26 sessions, discharge notes from his domestic violence programming assessed his current risk level and risk of harm as low. The notes further reported no identified risk factors and "meaningful progress in emotional

regulation, accountability, and risk reduction." CP at 160. Brandon also submitted a letter from his therapeutic provider that stated the provider observed no indication that Brandon posed a danger to himself or others.

Brandon denied that he sought to resume a relationship with Charlotte and stated that he wanted contact only for co-parenting purposes. He also stated that no criminal charges had been filed in connection with the alleged violations of the protection order in May 2025. Brandon further requested that the court exclude the children from the renewed protection order if it granted Charlotte's motion.

In reply, Charlotte stated that Brandon did not respond to her OurFamilyWizard message regarding one child's alleged pattern of dishonesty. She claimed that the children returned from time alone with Brandon confused and disrespectful. Charlotte reported that the children said Brandon called her a liar, accused her of stealing money, and stated that he wanted to kill himself. She also reported that Brandon told the children that Charlotte could not remarry. Charlotte enrolled the children in therapy due to these alleged "inappropriate interaction[s]." CP at 72.

The court held a renewal hearing on December 11, 2025, and recognized Brandon bore the burden of proving a substantial change in circumstances. The court stated that it had reviewed the parties' submissions and the 2024 record. The court renewed the protection order through December 11, 2026, and concluded the governing statute constrained its discretion.

When Brandon's counsel sought clarification regarding the court's determination that Brandon had not shown a substantial change in circumstances, the court directed counsel to RCW 7.105.405(6)(e), (f), and (g). The court recognized that the statute prohibited it from denying renewal based on Charlotte's ability to seek relief in another proceeding, the passage of time since the conduct giving rise to the original order, or the parties now living in two different states. When pressed by counsel about the court's authority to renew the order, the court responded that it relied on RCW 7.105.405(5), (6), and (7).

Brandon timely appeals.

ANALYSIS

We review a trial court's order renewing a domestic violence protection order for abuse of discretion. *In re Dom. Viol. Prot. Ord. of Hudon*, 35 Wn. App. 2d 653, 656, 577 P.3d 944 (2025). There is an abuse of discretion where the court's decision is based on untenable grounds or untenable reasons. *Rodriguez v. Zavala*, 188 Wn.2d 586, 598, 398 P.3d 1071 (2017). "A decision is based 'on untenable grounds' or made 'for untenable reasons' if it rests on facts unsupported in the record or was reached by applying the wrong legal standard." *State v. Rohrich*, 149 Wn.2d 647, 654, 71 P.3d 638 (2003) (quoting *State v. Rundquist*, 79 Wn. App. 786, 793, 905 P.2d 922 (1995)). Issues involving statutory interpretation are reviewed de novo to give effect to the legislative

intent. *Rodriguez*, 188 Wn.2d at 591. "Plain language that is not ambiguous does not require construction." *Id.*

We review the trial court's factual findings for substantial evidence. *In re Marriage of Rockwell*, 141 Wn. App. 235, 242, 170 P.3d 572 (2007). Substantial evidence exists to support a finding of fact if the record contains sufficient evidence to persuade a fair-minded, rational person of the truth of the determination. *Bering v. SHARE*, 106 Wn.2d 212, 220, 721 P.2d 918 (1986). We do not reweigh evidence or determine credibility. *Id*. We defer to the trial court's decisions on the weight of the evidence, credibility of the witnesses, and conflicting evidence. *Snyder v. Haynes*, 152 Wn. App. 774, 779, 217 P.3d 787 (2009). A finding may still be supported by substantial evidence even where the evidence is conflicting. *Merriman v. Cokeley*, 168 Wn.2d 627, 631, 230 P.3d 162 (2010). Unchallenged findings of fact are verities on appeal. *In re Marriage of Rounds*, 4 Wn. App. 2d 801, 804, 423 P.3d 895 (2018).

Under RCW 7.105.405(4)(a), the court must grant a motion to renew a protection order unless the respondent proves, by a preponderance of the evidence, both that (1) there has been a substantial change in circumstances, and (2) the respondent will not resume acts of domestic violence when the order expires. In assessing whether a substantial change in circumstances has occurred, the trial court may—but is not required to—consider the nonexclusive, unweighted factors listed in RCW 7.105.405(5). In

addition, RCW 7.105.405(6) provides that the court may not deny a motion to renew a protection order on the ground that:

> (e) The relief sought by the petitioner may be available in a different action or proceeding;
>
> (f) The passage of time since the last incident of conduct giving rise to the issuance of the protection order; or
>
> (g) The respondent no longer lives near the petitioner.

Brandon argues the trial court abused its discretion by (1) misapplying RCW 7.105.405(4)(a) and failing to analyze both prongs of the statute before concluding he did not carry his burden to show a substantial change in circumstances, and (2) misapplying RCW 7.105.405(6)(e), (f), and (g).[2] Charlotte responds that the trial court acted within its discretion because Brandon failed to prove both a substantial change in circumstances and that he would not resume acts of domestic violence when the order expired. Charlotte further argues that RCW 7.105.405(6) is not sundered from the rest of the statute and merely identifies grounds that, standing alone, cannot support denial of renewal.

The trial court did not abuse its discretion. The record shows the court correctly applied RCW 7.105.405(4) and its failure to make findings under RCW 7.105.405(4)(a)

[2] Brandon also contends the trial court improperly conflated RCW 7.105.100(a) with the renewal statute, RCW 7.105.405. We disagree. Although the parties and the court discussed the standards applicable to an initial order, the court expressly cited RCW 7.105.405 as the authority for renewing the protection order.

is inconsequential. RCW 7.105.405(4)(a) mandates renewal unless the respondent proves both a substantial change in circumstances *and* that they will not resume acts of domestic violence. RCW 7.105.405(5) provides, in relevant part:

> In determining whether there has been a substantial change in circumstances, the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed:
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> . . . .
>
> (b) Whether the respondent has violated the terms of the protection order and the time that has passed since the entry of the order;
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> (c) Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;
>
> . . . .
>
> (f) Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order; and

Here, the court cited RCW 7.105.405(5) as the primary basis for concluding Brandon failed to show a substantial change in circumstances. Substantial evidence supports that determination, including evidence that Brandon violated the protection order by repeatedly calling Charlotte from a "burner phone," made statements of suicidal ideation to the children, and continued using cannabis in violation of his domestic violence treatment requirements. CP at 40. On appeal, this court does not reweigh the evidence, assess witness credibility, or resolve conflicting evidence. *Snyder*, 152 Wn. App. at 779.

Brandon bore the burden to prove both elements under RCW 7.105.405(4)(a). Because he failed to carry his burden on the first element—substantial change in circumstances—the trial court did not err by declining to make findings on the second element.

The record also shows that the court correctly applied RCW 7.105.405(6). In granting renewal, the court observed that RCW 7.105.405(6) provides the court "shall not deny a motion to renew a protection order for any of the following reasons." CP at 106. The court specifically noted which subsections it was considering in granting renewal: subsection (e) (that the relief sought may be available in a different proceeding), subsection (f) (the passage of time since the last incident of conduct giving rise to the issuance of the protection order), and subsection (g) (that the parties no longer live near one another).

The record shows the court considered RCW 7.105.405(6), but it did not treat those provisions as dispositive or as requiring automatic renewal, contrary to Brandon's claims. Rather, the court expressly stated it was relying on RCW 7.105.405(5), (6), and (7) in granting the motion. In other words, the court did not blanketly conclude that the availability of relief in dissolution proceedings, the passage of time, or Charlotte's move to North Carolina compelled renewal. The court considered those facts within the statutory framework and applied the statute as written. Because the court's ruling rests

on tenable grounds and reflects a proper application of RCW 7.105.405, it did not abuse its discretion.

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.

Cooney, A.C.J.

WE CONCUR:

Lawrence-Berrey, J.

Murphy, J.