

21-4-00443-34
MTR 124
Motion for Revision
10816915

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E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT

08/10/2021 8:03:46 AM

Linda Myhre Enlow
Thurston County Clerk

EXPEDITE (If filed within 5 court days of hearing)

Hearing is set:

Date: 10-17-21

Time: 10:00 am

Zoom #: 242-974-5214

Rm:4

Judge/Calendar: Schaller/Revision

**Superior Court of Washington
for Thurston County Family &
Juvenile Court**

In re: Guardianship of

Hazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

No. 21-4-00443-34

Motion to Revise
By Selena SMITH

(Pursuant to ER 902 & 1005)

(Cover Sheet)

TITLE OF DOCUMENT

Motion to Revise

by SELENA SMITH

NAME: Selena Smith, mother

**Mailing ADDRESS: PO Box 1711,
Shelton, WA 98584**

PHONE: (360)427-3599

Motion to Revise by
pinbalwyz@yahoo.com

Selena Smith, mother (360)427-3599
1 PO Box 1711, WA 98584

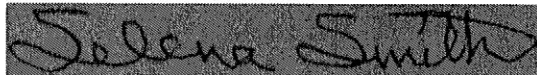
MATERIAL & RELEVANT FACTS (& DECLARATION)

New evidence revealing the **Abuse of Process** by the Stokers and **fraud** by security guard Robert K. Kurtz have been discovered affecting the disposition of this case and must be weighed and a STAY granted to prevent a miscarriage of justice and harm to the children at issue.

I, Selena Smith, **certify Exhibit 'I'** (Detailed History for Police Event #211110452 As of 7/01/2021 15:13:53) is a true copy of what I received from the Thurston County Sheriff's office pursuant to ER 902 and 1005.

I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct to the best of my knowledge.

Signed at Mason, [County] Washington [State] on 8-9-2021.



Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se

Print Name

I have e-mailed a copy of this entire document to Breckan Scott, attorney for the Stokers, John Smith & James Wells on 8-9-21.

Respectfully Signed & submitted in Mason, [County] Washington [State] on 8-9-2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se

Print Name

Motion to Revise by
pinbalwyz@yahoo.com

Selena Smith, mother (360)427-3599
2 PO Box 1711, WA 98584

[X] EXPEDITE (If filed within 5 court days of hearing)
[X] Hearing is set: Present in tandem w/Reconsideration Motion
Date: 9-17-21
Time: 10:00am Zoom #: 242-974-5214 Rm:4
Judge/Calendar: Schaller/Reconsideration

Superior Family & Juvenile Court of Washington, County of Thurston

In re: Emergency Guardianship of
Hazel Belle Ursa Smith

No. 21-4-00443-34

Motion for Order for:

Respondent(s): *Minor Child(ren)*

Revision

(MT)

TO: The Clerk of the Thurston County and Juvenile Court, (360)709-3260, 2801 32nd AVE SW, Tumwater, WA 98512;

AND,

Breckan Scott-Gabriel, bar #:41585, attorney for Kathryn Stoker (maternal grandmother) and Hans Stoker (husband of Kathryn Stoker, but NOT the grandfather), PO Box 1123, Yelm, WA 98597-1123, PH. (360)960-8951, fax (360)485-1916, e-mail: breckan@breckanlaw.com;

AND,

Selena Ursa Smith, mother, e-mail: doublekachina007@protonmail.com, domiciled in Oregon mailing address: 6901 26th Ct SE, Lacey, WA 98503, Ph. (971)803-9898

AND,

Robert Ayer (father), e-mail: unknown Ph. unknown, address: unknown

I Identity of the Parties

I, Selena Smith (mother of the subject minor(s) in this action), enter this Motion to REVISE without counsel of necessity, pro se, in seeking relief this court's consideration as the truth and nothing but the truth. I reserve the right and continue to object to the jurisdiction of this court as stated below under **JURISDICTION**. Due to the many irregularities, improper service of original process, defective summons, unconstitutional abuse of process under color of state law in a foreign jurisdiction under cover of darkness without local judicial oversight, misconduct on the part of the Thurston Family Court clerk's office as well as opposing counsel and the Family Court's administrative staff itself (Edith Vanderwal, operations manager), blatant fraudulent misrepresentation to the court in an ex parte emergency setting, a fair hearing was not and cannot be had in this venue, nor was proper in personam jurisdiction ever acquired or agreed to. Neither was proper notice ever made within the requirements of RCW 11.130.225 (48 hours for ALL parents) and the 60 day maximum limit of the temporary guardianship without a formal extension being granted before such limit had lapsed was not made.

To all parties:

Deadline! Your papers must be filed and served by the deadline in your county's Local Court Rules, or by the State Court Rules if there is no local rule. Court Rules and forms are online at www.courts.wa.gov.

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by your county's Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

The court may not allow you to testify at the motion hearing. Read your county's Local Court Rules, if any. Bring proposed orders to the hearing.

To the person filing this motion:

You must schedule a hearing on this motion. You may use the *Notice of Hearing* (form FL All Family 185) unless your county's Local Court Rules require a different form. Contact the court for scheduling information.

To the person receiving this motion:

If you do not agree with the requests in this motion, file a statement (using form FL All Family 135, *Declaration*) explaining why the court should not approve those requests. You may file other written proof supporting your side.

JURISDICTION

The Petitioners (Stokers) are longtime residents of and domiciled in Thurston County, Washington.

I, Selena Smith (mother), am the person bringing this motion. I had left Washington State without any intention of returning more than 6 months prior to the date my children were seized in Oregon where I resided and was domiciled with my children.

I, Selena Smith, the mother of the very young child(ren) at issue in this cause, due to DV, fled the State of Washington with my children prior to 11-24-20, which is the date James Wells (my boyfriend) filed a DV Protection Petition (20-2-30761-34 [JAMES DANIEL WELLS, Jr vs SELENA URSA SMITH) after I left Washington State to preserve my and my children's safety. Mr. Wells' purpose was to use the children (who he sought custody of in the petition) to support himself. The petition was denied by Court Commissioner Rebekah Zinn. Mr. Wells is currently sleeping in the open near Mt. Adams, is homeless and non-compliant with a subsequent DV protection order issued by the court.

I, Selena Smith, filed a petition for DV protection, alleging Mr. Wells was violently abusive with me and the children, an alcoholic, and in need of anger management classes. Court Commissioner Rebekah Wells ruled in Selena's favor and ordered Mr. Wells to surrender his firearms. This action was filed by myself from out of State. I personally appeared before this court (Court Commissioner Rebekah Zinn, presiding) from an out of state DV women's shelter and filed the declaration of an advocate associated with that shelter confirming evidence I had seen of what appeared to be stalking while I was staying in that out-of-state DV shelter.

(20-2-30788-34 [SELENA URSA SMITH vs JAMES DANIEL WELLS, Jr)

i.e. I, Selena Smith, and my children have been absent and no longer resided in Washington State for longer than 6 months prior to having my 3 children seized around midnight on 5-30-21 under the color of Washington State law via an ex parte emergency guardianship order executed beyond Washington's own borders in a foreign state (Oregon). Court Commissioner Rebekah Zinn was either well aware I had left Washington State with my children (or should have been) more than 6 months before the instant case had been filed. I was under no legal obligation to inform my parents or Hans Stoker of my whereabouts, nor did the Stokers have standing to object since there was no court order granting them standing, custody, or

2 Selena Smith, mother (971) 803-9898
6901 26th Ct SE, Lacey, WA 98503

visitation. Yet they conspired to track me in conjunction with security guard Robert Kurtz for months wherever I went using my I-phone and credit card along with stolen mail to do so.

Case officers with the New Jersey Division of Children & Families admitted they had no authority to use a New Jersey Court Order (under the circumstances) to order Jaw enforcement in Oregon to seize my children upon New Jersey's direction, although security guard Robert Kurtz engaged in the invasion of my privacy. When Kurtz's actions were challenged, a case worker supervisor retorted it was NJ Division of Children & Families to find missing families/children when receiving reports/suspicion of the same. Except...there **WERE NO missing children**. They were with me, their mother, who had no legal duty to provide the State of New Jersey or the Stokers with such information. Nor was there a "nationwide manhunt" for me, only the illegal surveillance conducted by security guard Robert Kurtz, the means by which he chose not to reveal in his false declaration submitted to this court to avoid incriminating himself.

Robert Kurtz was acting only on his own without authority from his agency or direction to invade my privacy by conspiring with the Stokers who were using software on my I-phone to track, unbeknownst to me, my movements, purchases, bills and confidential health/billing records obtained by opening my mail without permission (as well as rifling through my personal papers left where I once resided on the Stoker property). Adding outrage to injury, the Stokers kept the notices of fines received in the mail they opened rather than forwarding it to my new mailing address of which they were aware-putting my Driver's License at risk of suspension for want of notice. They used the unlawfully acquired document to try and prejudice the court against me. They may have succeeded, denying me fairness in these proceedings, or even the appearance of fairness. Kurtz impersonated a LEO, lied, along with the Stokers, to the court and illegally accessed and used my credit card w/minute by minute updates to track me across the country with absolutely no authority or permission to do so.

This rogue action by a Washington Family Court fails what even grade school children would recognize as the **SMELL TEST**. The statutory construction of a normal petition for guardianship of minors in Washington State replete with a full complement of meaningful due process is very different from an ex parte emergency petition for guardianship of minors with effectively no **meaningful due process**. Accordingly, the ex parte judicial excess of Washington's judiciary ought to be a pleasure enjoyed by its own citizens which it is accountable to rather than being visited upon the citizens of foreign states.

In Troxel vs. Granville, the U.S. Supreme Court pronounced Washington's Courts' interpretation of the 'best interests' of the child(ren) "breathtaking in scope"! Additionally, they concluded a parent's bond with their minor children was so fundamental a right that a state which gratuitously substituted its judgment for a parent's exceeded its authority no matter how seductive the state's reasoning might be unless there was genuine true imminent harm that would come to the child(ren). Not only is that not evident in the instant case, but the child(ren) at issue were not evaluated by a qualified expert prior to the court issuing its ex parte emergency seizure order executed out-of-state under cover of darkness, a violation of 14th Amendment and Washington States own Constitution as well as Oregon's, the State where I and my children were domiciled.

Kathryn Stoker lied to my father when she described the circumstances and genesis of that seizure as well as the date of the court hearing (Nathan Kortokrax presiding who recused himself) as on the 18th of this month when it, in truth, was the 16th. The Stokers also lied about my mental health and claimed there **was a "nationwide manhunt" for me conducted by the U.S. Marshal's office**.

Motion to REVISE

pinbalwyz@yahoo.com

3 Selena Smith, mother (971) 803-9898
6901 26th Ct SE, Lacey, WA 98503

This court did not provide me with 60 day notice to respond to out-of-state service or even proper service at all, nor was a Return of Service filed in either of the 2 case #'s involving the child(ren) to either father or permission for alternative service ought. Nor were the parents properly notified within 48 hours. (RCW 11.130.225)

In short, this case and all orders pursuant to it are **void ab initio** for failure to establish proper subject matter and in personam jurisdiction over all the parties. The issuance of the ex parte emergency order to seize my children executed out-of-state was based on fraudulent misrepresentations and deceptions that are a matter of record presented to the court. Nor did the court take any care to insure the child(ren) were genuinely at risk before giving them the impression that their mother was a 'bad' person as they were seized as though I was Dillinger. My father ordered and paid for the police reports from the Oak Ridge PD. They will revealed my children were not imperiled and their needs were being met; they were not living in squalid conditions. I will present this evidence to this court for its consideration given the chance. I have spoken to the Oakridge authorities about this case. Their assessment does not support the tale the Stokers and Robert K. Kurtz told this court. The midnight raid on myself and my child(ren) is what one would expect in a totalitarian regime or from Hollywood.

I have spent many hours discussing these events with my father. He is part of my and my children's life and has always tried to maintain a relationship with us. He has never interfered with my relationship with my children. He is a necessary and indispensable party to this action as the Stokers have never respected his role in our lives, but engaged in decades of parental alienation which can be seen in their declarations where Hans and his wife deceive the court into believing Hans is my father and my children's grandfather.

My story is persuasive if the court would but have taken the time to hear it out. But never did. It required a full evidentiary hearing w/live testimony that never materialized. My father, John Smith, has taken the time to do so since he learned of my predicament despite my mother dissembling to him. It is abundantly clear I am **not delusional or mentally ill**. I do cry and get upset about my babies. My father is not an attorney, but he has an important ongoing role in our lives that has been ignored by the Stokers who lied and interfered with his access to me, my brother, and my grandchildren for decades. He seeks to join this action and represent himself on behalf of his relationship with me and my children, but has been denied the opportunity by commissioner Indu Thomas at every turn along with denying me, an indigent single woman, and my children an attorney or GAL. Thomas has been even more recalcitrant in doing anything and everything possible to deny my father's participation in this case involving his grandchildren and myself.

Motion for Order for: Revision

Relief Requested

My name is: _____ . I ask the court to approve the following orders (*specify*):

Motion revising Court Commissioner's order in this case entered _____ [insert date]

Statement of Issues

I ask the court to decide the following issues (*specify*):

1. NO TRIBAL COURT NOTIFICATION. VIOLATIONS OF ICWA. *Filing party failed to disclose
2. LACK OF JURISDICTION.

*The order was a violation of the 14th amendment of the U.S. & WA. Constitution

3. UNLIKE JAMES WELLS, SELENA SMITH NEVER ACCEPTED nor was given proper original SERVICE, NEVER CONSENTED TO JURISDICTION, AND SELENA SMITH RESERVED HER RIGHT TO OBJECT TO JURISDICTION THROUGHOUT PROCEEDINGS. SELENA SMITH AND THE CHILDREN WERE DOMICILED IN A FOREIGN JURISDICTION, PORTLAND, OR.
4. VOIDABLE JURISDICTION
 - *Fraudulent and perjured declarations
 - *Insufficient/inadequate/no proper service, notice of hearing
 - *Exceeded 60 day limit with start date 05/28/21 for Ex Parte Emergency Guardianship (RCW 11.130.225)
5. THE COURT MAY NOT RELY ON FRAUDULENT AND PERJURED DECLARATIONS WITHOUT INQUIRY TO ESTABLISH JURISDICTION in a foreign state.
6. PROPER (NOT ACTUAL) ORIGINAL SERVICE. PROPER (NOT ACTUAL) ORIGINAL SERVICE OF SUMMONS AND PETITION WAS NEVER COMPLETED. LACK OF PROPER ORIGINAL SERVICE RENDERS THE ENTIRE PROCEEDING VOID AB INITIO. No Sworn Return of Service was filed.
7. THERE WAS NO RETURN OF SERVICE. NO RETURN of SERVICE CERTIFYING THE SUMMONS AND PETITION HAD BEEN SERVED ON SELENA SMITH exists IN THIS MATTER
8. THE SUMMONS FILED in the case, BUT NEVER SERVED, WAS DEFECTIVE PRIMA FACIA, ("ON ITS FACE"). THE PREREQUISITE FOR A PROPERLY DRAFTED SUMMONS IS STRICTLY CONSTRUED.
9. SELENA SMITH OBJECTED TO GUARDIANSHIP
10. RCW 11.130.225(4) REQUIRES ALL PARENTS BE NOTIFIED WITHIN 48 HOURS OF AN EX PARTE SEIZURE WITHOUT NOTICE. NO parent RECEIVED proper NOTICE.
11. NO ACTUAL EVIDENCE, only hearsay and perjured declarations (e.g. Identity theft by declarant Hans Stoker)
12. NO EVIDENTIARY HEARING was held, no opportunity to cross examine the authors of the false declarastions.
13. Repeatedly DENIED COUNSEL for indigent mother, Selena Smith domiciled in a foreign Jurisdiction.
14. NO LETTERS OF OFFICE for guardianship were issued.
15. Virtually all RIGHTS to due process were denied at each and every step of the proceedings. No trial, no jurisdiction, no actual evidence.
16. Does collateral estoppel bar petitioners from relying on conjecture and speculation as to facts prior to the 12-17-20 adjudication, findings of fact and conclusions of law entered in Thurston cases 20-2-30788-34 & 20-2-30761-34 (a DV protection order directing James Wells to comply with its conditions) wherein Selena was found to be a fit, competent responsible mother, given the presiding commissioner Rebekah Zinn weighed all these issues and heard both the father, Mr. Wells, and the mother, Selena Smith, at length during several hearings w/live testimony, unlike the instant case.
17. Was lack of JUDICIAL OVERSIGHT IN the HOME domicile STATE OF OREGON WHERE THE CHILDREN WERE located and seized fatal to jurisdiction given the ex parte emergency guardianship order was based on the fraudulent misrepresentation the children lived and were located in Thurston County? Is the right to seize Children pursuant to a claim of immediate irrevocable risk/harm by 3rd parties with no standing and no existing court order granting them a legal right to visit/see the minors exclusively that of the foreign jurisdiction where the minors are lawfully located and domiciled?
18. Can TESTIMONY consisting almost exclusively OF CONJECTURE calling for speculation, substantive perjured declarations (e.g. identity theft by Hans Stoker misrepresenting himself as the 'grandfather' and claims no other court had jurisdiction or an order affecting jurisdiction or the perjured statements by Robert Kurtz who never represented NJ DCF or had any authority to stalk Selena Smith, the mother, a DV survivor) at the time the 5-28-21 ex parte emergency order was issued?
19. Is it harmless error or a proper basis for the commissioner to accept attorney's arguments as testimonial in nature and to base rulings on them as noted by Kortokrax & Thomas in their orders? Does reliance solely on argument in an ex parte emergency order bar granting the remedies sought in that ex parte emergency motion?

20. Can VIOLATIONS OF RULES OF EVIDENCE be a basis for granting an ex parte emergency order for guardianship of minors domiciled in a foreign jurisdiction to 3rd parties with no standing or open court order?
21. Does the EXISTING WA State ORDER OF DV PROTECTION FOR SELENA SMITH AND ALL her minor CHILDREN bar jurisdiction in a subsequent ex parte emergency petition for guardianship of the same minors without the DV court modifying its ruling pursuant to new evidence or a Rule 60(b) motion and hearing?
22. Was the JUDICIAL Misconduct CONDUCT and openly stated conflict of interest stated in the record sufficiently PREJUDICIAL AND BIASED to require a new hearing or dismissal on the basis of a lack of fairness and the lack of the appearance of fairness?
23. Did the COURT's PROCEDURE AND CONDUCT VIOLATE WASHINGTON AND OREGON STATUTES PASSED TO COMPLY WITH UCCJEA AND UGA GUIDELINES egregiously enough to require dismissal/remand?
24. Should THE COURT have CONSIDERED ALLEGATIONS PRIOR TO THE TIMELINE THAT HAD ALREADY BEEN CONSIDERED BY THE PRIOR DV RULING AND ORDER, WHICH HAD FINDINGS OF FACT AND CONCLUSIONS OF LAW awarding sole custody and responsibility for decisions to Selena Smith, the mother?
25. Does Collateral Estoppel bar retrying facts and conclusions of law entered by commissioner Rebekah Zinn by the petitioners?
26. Did the LACK OF MEANINGFUL REVIEW EVERY TWO WEEKS fail to MEET the legislative INTENT OF STATUTES AND/OR STATUTORY CONSTRUCTION of the emergency guardianship of minors act?
27. Was the egregiously INSUFFICIENT COURT ACCESS harmless error and trivial to 14th Amendment, 6th Amendment and WA State Constitutional guarantees to meaningful access to the courts?
28. Was the commissioner's refusal to appoint counsel during the emergency guardianship proceedings tantamount to LACK OF MEANINGFUL ACCESS TO THE COURTS, and was it harmless?
29. Was COURT's and the petitioner's MISCONDUCT consisting of the following starred points reversible error due to its obvious biasing and prejudicial effect on the commissioner with immaterial scatological entries into the record? Did this amount to tampering with the record and improper attempts to influence the judge with inflammatory material?
 *Court Administrator Edith Vanderwal entered emails into the record that had nothing to do with the case
 *Breckan-Scott entered inflammatory emails and police reports in an attempt to bias the court against Selena Smith despite Selena's presumption of innocence into the record that had nothing to do with the case other than the same parties were involved as the instant one?
 *Kathryn Stoker entered inflammatory material into the record that had not been adjudicated and was inflammatory
 *Hans Stoker paraded the children in court. He was drunk
 *Breckan-Scott has stigmatized me in the courtroom. Unsubstantiated and untrue statements.
30. Was FILING PARTY'S ATTORNEY (Breckan Scott) TREATING JAMES WELLS AS A DEFACTO CLIENT a violation of ethics and an effort to bribe James Wells into aligning his position with the Stokers?
31. Was the failure of the FILING PARTY DID to DISCLOSE TRUST FUNDS AND OTHER FINANCIAL INTERESTS THEY HAD IN CONNECTION WITH THE CHILDREN harmless error?
32. Was the LACK OF CLEAR AND CONVINCING admissible EVIDENCE fatal to the petitioner's case?
33. Was the massive cumulative error in the instant case sufficient to require the ruling be reversed or the case against Selena Smith and her children dismissed?
34. Was it ESTABLISHED THAT NO ONE ELSE WAS WILLING OR DID NOT HAVE THE AUTHORITY OR CAPACITY TO ACT IN THE CIRCUMSTANCES, to care for the minors INCLUDING SELENA SMITH?
35. Was Selena Smith ADEQUATELY INFORMED, represented, or given a fair opportunity in the

- context of her poverty and distance to her foreign domicile to defend herself and children?
36. Did the court err in refusing to appoint an attorney for the children at issue or a GAL during the emergency proceedings?
 37. Did the court error in refusing to grant my motion to join my father, the real grandfather, to this action under CR 19 & 24?
 38. Did the court err in granting me an attorney limited to 10 hours @ \$50/hr to represent me and my children?
 39. Was the FILING PARTY's FAILURE TO Fully DISCLOSE APPROPRIATELY AND ADEQUATELY TO THE COURT material facts favoring Selena Smith, harmless error?
 40. Did the petitioners' failure to perform due diligence in seeking the contact info for all the parents in the instant case IN DUE DILIGENCE introduce additional expense and delay, putting the destitute mother at an additional disadvantage? Was this harmless error?
 41. Was the theft of documents belonging to Selena Smith HANS AND KATHRYN STOKER SUBMITTED THAT WERE UNLAWFULLY acquired a violation of evidentiary rules requiring sanctions or reversal?
 42. Does the intrigue between the Stokers and James Wells (father) amount to ABUSIVE LITIGATION that requires remand or reversal?
 43. Does the ABUSE OF PROCESS in this case (a matter of record) require dismissal, reversal, or remand?
 44. Was the failure to inform the fathers of the minors and timely provide proper original service and due process harmless error?

Statement of Facts/Grounds

These facts support my request (*list supporting facts*):

Lack of 1. NO TRIBAL COURT NOTIFICATION. VIOLATIONS OF WA ICWA.

*Filing party failed to disclose

*Washington law does not say a child has to live on the reservation, or be enrolled as a member of a tribe. It says if a child may be eligible for tribal membership, notification is required. Filing party knew and did not disclose. Court ignored proper inquiry and

review. The Defendant was denied counsel. First Nations People are not wards of the state. They are foreign to the state. They are sovereign, independent people. The children have been recognized on Washington state forms and others for years as having native american ethnicity. They may be eligible for membership on both their mother's side and the two youngest father's side, James Wells, and otherwise. The defendant and the father have had many tribal affiliations, interests and relations. Their activities around these have been significant. The defendant has not waived or denied her and her children's heritage. She is committed to it, in education, life, activism, allyship, and her children and her are culturally distinct. The defendant shares financially and in many ways with the first nations community. The defendant and her children must be allowed the right to be considered by the first nations peoples who have interest in them. So must James Wells in relation to his children. The way family of first nations peoples manages disputes and interests in family matters such as these is significant. Selena Smith considers first nations peoples and tribe her family, and is committed to educating her children so they are aware of and remember their heritage, value it, are

proud of it, and they are distinct and independent in ways not represented or valued in this court. Selena Smith believes in preserving the children in this, that this is the last generation of children, including herself, who have a chance in being preserved

Statement of Facts/Grounds:

These facts support my request:

- *Will be submitting transcripts
 - *All documents and relevant records, etc are being filed
 - *Lack of clear and convincing evidence
 - *Perjury
 - *Violations of CR 16
 - *False, misleading, misrepresentation in statements and evidence
 - *Violations of law. Misrepresentation of information. Disregard for court process, proper procedure.
 - *Case was not adjudicated in 60 days
 - *Improper summons and notice
 - *Improper service
 - *Commissioner Kortokrax who signed order was a friend of family. Recused himself after the fact on the 16th. And then extended his order after he said he was recusing himself.
 - *Court didn't didn't conduct itself procedurally correctly by UCCJEA and UGA, and by equivalent Washington State RCW's reflective of UCCJEA and UGA standards, including initial hearings for fact finding, inquiring for and considering pre-existing DVPO's, proper original service and notice of all parties, etc.
 - *Error in not appointing attorney, disadvanting other parties and granting unfair advantage to filers in legal proceedings
 - *Jurisdiction had changed since DVPO had been granted
- Breckan Scott added to the record material that were immaterial, malicious, gratuitous, and had nothing to do with the case. They were not dispositive in any way. They were designed to bias the court. Breckan-Scott may have been issuing false subpoenas prior to case filing.
- *Commissioner Thomas ruled that she was going to refuse to let grandpa, John Smith, enjoin, because I was doing a fine job of representing myself on my own, and because the filing party adequately represented his interests, when his were not represented by them. Suggested John Smith and Selena's interests were aligned, instead of distinct.
 - *Clients paraded children in court in an attempt to ingratiate themselves with the court. Disruptive court, continuous obstruction of proceedings that disadvantaged other parties and court process. Hans appeared drunk. Slurring words. Making small talk with the Commissioner. Used it as an opportunity to make defendant buckle, throw off proceedings, introduce inappropriate emotional element. Inappropriate for kids. Inappropriate for mother, who had been unable to see them. They were openly terrorizing the mother in court. It can be construed as abusive. "See? We've got the kids." in effect. I was working full time, there was distance and gas \$\$ from Portland. I had been unable to come to see them despite very much wanting to. They had disconnected their phone.
 - *Filing party's attorney Breckan Scott has repeatedly insisted I be medicated, submit to a Dr will medicate me, and intimidated over giving up medical records. When challenged, she retorted, "So what if it draws this out longer. We've got the kids."
- Aiding and abetting James Wells as her de-facto client. Some evidence of offering James

benefits. They stated in court docs they had no issues with him seeing the kids even though protection order. She obviously drew up some of his material and helped him with it, when compared to previous docs he had filed. Witness tampering.

*Consider whether 2 week reviews were being properly conducted.

*Not enough time given in court.

Existing parenting plan was NEVER served.

Presumption of competence on the part of Zinn. Up to that point she examined and assessed my history as she examined the case, and she examined it thoroughly. No one knew more about the children than the two parents and she relied on that. She correctly assumed we had the most knowledge. Then she had to decide who was telling the truth and weigh credibility and evidence, for which she found for Selena Smith. She entered findings of fact and conclusions of law that this court admitted are still binding. Collateral escopal. Keeps court from going back and examining pre-existing conditions prior to the order. I was found to be a fit mom. And competent. Responsible. Etc. The order was a child custody proceeding. It granted sole custody and decision making to the mother. As had Colorado.

Jurisdiction: significant ties to WA state had not existed for 6 months and 11 hours on the day of filing.

The father residing in WA has no bearing. His agreement it should be in WA is not a correct reading.

Evidence Relied Upon

I ask the court to consider this evidence (*list all declarations and other documents that support this request*): Review:

RCW 26.09.440 (Notification of Relocation) RCW 26.09.460 (Limitation of Notices) RCW 70.123.075 (Client Records) RCW 9A.72.080 (Statement of what one does not know to be true) RCW 9A.72.020 (Perjury in the first degree) RCW 9A.72.030 (Perjury in the second degree) RCW 26.27 (Washington State Uniform Child Custody Jurisdiction and Enforcement Act) RCW 11.130 (Uniform Guardianship,

Conservatorship, And Other Protection Arrangements Act)

Special Points for consideration:

RCW 26.09.460 (1) If a person intending to relocate the child is entering a domestic violence shelter due to the

danger imposed by another person, notice may be delayed for twenty-one days. This section shall not be construed

to compel the disclosure by any domestic violence shelter of information protected by confidentiality except as

provided by RCW 70.123.075 or equivalent laws in which the shelter is located

(2) If a person intending to relocate the child is a participant in the address confidentiality program pursuant to

chapter 40.24 RCW or has a court order which permits the party to withhold some or all of the information required by

RCW 26.09.440(2)(b), the confidential or protected information is not required to be given with the notice.

RCW 70.123.075(1) Client records maintained by domestic violence programs shall not be subject to discovery in any

judicial proceeding

RCW 11.130.010(32) "Relative" means any person related by blood or by law to the person subject to guardianship,

conservatorship, or other protective arrangements.

RCW13.34.030(21) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces,

and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children

of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law

or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle,

brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides

care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

RCW 11.130.001

Intent

RCW 11.130.015

"Unless displaced by a particular provision of this chapter, the principles of law and equity supplement its provisions."

-The legislature is presumed to have considered, debated and discussed equity before the law was passed.

-Supplemental principles of law and equity are applicable

"Equity will not lie where remedy at law exists"

RCW 11.130.190

Petition for appointment of guardian for a minor

(1) A person interested in the welfare of a minor, including the minor, may petition for appointment of a guardian for the minor.

(2)(c)The name and address, if known, of each person that had primary care or custody of the minor for at least sixty

days during the two years immediately before the filing of the petition or for at least seven hundred thirty days

during the five years immediately before the filing of the petition;

*was petition for appointment of a guardian required process entered, reviewed and conducted properly, including all parties

RCW 11.130.200(6) The court must inquire about whether a parent is indigent to ensure that counsel is appointed in a timely manner. For purposes of this section, "indigent" has the same meaning as under RCW 10.101.010.

RCW 11.130.200(7) The court is not required, but may appoint an attorney to represent a parent of a minor who is the

subject of a proceeding under RCW 11.130.190, even if the parent is not indigent, if:

- (a) The parent objects to appointment of a guardian for the minor;
- (b) The court determines that counsel is needed to ensure that consent to appointment of a guardian is informed; or
- (c) The court otherwise determines that the parent needs representation.

*Parents were indigent and court did not inquire. Selena Smith did object to guardianship and jurisdiction.

RCW 11.130.225(2)

60 day rule*

48 hour rule*

*was substantial risk of harm proven to not have to give notice, and proper review given for whether to end continue guardianship.

RCW 11.130.250

(1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may

be an Indian child as defined in RCW 13.38.040. If the child is an Indian child, chapter 13.38 applies.

RCW 11.130.040

(1) The court shall issue letters of guardianship to a guardian on filing by the guardian of an acceptance of appointment.

*where's the acceptance indicated?

(3) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be

included on the form prescribed by RCW 11.130.660

(5) A guardian or conservator may not act on behalf of a person under guardianship or conservatorship without valid

letters of office.

*where are the Letters of Guardianship filed with the court?

RCW 11.130.185

(1) A person becomes a guardian for a minor only on appointment by the court.

*where is the petition for appointment of guardian?

(2) The court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is

in the minor's best interest and:

(a) Each parent of the minor, after being fully informed of the nature and consequences of guardianship, consents;

(b) All parental rights have been terminated; or

(c) There is clear and convincing evidence that no parent of the minor is willing or able to exercise parenting functions

as defined in RCW 26.09.004

*where is the order appointing guardianship?

*Selena Smith did not consent to the guardianship

*Selena Smith did not have all of her parental rights terminated

*There was no clear or convincing evidence that no parent of the minors was willing or able to exercise parenting

functions. In fact, there was evidence to the contrary, immediately.

RCW 11.130.660

Letters of office

RCW 11.130.915

This act takes effect January 1, 2022, except that:

(2) With respect to minors, sections 101 through 128, 130 through 136, 201 through 216, 602, 802, 803, and 805,

chapter 437, Laws of 2019 take effect January 1, 2021.

RCW 26.09.004

(2) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions

and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) Maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision,

health care, and day care, and engaging in other activities which are appropriate to the developmental level of the

child and that are within the social and economic circumstances of the particular family;

(c) Attending to adequate education for the child, including remedial or other education essential to the best interests

of the child;

(d) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and

the family's social and economic circumstances; and

(f) Providing for the financial support of the child.

*Declarations were filed that contradicted Selena Smith was unable or unwilling to exercise parenting

functions. Selena Smith entered Declarations and Rebuttals to claims made by the filing party to this effect

as well.

(3) "Permanent parenting plan" means a plan for parenting the child, including allocation of parenting functions, which

plan is incorporated in any final decree or decree of modification in an action for dissolution of marriage or domestic

partnership, declaration of invalidity, or legal separation.

When a guardian is appointed, a parent has visitation rights. The law says that the court shall preserve the

parent-child relationship by parent-child visitation. RCW 29.09.191

RCW 9A.72.080 Every unqualified statement of that which one does not know to be true is equivalent to a statement

of that which he or she knows to be false.

RCW 9A.72.020 (1) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a

materially false statement which he or she knows to be false under an oath required or authorized by law.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that

his or her statement was not material is not a defense to a prosecution under this section. (3)

Perjury in the first

degree is a class B felony.

RCW 9A.72.030 (1) A person is guilty of perjury in the second degree if, in an examination under oath under the

terms of a contract of insurance, or with intent to mislead a public servant in the performance of his or her duty, he or

she makes a materially false statement, which he or she knows to be false under an oath required or authorized by

law. (2) Perjury in the second degree is a class C felony.

Washington Superior Court CR 60(a) - Review

Washington Superior Court CR 60(b)

Washington Superior Court CR 60(b)(4) Fraud (whether heretofore denominated intrinsic or extrinsic),

misrepresentation, or other misconduct of an adverse party

Washington Superior Court CR 60(b)(3) Newly discovered evidence which by due diligence could not have been

discovered in time to move for a new trial under rule 59(b)

WA Superior Court CR 60(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a

judgment or order

Washington State Superior Court CR 60(b)(9) Unavoidable casualty or misfortune preventing the party from

prosecuting or defending

Washington State Superior Court 60 (b)(11) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1), (2) or (3) not more than 1 year after

the judgment, order, or proceeding was entered or taken. If the party entitled to relief is a minor or a person

of unsound mind, the motion shall be made within 1 year after the disability ceases. A motion under this

section (b) does not affect the finality of the judgment or suspend its operation.

(c) Other Remedies. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding.

Washington State Superior Court Evidentiary Rules - review

Washington State Superior Court ER 102

“These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly Determined.”

Washington CJC Canon 2 A JUDGE SHOULD PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY,

COMPETENTLY, AND DILIGENTLY.

RULE 2.2 Impartiality and Fairness - A judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.*

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage

in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making reference to factors

that are relevant to an issue in a proceeding.

[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning

nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile

acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to

personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the

proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may

reasonably be

perceived as prejudiced or biased.

RULE 2.4

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to

influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or authorize others to convey the impression that any person or organization is in a position to influence the judge.

[1] Judges shall decide cases according to the law and facts, without regard to whether particular laws or litigants

are popular or unpopular with the public, the media, government officials, or the judge's friends or family.

[2] In accordance with GR 29, a judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

*This court is struggling with that and not accomplishing its administrative responsibilities, denying due process, severely depriving the public, and it is not able to discharge all its adjudicative and administrative responsibilities.

Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.*

[1] The right to be heard is an essential component of a fair and impartial system of justice.

Substantive rights of

litigants can be protected only if procedures protecting the right to be heard are observed.

RULE 2.7 - Responsibility to Decide - A judge shall hear and decide matters assigned to the judge, except when

disqualification or recusal is required by Rule 2.11 or other law.*

Rule 2.8 - The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in

Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

*A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff,

court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of

lawyers, court staff, court officials, and others subject to the judge's direction and control.

RULE 2.9

(C) A judge shall not investigate facts in a matter pending or impending before that judge, and shall consider only the

evidence presented and any facts that may properly be judicially noticed, unless expressly authorized by law.

*I'm not sure the court abided properly by this rule. The court is supposed to make inquiry on some matters

in this type of law, especially on the outset, where DVPO's are concerned, etc. This has to do with the

UCCJEA and UGA.

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party's lawyer, or if the party

is unrepresented, the party, who is to be present or to whom notice is to be given.

*Notice was not given. Proper service did not occur. Ever. There is no declaration of service.

RULE 2.10 - Judicial Statements on Pending and Impending Cases

(A) A judge shall not make any public statement that would reasonably be expected to affect the outcome or impair

the fairness of a matter pending* or impending* in any court, or make any nonpublic statement that would reasonably

be expected to substantially interfere with a fair trial or hearing.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control refrain from

making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official

duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a

personal capacity.

[1] This Rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and

impartiality of the judiciary.

Rule 2.11 - Please review for possibilities. Here are some possible special points.

(2) The judge knows* that the judge, the judge's spouse or domestic partner,* or a person within the third degree of

relationship* to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary,* or the judge's spouse, domestic partner,

parent, or child, or any other member of the judge's family residing in the judge's household,* has an economic

interest* in the subject matter in controversy or in a party to the proceeding.

(6) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated

substantially as a lawyer or a material witness in the matter during such association;

(D) A judge may disqualify himself or herself if the judge learns by means of a timely motion by a party that an

adverse party has provided financial support for any of the judge's judicial election campaigns within the last six years in an amount that causes the judge to conclude that his or her impartiality might reasonably be questioned.

In making this determination the judge should consider:

[1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (5) apply. In many jurisdictions in

Washington, the term "recusal" is used interchangeably with the term "disqualification."

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless

of whether a motion to disqualify is filed.

[3] The rule of necessity may override the rule of disqualification. For example, a judge might be required to

participate in judicial review of a judicial salary statute, or might be the only judge available in a matter

requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters

that require immediate action, the judge must disclose on the record the basis for possible disqualification and make

reasonable efforts to transfer the matter to another judge as soon as practicable.

*This is very, very questionable on Kortokrax's part. It definitely calls the court's integrity into question in a

proceeding where Selena Smith is already severely disadvantaged. Remember, there is more than set of

case numbers in this matter. They are not consolidated.

RULE 2.13 - Administrative Appointments

(A) In making administrative appointments, a judge:

(B) A judge shall not appoint a lawyer to a position under circumstances where it would be reasonably be interpreted

to be quid pro quo for campaign contributions or other favors, unless:

(1) the position is substantially uncompensated;

*Severely underpaying the representation for Selena Smith's appointed counsel further disadvantages her

and is not good faith and does not meet the requirements of this rule.

[1] Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters,

receivers, and guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an

appointment or an award of compensation does not relieve the judge of the obligation prescribed by paragraph (A).

ICWA, 25 USC - 1978

Washington State's Indian Child Welfare Act

Washington UGA and UGCPA (mirrors UCCJEA)

Where is the Declaration of Service Form (GDN #04.0850)

Thurston County Superior Court - Local Rules & Procedures:

LSPR 94.01 - Concurrent Jurisdiction Over Family Court and Juvenile Court Actions

(a) Contemporaneous Actions. Contemporaneous Actions are actions filed in Family and Juvenile Court involving the same family or child and having court action within the previous 12 months.

(b) Concurrent Jurisdiction by Rule. The Family and Juvenile Court shall have concurrent jurisdiction over any contemporaneous action under chapters 13.32A (runaway children) or 13.34 RCW (dependency and termination of parent-child relationship) or title 26 RCW (domestic relations), except chapter 26.33 RCW (adoption) and 26.50 RCW (domestic violence prevention), unless a party shows good cause why the Court should not exercise concurrent jurisdiction, or, unless on its own motion, the court determines that concurrent jurisdiction should not be exercised.

26.50 RCW

Legal Authority

I have the right to ask for these orders according to the law (*describe the legal authority that supports your request*):

RCW 2.24.050: Revision by court. All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner.

Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, the orders and judgments shall be and become the orders and judgments of the superior court, and appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

A Proposed Order (*check one*): is [X] is **not** attached to this *Motion*.

Person making this motion fills out below

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true. [X] I have attached (*number of*): 18 pages.

Signed at (*city and state*): Mason County

Date: 8-9-21



Person making this motion signs here

Print name here: Selena Smith, mother, pro se

I agree to accept legal papers for this case at (check one):

my lawyer's address, listed below.

the following address (this does **not** have to be your home address):

street address or PO box

city

state

zip

(Optional) email: _____

*(If this address changes before the case ends, you **must** notify all parties and the court clerk in writing. You may use the Notice of Address Change form (FL All Family 120). You must also update your Confidential Information form (FL All Family 001) if this case involves parentage or child support.)*

Warning! Documents filed with the court are available for anyone to see unless they are sealed. Financial, medical, and confidential reports, as described in General Rule 22, **must** be sealed so they can only be seen by the court, the other party, and the lawyers in your case. Seal those documents by filing them separately, using a Sealed cover sheet (form FL All Family 011, 012, or 013). You may ask for an order to seal other documents.

