

E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT
11/12/2021 - 4:59PM
Linda Myhre Enlow
Thurston County Clerk

EXPEDITE (If filed within 5 court days of hearing)
 Hearing is set: To accompany motion on same day & time
Date: 11-26-21
Time: 10:00am 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 for Reconsideration
(In Re: Denial of 10-29-21
Motion to Revise) & Declaration**

**By John Smith, grandfather
(CR 50, 59,60 & RCW 2.24.050)
(Robertson v. Robertson 113
WnApp 711)**

(Cover Sheet)

TITLE OF DOCUMENT
Motion for Reconsideration
(In Re: Denial of 10-29-21 Motion to Revise)

by JOHN SMITH, grandfather, pro se

NAME: John Smith, grandfather
Mailing ADDRESS: PO Box 1711,
Shelton, WA 98584
PHONE: (360)427-3599

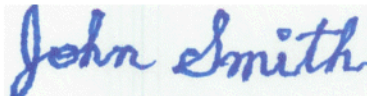
MATERIAL & RELEVANT FACTS (& DECLARATION)

New evidence revealing the **Abuse of Process** by the Stokers and **fraud/Perjury** by security guard Robert K. Kurtz and substantive misconduct by Breckan Scott and her clients 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. These include perjury, stalking, theft, violation of civil rights, conspiracy, and child abuse.

I, John Smith, **certify the Court record/Index List and Attachments submitted** are true copies of what I received and entered into the record from the Thurston County Family & Juvenile Court in case #21-4-00443-34 pursuant to ER 902 and 1005. Selena Smith was indigent, unemployed and unable to afford transcripts of the audio of the review hearings of this case, & was never appointed a lawyer in the emergency guardianship of minors proceedings. Neither were the children at issue.

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 11-12-2021.

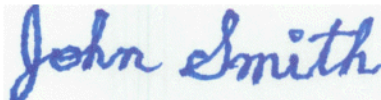


Signature of Petitioner or Lawyer/WSBA No.

John Smith (grandfather), pro se
Print Name

I have e-mailed/posted a copy of this entire document and contents to Breckan Scott, attorney for the Stokers, Selena Smith & James Wells on 11-12-21, but not Mr. Ayer as his contact info is unknown

Respectfully Signed & submitted in Mason, [County] Washington [State] on 11-12-2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

John Smith (grandfather), pro se
Print Name

[] EXPEDITE (If filed within 5 court days of hearing)
[X] Hearing is set: To accompany motion on same day & time
Date: 11-26-21
Time: 10:00am Zoom #: 242-974-5214 Rm:4
Judge/Calendar: Schaller/Revision

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

In re: Guardianship of
Raven & Onawa Smith-Wells

Respondent(s): Minor Child(ren)

**No. 21-4-00452-34
Motion for Reconsideration
(In Re: Denial of 10-29-21
Motion to Revise) & Declaration**

**Submitted by John Smith,
grandfather
(CR 50, 59,60 & RCW 2.24.050)
(Robertson v. Robertson 113
WnApp 711)**

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 Ayers (father), e-mail: unknown, Ph. unknown, address: unknown
AND,
James D Wells, e-mail: rodytok@gmail.com, Ph. (253) 948-8260, 210 Kiona Rd
Randle WA 98377

Preliminary Objections/Concerns:

- 1. JURISDICTION:** John Smith continues to object to lack of jurisdiction of this immediate emergency guardianship of minor(s) petition filed by parties with no legal standing heretofore on 5-27-21 but never properly served on the basis the ex parte immediate emergency motion to deliberately seize the children in a foreign jurisdiction in a foreign jurisdiction (even were there proof of exigent circumstances regarding their safety or imminent harm, which there was not, only perjured declarations and rank speculation calling for conjecture on the part of Breckan Scott's. esq. unopposed arguments) was unconstitutional (violation of 14th Amendment and entitlement to court oversight by the courts of a foreign sovereign—**full faith and credit is NOT 'carte blanche', else state sovereignty Constitutional mandates would be a dead letter**). **ONLY** the state where

the children are located/residing/domiciled may immediately seize children under where exigent circumstances affecting their safety/imminent harm exist where no other court had properly (including service of original process by parties with standing) established in personam and subject matter jurisdiction. In the instant case, proper service under the mandates of RCW 11.130.225 were never completed against a handicapped (one-hand) single destitute mother of 3 small children working a full time minimum wage job in Portland who Breckan Scott claimed (without evidence—argument is not evidence, all that commissioner Kortokrax based his order to summarily seize the children executed under the cover of darkness after midnight on 5-28-21 in Oregon) was mentally ill without a shred of proof, but only (as is her want) speculative argument calling for speculation as though that were evidence. A court must comply with its own rules and laws. This court has not done so, rendering all its orders void ab initio. Selena Smith knows a court that engages in such orders deserves no respect as does the general public. Washington State may not extend its judicial excess and abuse of process into foreign jurisdictions without proper service and original process under the false rubric of ‘**enforceable in all states**’ on the face of its unconstitutional order for the immediate seizure of children in a foreign jurisdiction where they were lawfully domiciled with their mother.

2. No offense intended, but I am concerned (from the outset) I could not receive a fair hearing in the Thurston County Family Court venue. I watched commissioner Indu Thomas’ swearing-in ceremony conducted ~4:00pm on 11-1-21. I am not here to praise commissioner (now judge) Thomas, but to excoriate her performance as a commissioner for a variety of reasons I will attempt to elucidate in this motion for reconsideration while continuing my objection to proper jurisdiction. Yet, **YOU** were her chief eulogizer. It was distressing to hear you speak of her and your relationship with Thomas, her flawless rulings according to law, your history starting together in Thurston County courts as though you were eulogizing your own mother. Moreover, I note you two share Ms. Yvonne Pier as your judicial assistant! Given the misconduct in this case by the clerk’s office in interfering with the issuance of subpoenas in this case under CR 45, the extra-judicial striking of a properly calendared motion I placed on the docket by Mr. Dewitt, esq, an attorney who had not been assigned to the emergency guardianship proceedings nor entered a notice of appearance representing Selena Smith in that cause, AND misconduct by Ms. Vanderwal, a Thurston Family Court administrative staff person, who gratuitously entered an e-mail exchange having nothing material to do with the case into the record in order to further bias commissioner Indu Thomas Breckan Scott, esq, also engaged in the same type of perfidy by entering my e-mail exchanges with her critical of commissioner Thomas. I have observed Christine Schaller as a court commissioner over the years, her appearance before the WA State Supreme Court in her bid for election to the Thurston County Superior Court bench, and her performance as a judge since then. I’m fearfully hopeful I can receive a fair hearing on my motion for reconsideration and trust judge Schaller will recue herself if that fairness and appearance of fairness is not possible or likely before her. (“Indu has been my friend and colleague for over 14 years. ... We started talking and realized how similar our thoughts and processes were. We could tell what a great partnership we were going to have as commissioners. ... In both, She is well respected because she is always prepared and works hard to always follows the rule of law. ... She simply has done what it takes to do the job and do it extremely well. Her work ethic is beyond reproach. ... Indu has a passion for children and families. ... I admire you, Indu, beyond words. You have all the qualities to be an incredible judge because you have already been an incredible court commissioner. But more than that, you are simply an amazing person.” -judge Christine Schaller)

Motion for Reconsideration of Motion to Revise

Person bringing this Motion:

COMES now John Smith, grandfather of the children at issue, by and for himself without counsel of necessity, having been denied standing by commissioner Thomas under CR 19 and CR 24 to advance and protect his relationship with his 3 minor grandchildren, the children of his daughter, Selena Smith, (Raven, Onowa, & Hazel) to protect them from the criminal stalking, harassment, theft, invasion of privacy, perjury, misconduct, malicious prosecution, parental alienation, and hatred of Selena Smith advanced by the petitioners in this cause, does seek the following relief:

Relief Sought

1. Grant reconsideration of John Smith's Motion to revise based on his submitted declaration(s), arguments, points & authorities presented and/or submitted in his memorandum relevant to this motion.
2. Grant live testimony based on the irregularities, fraud, perjury, misconduct and cumulative errors in this cause along with addition to the record after being denied meaningful opportunity to supplement the record by commissioner Indu Thomas.
3. Enter a finding it was error to deny John Smith's motion to revise due to lack of timeliness in filing after being told by commissioner Thomas his early filing of a motion to revise prior to 7-29-21 constituted a bar to her allowing his motion for reconsideration—an oxymoron barred by principles of both judicial and equitable estoppel inasmuch as I had a right to rely on the courts ruling from the bench, which it acted on in denying my motion for reconsideration.
4. Enter a finding RCW 2.24.050 is ambiguous in that although it establishes a drop dead date of no later than 10 days after entry of ANY order, it does not prohibit or address filing an early motion to revise (such as in the instant case) before a 'written' order. Accordingly, the ambiguity in law must be interpreted in favor of the movant in this matter for a motion to revise.
5. Enter a finding the parties were not prejudiced by John Smith's filing of a motion to revise prior to 7-29-21.

Material & Relevant Facts

1. **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.



THURSTON COUNTY SUPERIOR COURT

Thursday, July 29, 2021, 10:30 a.m.
Family Law Calendar

Court Commissioner Indu Thomas
Michaela Balderston, Deputy Clerk
Hearing Recorded

Underlined Parties Present at Hearing

8. 21-4-00452-34

Guardianship of RAVEN GAIA SHENANDOAH
SMITH-WELLS, ONAWA KACHINA SMITH-WELLS

PETITIONER: STOKER, HANS ET AL

SCOTT BRECKAN

Motion Hearing

>
The Court is unable to hear the motion for reconsideration based on the filing of a motion for revision.

The Court approved and signed: Order on Review Hearing

2.

3. John Smith relied on commissioner Thomas' ruling he had filed a motion to revise which she acted on by refusing to recognize his motion for reconsideration, declaring his motion to revise eliminated her authority to recognize his motion for reconsideration. He relied on the court's bench ruling and was bound by it or at least the court treated him as though he was bound by it to his prejudice.

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 11-12-2021.

Date: _____

Judge or Commissioner: X _____

Signature

Printed Name

Respectfully submitted by:

Date: 11-12-21

John Smith (grandfather): X

John Smith

Signature

Printed Name: JOHN SMITH, grandfather