

CN: 201703018170

SN: 397

PC: 15

FILED

2020 SEP 21 P 2:07

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

Superior Court of Washington, County of Spokane

In re:

Petitioner/s (person/s who started this case):

SIRINYA SURINA

And Respondent/s (other party/parties):

AARON SURINA

No. 17-3-01817-0

Declaration of Sirinya Surina in **Opposition**
to Respondent Aaron Surina Motion for
Order Relief set aside judgement under Rule
60 nun pro tunc – Clerical error and affidavit
of truth by resp.

Amended Final Orders.

(DCLR)

1. My name is Sirinya Surina, I am 35 years old. I am the Petitioner in this case.
2. The proposed motion for order relief contains vague arguments and suppositions that respondent Aaron Surina has tried to argue multiple times Pro Se in the courts but in fact have no debatable issues of fact or law. His appeal on these matters was found to be frivolous by Division 3 of the Court of Appeals. He was sanctioned by the court of appeals for attorney fees. **[Exhibit A] [9 pgs]** When Judge Price ruled on the retirement plan he took the Sept 30th 2017 statement **[Exhibit B][1 pg]** at face value when in fact respondent was not fully vested in the \$23,191.76 at the time of our separation. I have no way of knowing what respondent's vested amount was on Sept 30th 2017 but that is the primary reason Fidelity could not pay out my award. Judge price awarded me more than half of the retirement plan to me due to the shortfall on the sale of the house **[Exhibit C][1 pg]** page 10 of the verbatim transcript. I am aware that Judge Price awarded me \$16,642.88

and my proposed order is for \$16,595.88. I am willing to stipulate (concede) to this \$47.00 difference.

Also respondent objected to "changing the separation date to current" in item #6 of Relief requested. I am not asking the court to change the "date of separation to current" I am asking the court to change the valuation date to be the same date as my proposed QDRO because I believe that there are adequate funds in the retirement account to payout my \$16,595.88 in its entirety. The other option would be to subpoena all of the respondent's retirement plan statements so that I could ascertain a date upon which there would be adequate vested "vested" funds in the account to payout my award. This would take time, money and energy that I just can't afford, I would like to get on with my life.

Each time we submit a QDRO order to Fidelity they charge \$600 to review the site generated order. They have rejected both the original QDRO that Judge Price signed and the 2nd QDRO that Judge Fennessey edited and signed June 25th.

My proposed QDRO states that I am willing to split the \$600 review fee 50/50 with the respondent see pg 4 line 19 of my proposed QDRO.

3. In item #2 of Mr. Surina's motion he attempts to argue the various 191 restrictions that were placed on the respondent for his "abusive use of conflict" which continues to this day [Exh D][1 pg]

The exchanges have become an emotional and psychological nightmare for myself and the children, I would ask that if the court has discretion on this subject it would apply or enforce any legal remedies available for this situation. The respondent lingers at the curbside for an hour or two or withholds the children for an hour or two while I wait patiently at the curbside to pick them up in Idaho where respondent now lives. Why should I be expected to pick them up in Kootenai County? I believe that this is a premeditated passive

aggressive action so that he can get "more time" with the boys while I wait for them in my car or plead repeatedly for them to come inside. This is in direct violation of Judge Price's five minute exchange rule [Exh E][1pg] page 29 line 25 and following. Respondent is also trying to argue multiple issues about the parenting plan which are not before the court today and are factually and legally baseless.

Summary

Respondent's motion contains rambling and far flung references which are factually and legally baseless and have nothing to do with my proposed QDRO motion. I would ask the court to dismiss respondent Aaron Surina's Motion for Order Relief and approve my proposed QDRO verbatim as submitted with track # 874589469

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form (and any attachments) are true. I have attached **14** pages.

Signed at _____ Spokane, WA

Date:

9/21/20

Sign here

Print name

Siringa Surina

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

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



500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>

EXHIBIT
A

May 14, 2020

E-mail

Keith A. Glanzer
Keith A Glanzer PS
2024 W Northwest Blvd
Spokane, WA 99205-3715
kagps70@hotmail.com

E-mail

Aaron Michael Surina
PO Box 30123
Spokane, WA 99223
LEGAL@SURINA.ORG

CASE # 366961
Aaron Michael Surina v. Sirinya Polarj
SPOKANE COUNTY SUPERIOR COURT No. 193001290

Counsel and Mr. Surina:

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 (may be filed by electronic facsimile transmission). 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,

A handwritten signature in cursive script that reads "Renee S. Townsley".

Renee S. Townsley
Clerk/Administrator

RST:pb
Enc.

c: E-mail Hon. Anthony Hazel

FILED
MAY 14, 2020
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

AARON SURINA,	)	No. 36696-1-III
	)	
Appellant,	)	
	)	
v.	)	UNPUBLISHED OPINION
	)	
SIRINYA POLARJ (SURINA),	)	
	)	
Respondent.	)	

LAWRENCE-BERREY, J. — Aaron Surina appeals after the trial court dismissed his action to register a Thailand child custody order and imposed CR 11 sanctions against him. We affirm the trial court and impose sanctions against Mr. Surina for a frivolous appeal.

FACTS

In August 2017, one of the parties commenced a dissolution action against the other in Spokane County Superior Court. The trial court entered a temporary child support order and a temporary parenting plan. Mr. Surina litigated issues of child abuse and spousal abuse in that action. He never challenged the court's jurisdiction. At some point, the court set a trial date of June 10, 2019.

No. 36696-1-III
Surina v. Polarj

Around March 2018, Mr. Surina traveled to Thailand and filed an action for dissolution and child custody. The Thailand court entered a default judgment against Sirinya Polarj and gave Mr. Surina custody of the parties' children. Mr. Surina returned to Washington and commenced this action to register the Thailand child custody order.

On February 5, 2019, Ms. Polarj moved to dismiss the newly filed action. In her declaration, Ms. Polarj stated she and her children are American citizens and she had no notice from the Thailand court of the action. Ms. Polarj argued the Spokane County Superior Court had exclusive jurisdiction over the dissolution and child placement proceedings. She also requested sanctions against Mr. Surina under CR 11 for filing a frivolous action.

Mr. Surina responded by asserting Ms. Polarj had notice of the Thailand proceedings, Thailand laws are superior to any other laws, and he filed the Thailand action to prevent an international abduction of his children. As evidence Ms. Polarj received notice, Mr. Surina attached a June 6, 2018 e-mail from a Thailand attorney. In that e-mail, the attorney wrote:

Dear [Mr. Surina],

The officer told me that they ask your ex-wife to come on 19 June. I could not confirm that she will come to the Juvenile Division or not.

But I will check with the officer again after 19 June that she come or no and I will tell you.

Clerk's Papers (CP) at 17.

The trial court found that Ms. Polarj met her burden to show the Thailand court did not have jurisdiction, and she did not receive proper legal notice before the Thailand order was issued. The trial court, therefore, granted Ms. Polarj's motion to dismiss this action.

The trial court also entered the following findings with respect to Ms. Polarj's request for CR 11 sanctions:

1. Aaron Surina's allegations asserted in the Thailand divorce and Custody pleadings, including but not limited to child abuse and spousal abuse, were litigated in the Spokane County Superior Court, Case No. 17-3-01817-0.^[1]
2. The Thailand custody order was obtained without formal legal notice to Respondent, Sirinya [Polarj].
3. Mr. Surina cites no legal authority supporting his assertion that Thailand's orders supersede the Washington State Superior [Court] Orders that were in effect when he traveled to Thailand to obtain the orders.
4. There is no basis to enforce the Thailand orders. The filing of this notice is a frivolous and vexatious action . . . without basis in law or fact and solely for the purpose of harassing the Respondent.

¹ Mr. Surina devotes much of his briefing in an attempt to relitigate issues of abuse. These issues were already litigated, are not in front of us, and we will not consider them.

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Surina v. Polarj

CP at 107 (third alteration in original). Based on these findings, the trial court granted Ms. Polarj's request for CR 11 sanctions.

Mr. Surina timely appealed both orders.

ANALYSIS

DISMISSAL OF THE THAILAND CHILD CUSTODY ORDER

Mr. Surina contends the trial court erred by dismissing his action to register the Thailand child custody order. We disagree.²

A party can register an out-of-state child custody order in the State of Washington under RCW 26.27.441. The other party can contest the entry of the out-of-state custody order. RCW 26.27.441(4). If this occurs, the trial court holds a hearing and must confirm the registered determination unless the party contesting it demonstrates that:

- (a) The issuing court did not have jurisdiction under Article 2;
- (b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or
- (c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the determination for which registration is sought.

² Mr. Surina has not assigned error to the trial court's findings of fact; therefore, they are verities on appeal. *State v. Homan*, 181 Wn.2d 102, 106, 330 P.3d 182 (2014).

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Surina v. Polarj

RCW 26.27.441(4). A challenger need only prove one of the above defenses to block registration of an out-of-state custody order. Ms. Polarj asserted subsections (a) and (c) as defenses. Because we conclude below that the Thailand court did not have jurisdiction, we do not reach the question of whether there was adequate notice.

RCW 26.27.211(1) provides, in relevant part:

[A] court of this state that has made a child custody determination consistent with RCW 26.27.201 or 26.27.221 has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that neither the child, the child's parents, and any person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

Here, the trial court made an initial child custody determination pursuant to RCW 26.27.201. There is no evidence the trial court lost jurisdiction, as provided in RCW 26.27.211(1)(a) or (b). Therefore, Ms. Polarj established the trial court had exclusive and continuing jurisdiction over the parties' dissolution action, and the Thailand court was without jurisdiction to enter its child custody order. We conclude the trial court did not err by dismissing Mr. Surina's action to register the Thailand order.

CR 11 SANCTIONS

Mr. Surina contends the trial court erred when it imposed CR 11 sanctions against him. We disagree.

CR 11 sanctions aim to prevent baseless filings, filings made for improper purposes, and abuses of the judicial system. *Biggs v. Vail*, 124 Wn.2d 193, 197, 876 P.2d 448 (1994). If a party engages in the aforementioned conduct, the trial court can impose an appropriate sanction, including a reasonable attorney fee. CR 11(a).

We review a trial court's decision to impose CR 11 sanctions for an abuse of discretion. *Skimming v. Boxer*, 119 Wn. App. 748, 754, 82 P.3d 707 (2004). "An abuse of discretion occurs only when the decision of the court is 'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.'" *State v. McCormick*, 166 Wn.2d 689, 706, 213 P.3d 32 (2009) (quoting *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971)).

The trial court did not abuse its discretion by imposing CR 11 sanctions against Mr. Surina. The record amply supports the trial court's findings that Mr. Surina did not provide proper notice of the Thailand action to Ms. Polarj, Mr. Surina provided no legal authority for his argument the Thailand order superseded the Washington temporary orders, and there was no legal basis to enforce the Thailand order. Mr. Surina's filing of

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this action was factually and legally baseless. We conclude the trial court did not err by imposing CR 11 sanctions.

ATTORNEY FEES ON APPEAL

Ms. Polarj requests attorney fees and costs under RAP 18.9. RAP 18.9 authorizes an award of attorney fee sanctions if an appeal is frivolous. When determining whether an appeal is frivolous, the court will consider the following factors:

“(1) A civil appellant has a right to appeal under RAP 2.2; (2) all doubts as to whether the appeal is frivolous should be resolved in favor of the appellant; (3) the record should be considered as a whole; (4) an appeal that is affirmed simply because the arguments are rejected is not frivolous; (5) an appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and it is so totally devoid of merit that there was no reasonable possibility of reversal.”

Espinoza v. Am. Commerce Ins. Co., 184 Wn. App. 176, 202, 336 P.3d 115 (2014)

(internal quotation marks omitted) (quoting *Griffin v. Draper*, 32 Wn. App. 611, 616, 649 P.2d 123 (1982)).

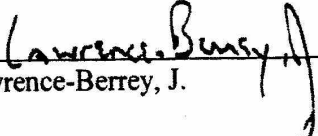
Given these standards, we determine Mr. Surina’s appeal is frivolous. The record confirms there are no debatable issues of fact or law and the appeal is so totally devoid of merit there is no reasonable possibility for reversal. Also, Mr. Surina never cited the record, he never cited legal authority, and his numerous assertions are so muddled they

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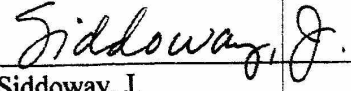
inhibit basic appellate review. Subject to Ms. Polarj's compliance with RAP 18.1(d), we grant her request for reasonable attorney fee sanctions against Mr. Surina.

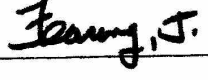
Affirmed.

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.

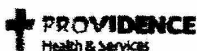

Lawrence-Berrey, J.

WE CONCUR:


Siddoway, J.


Fearing, J.

EXH B



PH&S Retirement Program Statement

AARON M SURINA
PO BOX 30123
SPOKANE, WA 99223-

Retirement Savings Statement

Customer Service: (888) 343-0860
Fidelity Brokerage Services LLC
900 Salem Street, Smithfield, RI 02917

Account Summary

Statement Period: 07/01/2017 to 09/30/2017

Activity	Ph&S Value Plan 403b	Ph&S 401(a) Service	Total
Beginning Balance	\$13,639.18	\$7,162.86	\$20,802.04
Employee Contributions	\$902.40	\$0.00	\$902.40
Providence Contributions	\$451.18	\$0.00	\$451.18
Change in Account Value	\$589.95	\$346.19	\$1,036.14
Ending Balance	\$15,682.71	\$7,509.05	\$23,191.76
Additional Information			
Dividends & Interest	\$175.61	\$86.47	\$262.08

Your Personal Rate of Return

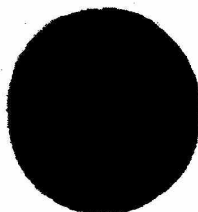
This Period

4.8%

Your Personal Rate of Return is calculated with a time-weighted formula, widely used by financial analysts to calculate investment earnings. It reflects the results of your investment selections as well as any activity in the plan account(s) shown. There are other Personal Rate of Return formulas used that may yield different results. Remember that past performance is no guarantee of future results.

Your Asset Allocation

Statement Period: 07/01/2017 to 09/30/2017



- 93.00% Stock Investments: \$21,568.34
- 6.00% Bond Investments: \$1,391.51
- 1.00% Short-Term Investments: \$231.92

Your account is allocated among the asset classes specified above as of 09/30/2017. Percentages and totals may not be exact due to rounding.

The Additional Investment Information section lists the underlying allocation of your blended investments.

Account Value

Statement Period: 07/01/2017 to 09/30/2017

This section displays the value of your account for the statement period in both shares/units and dollars.

Ph&S Value Plan 403b

Investment	Shares/Units as of 06/30/2017	Shares/Units as of 09/30/2017	Price as of 06/30/2017	Price as of 09/30/2017	Account Value as of 06/30/2017	Account Value as of 09/30/2017
Blended Investments*					\$13,639.18	\$15,682.71
FID Freedom K 2040	807.052	0.000	\$18.90	\$17.16	\$15,638.18	\$0.00
FID Freedom 2040 K	0.000	1,486.442	\$9.94	\$10.48	\$0.00	\$15,682.71
Account Totals					\$13,639.18	\$15,682.71

Ph&S 401(a) Service

Investment	Shares/Units as of 06/30/2017	Shares/Units as of 09/30/2017	Price as of 06/30/2017	Price as of 09/30/2017	Account Value as of 06/30/2017	Account Value as of 09/30/2017
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Blended Investments* \$7,162.86 \$7,509.05

NO. 173-01817-0

RESPONDENT'S EXHIBIT

EXH C

1 provision I should say. I thought a great deal about this.
2 Phone contact between the children and the parent who does not
3 have that child in his or her care is, for now, suspended
4 entirely. Either party may approach the Court not earlier
5 than one year from now, or I should say from entry of the
6 Decree of Dissolution, and request that this provision be
7 reinstated. But at this point in time, I want each parent's
8 time with the children to be that parent's time with the
9 children. Not otherwise invaded by phone calls.

10 Now, deviating for a moment, I'm going to direct
11 that Mr. Surina and will order that he will restrained from
12 contacting Ms. Surina for a period of one year, unless that
13 contact is about the children on the app My Family Wizard.
14 That's not a violation of the order. No contact either in
15 person, through email, phone, text, or through third parties,
16 except for the specific windows I have provided.

17 Mr. Surina, you will not go within one city block of
18 Ms. Surina's home, school, or any place where she may be
19 unless that is for the specific purpose of pick-up or drop-off
20 of the children. This is not meant to be a criminal
21 no-contact order. This is not meant to be an order that the
22 Court expects law enforcement to be advised of. If there's a
23 violation of the order, the remedy is to come to court, not to
24 call law enforcement.

25 Pick-up and drop-off of the children -- and,

1 And I'm satisfied that once this divorce is done, things will
2 settle down and they'll settle down a lot, and realistically,
3 they already have. So I gave this a great deal of thought,
4 and your time with your children, Mr. Surina, is going to
5 significantly increase. But I do want you to remember,
6 Mr. Surina, and I'm trusting that you'll do what I tell you if
7 you want to keep the time with the boys that I'm providing to
8 you, that additional parenting time.

9 Remember what I said earlier. I am assigning this
10 case to myself, which means if there is a problem, if there
11 are issues, I'm the judicial officer that's going to hear
12 about it. I have four full notepads with notes from this
13 trial. If I hear about problems, your time will be adjusted
14 accordingly if it's appropriate.

15 So, first of all, the Court would designate that
16 Ms. Surina will be the primary residential custodian of both
17 boys. There will be what are called 191 restrictions, but it
18 will be limited to the following. And, Mr. Glanzer, I
19 apologize. I'll go slow here but I've got some specific
20 language that I want you to use.

21 That Mr. Surina has repeatedly engaged in abusive
22 use of conflict with the petitioner and has consistently
23 involved the minor children in this conflict, which is then
24 contrary to the children's best interests and their emotional
25 health, end of quote. So that will be the extent of the 191