

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SPOKANE **FILED**SURINA, SIRINY A,)
Petitioner,)

SPOKANE COUNTY

NO. 17-3-01817-0

AUG 8 0 2023

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

v.)

SURINA, AARON M)
Respondent.) **ORIGINAL**HONORABLE STEVE B. DIXON
VERBATIM REPORT OF PROCEEDINGS
JUNE 23, 2023APPEARANCES:FOR THE PETITIONER: JONATHAN BISCEGLIA
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FOR THE RESPONDENT: Self-represented

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VERBATIM REPORT OF PROCEEDINGS**June 23, 2023**

03:11 05 THE COURT: Calling Sirinya Surina versus
06 Aaron Surina, 17-3-01817-0, comes before the Court on
07 Mr. Surina's motion for contempt. I'll point out before
08 I begin that the caption in this case has been fairly
09 plastic. There can be no additions to the caption, and
03:12 10 the parties stay the same; petitioner stays on top,
11 respondent on the bottom, and that is all.

12 Sometimes you don't mention the kids,
13 sometimes you do. But please use the original caption,
14 even if the names have changed, a motion can be brought
15 to amend the caption.

03:12 16 I'd also note that with respect to your
17 affidavits, Mr. Surina, most of them are hearsay and I
18 will not consider hearsay in an affidavit.

19 I will hear your motion, please proceed.

03:12 20 MR. SURINA: Thank you, Your Honor, for
21 coming, first of all. I appreciate you coming here. I
22 know it's a long way.

23 I have a motion status report I'd be happy
24 to hand to your assistant, if you'd like.

03:13 25 THE COURT: I read the motion that you
mailed to me.

03:13 1 MR. SURINA: Okay. Fair enough. I'm here
2 today because in my affidavits some of the non-hearsay
3 that's in there is the -- my ex-wife had moved, had
4 closed a sale on her house, which is her business, but
5 that took place on the 23rd of May.

6 Now, I didn't file this. I didn't know
7 anything until there was an email exchange between my
8 oldest son's teacher, my ex-wife, and myself in regards
9 to trying to facilitate the support network that we've
03:13 10 put together, you know, for him and his schooling. It's
11 been -- he's put a lot of effort forth, to say the
12 least. In that e-mail, which I did attach, she
13 responded --

14 THE COURT: That's why it's hearsay. It's
03:13 15 an e-mail. It's an out-of-court statement.

16 MR. SURINA: Sure.

17 THE COURT: Made by yourself, that is not
18 admissible, nor a non-party, that is not admissible.

19 MR. SURINA: She is a party.

03:14 20 THE COURT: Get to the substance of your
21 motion.

22 MR. SURINA: Okay. Understood. So I
23 received -- I received notice on the 1st that she had
24 moved. I mean, on the 30th, excuse me. Apologize.

03:14 25 Further, looking, I realized she had

1 actually closed the sale of the house on the 23rd of
2 May, which is, you know, at a minimum of 45 days escrow.
3 So there was no notice of intent to move, you know.
4 That would have given us time to put together the
03:14 5 support network and what have you.

6 THE COURT: This is a motion for contempt.

7 MR. SURINA: Right.

8 THE COURT: This is not with regard to the
9 relocation. Argue your motion for contempt.

03:14 10 MR. SURINA: Okay. Okay. Okay. So the
11 motion for contempt is based on a couple different
12 things. I did file an objection letter. I'm assuming
13 that is a separate issue that would be noted for hearing
14 at a different time.

03:14 15 THE COURT: Correct.

16 MR. SURINA: Okay. Good. So -- so the
17 situations in the contempt are currently during the
18 parenting plan. My children are taken generally six
19 days a week to the bar. In the Court's order, the
03:15 20 Court's order states that the children aren't allowed to
21 be around intoxicated people. That's one issue of the
22 contempt.

23 THE COURT: It does not. The parenting plan
24 says --

03:15 25 MR. SURINA: We are not allowed to be

1 intoxicated.

2 THE COURT: You are not allowed to be
3 intoxicated.

4 MR. SURINA: Correct, excuse me.

03:15 5 THE COURT: And it is not enough to put in
6 an affidavit that she was intoxicated without a basis
7 for personal knowledge. Do you have a basis for
8 personal knowledge that she was intoxicated in front of
9 your children and --

03:15 10 MR. SURINA: Of course I do.

11 THE COURT: -- part of an affidavit?

12 MR. SURINA: Wasn't that in the affidavit?

13 THE COURT: You said generally she's
14 intoxicated, but it doesn't say the basis of your
03:16 15 knowledge.

16 MR. SURINA: Well, yeah. So, so to step
17 back a little bit, the opposing counsel I read -- I read
18 the -- I read his response, okay. And what I want to
19 bring to the Court here about that is that first of all
03:16 20 it states that we're high conflict. I'm high conflict
21 because I come to the court. The Court orders states
22 that we have to.

23 THE COURT: Sir, sir.

24 MR. SURINA: I go to -- yes, sir?

03:16 25 THE COURT: Stick to the point. Why is she

1 in contempt?

2 MR. SURINA: She's in contempt for one, for
3 being intoxicated around the kids.

4 THE COURT: What is your basis of knowledge?

03:16 5 MR. SURINA: Being at the restaurant.

6 THE COURT: You were at the restaurant?

7 MR. SURINA: Many times.

8 THE COURT: Your affidavit does not say
9 that. It says that she is there, but it does not say "I
03:16 10 personally saw her intoxicated."

11 MR. SURINA: My testimony is I have
12 personally seen her intoxicated.

13 THE COURT: Well, this is not an opportunity
14 to testify. These matters are done on affidavits. But
03:17 15 you are saying you're not under oath. It doesn't mean
16 much to me, but you're saying you have been in her
17 restaurant.

18 MR. SURINA: I have.

19 THE COURT: In Spokane and seen her
03:17 20 intoxicated.

21 MR. SURINA: In Airway Heights, yes, sir.

22 THE COURT: Okay. What's your next motion
23 for contempt?

24 MR. SURINA: Failure to follow the Court
03:17 25 orders. So she consistently has -- I have had contempts

1 that I've filed and did not note for hearing or push for
2 a date, and the reason why is because we were constantly
3 going to court.

03:17 4 THE COURT: Well, sir, the reason you're
5 constantly going to court is you can't stick to the
6 point. I asked you very simply what's your next motion
7 for contempt?

8 MR. SURINA: The next motion for contempt is
9 the tax forms.

03:17 10 THE COURT: The tax forms.

11 MR. SURINA: Correct, sir.

12 THE COURT: I did see something in a
13 parenting plan. You did not quote it in any of your
14 briefing.

03:17 15 MR. SURINA: I did bring the oral ruling, in
16 case you needed it. I brought an extra copy. I'd be
17 happy to show you.

18 THE COURT: I finally found it here.

03:18 19 MR. SURINA: Okay. Not to add any -- add
20 any, you know, extra points here on the already heavy
21 caseload. I do want to say there are a number of
22 clerical errors, none of which affect the opposing party
23 but all of which affect me.

03:18 24 THE COURT: Well, sir, again, we are here on
25 a motion for contempt, not a generalized discussion.

1 MR. SURINA: Fair enough.

2 THE COURT: For tax years, when a
3 noncustodial parent has the right to claim the children,
4 the parents must cooperate to fill out and submit IRS
03:18 5 form 8332 in a timely manner.

6 MR. SURINA: Right.

7 THE COURT: And on some tax years, she is
8 entitled to the tax benefits, and in some she's not.

9 MR. SURINA: I don't -- where is that?

03:19 10 She's not entitled to them at all. In fact, Judge Price
11 argued --

12 THE COURT: So long as Sirinya Surina does
13 not benefit through the tax code to claim one of the
14 children.

03:19 15 MR. SURINA: That's a clerical error,
16 though, Your Honor. I'll tell you why.

17 THE COURT: Don't talk to me about clerical
18 errors. That's what you're working with.

19 MR. SURINA: What about the oral ruling?

03:19 20 THE COURT: Oral rulings mean nothing.

21 MR. SURINA: There was no hearing in between
22 them.

23 THE COURT: Oral rulings mean nothing. If
24 you're holding somebody in contempt, it better be in
03:19 25 writing.

1 MR. SURINA: Well, I have 2019, Your Honor.
2 I would ask the Court consider the fact in 2019 she gave
3 me both of them.

4 THE COURT: Well, I will not consider that.
03:19 5 I'm considering only the language in the parenting plan.
6 Do you have any other contempts that you
7 want to discuss?

8 MR. SURINA: Your Honor, I have a number of
9 things that are, you know, I'm un-- there's a number of
03:20 10 things in regards to the Court's order, but I was under
11 the impression that the final ruling, the oral ruling,
12 which is a 63-page oral ruling from Judge Price.

13 THE COURT: I read it, and it means nothing.

14 MR. SURINA: Okay.

03:20 15 THE COURT: Unless it's in a decree signed
16 by him, filed with the Court. It's not.

17 MR. SURINA: Yes.

18 THE COURT: It's not your divorce decree.

19 MR. SURINA: How do I --

03:20 20 THE COURT: You have -- you have said that
21 she is in contempt for not furnishing you with the tax
22 forms. Anything else that she's, oh, and for drinking
23 in front of the children.

24 Do you have anything else you wish to hold
03:20 25 her in contempt for?

1 MR. SURINA: I think that it's -- I believe
2 the Court order does say that, you know, we're not
3 supposed to speak disparagingly about the other party
4 and it's constantly going on.

03:21 5 THE COURT: That wasn't in your motion.

6 MR. SURINA: That's not in my motion. The
7 motion for contempt has things that I discussed,
8 drinking, taking the kids to the bar. Every day she
9 takes the kids to work with her, every day of the week
03:21 10 to the bar. I'm trying to correct that. I asked her --
11 I'm trying to work with her. I'm willing to do whatever
12 days you have off. I'm willing to give them to, you
13 just don't take them to the bar every day. That's one
14 thing I'm trying to be fair and reasonable. I'm not an
03:21 15 attorney. I don't have everything perfect.

16 THE COURT: Okay. Are you finished?

17 MR. SURINA: I feel like I'm not, but, you
18 know, I mean, I'm -- the contempt has to do with her
19 providing a stable and decent environment for the kids.
03:21 20 So yeah --

21 THE COURT: No, once again, and this is the
22 only time I'm going to say it again --

23 MR. SURINA: Yeah.

24 THE COURT: If you're charging her with
03:22 25 contempt, you've got to point to specific affidavit in a

1 court order. Do you have anything else that you have
2 alleged that she's in contempt for?

3 MR. SURINA: Your Honor, can I take a moment
4 and go to the bathroom?

03:22 5 THE COURT: Yes.

6 MR. SURINA: I'm nervous.

7 THE COURT: We'll be back on the record at,
8 what is it, I can't see the clock.

9 THE CLERK: 3:22, Your Honor.

03:22 10 THE COURT: 3:22, we'll be back on the
11 record at 3:30.

12 MR. SURINA: I'll be right back.

13 THE COURT: We'll be at recess. We'll be
14 off the record, thank you.

03:22 15 (A recess was taken)

16 MR. SURINA: I'm ready.

17 THE CLERK: All rise.

18 THE COURT: You may be seated.

19 MR. SURINA: Thank you, sir.

03:24 20 THE COURT: We're back on the record in
21 Surina versus Surina, 17-3-01817-0. Mr. Surina, I asked
22 you four times, I will ask you again. Do you have any
23 other ground for contempt you wish to argue?

24 MR. SURINA: I do, Your Honor.

03:24 25 THE COURT: Okay.

1 MR. SURINA: I filed a contempt because in
2 looking at the response from the petitioner also proves
3 it. There's no hearsay about it. I understand that you
4 think I sent an e-mail, but it was actually -- she sent
03:25 5 that e-mail, so let me just straighten this out real
6 quick. I filed a contempt for her failure to provide
7 notice of intent to move, failure to completely -- hid
8 it, hid it from everybody.

9 THE COURT: Well, that's on her because
03:25 10 she's not going to be able to move without going through
11 the legal process.

12 MR. SURINA: She's already moved.

13 THE COURT: Well, they say they didn't. If
14 she did, that will be something we'll take up.
03:25 15 Anything else?

16 MR. SURINA: I didn't know she said she
17 didn't move.

18 THE COURT: It's in her papers.

19 MR. SURINA: She bought the house. They
03:25 20 closed on the 23rd of May.

21 THE COURT: Well, they closed. She hasn't
22 moved yet. That's what they said in the papers.

23 MR. SURINA: There's nothing in the house,
24 the old house. I've seen it.

03:25 25 THE COURT: Well, I know --

1 MR. SURINA: That's why I'm here. Yes, sir.

2 THE COURT: Is that it?

3 MR. SURINA: Besides what I've already
4 brought up, that's the main reason I'm here.

03:26 5 THE COURT: You may be seated. Sir, your
6 name is Mr. Bisceglia.

7 MR. BISCEGLIA: Bisceglia, Your Honor.

8 THE COURT: Bisceglia, I'm sorry.

9 Mr. Bisceglia, you have heard that I have narrowed this
03:26 10 down to three issues.

11 MR. BISCEGLIA: Correct.

12 THE COURT: In which he intends to hold your
13 client in contempt. Let's take up the tax forms first.
14 I saw that you did send him some tax forms with your
03:26 15 pleadings in this case.

16 MR. BISCEGLIA: Correct. This is the sealed
17 source financial documents filed June 16th. The 8332
18 forms are the first two. I believe first -- I'm sorry,
19 last three of that, that are for filing years 2019, '20,
03:26 20 and '21. And then the last one is for '20 through 2023.
21 One is dated February of this year, and one is November
22 of 2021.

23 THE COURT: Okay. Those have been provided.

24 MR. BISCEGLIA: From my understanding,
03:27 25 that's correct, Your Honor.

1 THE COURT: Okay. And it is my
2 understanding that as of what year the tax deduction was
3 beneficial to her.

4 MR. BISCEGLIA: The -- I would have to talk
03:27 5 with my client on what year she opened the restaurant.
6 Trial in this matter was 2020.

7 MR. SURINA: '19.

8 THE COURT: '19.

9 MR. BISCEGLIA: Final orders entered in
03:27 10 December of '19. So I would have to ask her what year
11 she opened the restaurant, but I imagine that would be
12 filing year likely '21 is the year.

13 THE COURT: Okay. So he needs all the forms
14 for before '21, and then she gets '21, and he gets '22,
03:28 15 and if she's still in the business she gets '23; am I
16 correct about that?

17 MR. BISCEGLIA: In looking at the order, I
18 did have some --

19 THE COURT: It was in-artful.

03:28 20 MR. BISCEGLIA: Yeah, it's not the type of
21 tax order I'm used to seeing. The way that I read this,
22 Aaron Surina has the right to claim David Michael Surina
23 and Andrew Alex Surina, so long as Sirinya Surina does
24 not benefit through the tax code to claim one either
03:28 25 through the employment or the earned income credit.

1 THE COURT: Well, she can claim one in a
2 year if she's making money.

3 MR. BISCEGLIA: Correct. That's my reading
4 of the order is --

03:28 5 THE COURT: Okay. Well, you've supplied all
6 of the forms, and now you have to talk about who gets
7 who for which years.

8 MR. BISCEGLIA: So the 8332 forms that we do
9 have are for -- it releases the claim of David. So it
03:29 10 would be Ms. Surina that gets Andrew, so long as she
11 stands to benefit through the tax code.

12 THE COURT: Oh, okay.

13 MR. BISCEGLIA: That's my reading of the
14 order.

03:29 15 THE COURT: I think you're right. All
16 right. Then the other -- oh, it's claimed that she's
17 intoxicated in front of the children.

18 MR. BISCEGLIA: Ms. Surina denies that.
19 What she says in her declaration is, yes, I have to stop
03:29 20 by the restaurant. It's a restaurant, for
21 clarification, not a bar. There is a bar in it, but its
22 overarching purpose is to be a restaurant. Of course, I
23 have to stop by, I own this restaurant and it doesn't
24 run itself.

03:29 25 She denies that she consumes alcohol

1 regularly, let alone be intoxicated in front of the
2 kids. Mr. Surina has provided nothing in support of
3 that. And Your Honor did ask: How do you have personal
4 knowledge of this? We don't see that in the
03:30 5 declarations. It's -- it's a hard spot for Ms. Surina
6 to be in where you disprove a negative. How do I
7 demonstrate to the Court that you have never seen me
8 intoxicated, absent something like Soberlink, that is
9 inappropriate for this case.

03:30 10 THE COURT: I understand. Now, has she
11 moved out of the school district with the children?

12 MR. BISCEGLIA: She has not, Your Honor.
13 The home has closed; that is correct.

14 THE COURT: That she purchased?

03:30 15 MR. BISCEGLIA: Yes, that she purchased.

16 THE COURT: Okay. But she still lives with
17 the kids in the same school district?

18 MR. BISCEGLIA: That's correct.

19 THE COURT: What is her address?

03:30 20 MR. BISCEGLIA: It is 227 East 22nd Avenue.

21 THE COURT: Okay.

22 MR. BISCEGLIA: And that is -- oh, I'm
23 sorry, that is apart of the map on one of my
24 declarations, so I could hold it from there, but it's in
03:31 25 the declaration, Your Honor.

1 THE COURT: Okay. Anything else you want to
2 add?

3 MR. BISCEGLIA: Two things, Your Honor. I
4 understand the timelines of the relocation, that notice
03:31 5 has been filed.

6 THE COURT: It's got 60 days.

7 MR. BISCEGLIA: Correct. The timeline of
8 closing, hiring an attorney, filing. So I wanted to
9 enter that into the record. But on a final note, the
03:31 10 first couple pages of Ms. Surina's sealed source
11 documents, contempt is an equitable remedy for purposes
12 of today.

13 THE COURT: Well, she hasn't moved. She's
14 not in contempt.

03:31 15 MR. BISCEGLIA: Correct. It's an equitable
16 remedy.

17 THE COURT: So you don't have to say
18 anything else.

19 MR. BISCEGLIA: Understood, Your Honor.
03:31 20 Then with that I'll conclude my time. Thank you.

21 THE COURT: Brief rebuttal, Mr. Surina.

22 MR. SURINA: Sure, Your Honor, appreciate
23 that. A couple things. Opposing counsel here is
24 stating that he did read final orders, but he left the
03:32 25 beginning of that sentence off. In the beginning of

1 that sentence says: "Every year Aaron Surina gets to
2 claim..."

3 THE COURT: I read it.

4 MR. SURINA: It's no surprise to me that he
03:32 5 would leave that little part out, if every year I'm able
6 -- she was even that year -- every year, she's able to
7 benefit in one way or another from claiming the kids.
8 So when is it that I would get every year then?
9 Wouldn't she have to come to the Court to ask the Court
03:32 10 for that, because that's one issue I would assume
11 that --

12 THE COURT: I'm not giving you legal advice,
13 you argue your case.

14 MR. SURINA: Fair enough.

03:32 15 THE COURT: Don't, don't ask me what I think
16 about the law.

17 MR. SURINA: Okay.

18 THE COURT: Argue your case.

19 MR. SURINA: The other thing about it,
03:32 20 opposing counsel, is she's taken it upon herself to go
21 ahead and claim the youngest child so she could have
22 this benefit. She's just taking from me, essentially.
23 It does say every year I get to claim them. There's
24 never a year where she would benefit. So her lawyer
03:33 25 being able to write the orders really is difficult for

1 me, but it does say what it says. So I'm going to leave
2 it at that. Tough. But don't I have at least a choice
3 of which child?

03:33 4 THE COURT: Please. I'm starting to get
5 angry, and I'm trying not to. I am taking --

6 MR. SURINA: Appreciate that.

7 THE COURT: I'm taking deep breathes. If
8 you're going to be your own lawyer --

9 MR. SURINA: I suck at this.

03:33 10 THE COURT: -- I'm going to hold you to the
11 standard of a lawyer, and you will answer my questions
12 directly.

13 MR. SURINA: Yes, sir. The name in the
14 restaurant, the restaurant is named "lounge," the
03:33 15 restaurant's name has "lounge" in it. It is a bar. I
16 want to state that for the record. What would I bring
17 as evidence to show?

18 THE COURT: I don't give legal advice.
19 Please sit down.

03:33 20 MR. SURINA: Okay.

21 THE COURT: I am not going to find
22 respondent in contempt.

23 With respect to the failure to produce the
24 records, the tax forms, I probably would have held her
03:34 25 in contempt and at least awarded some attorney fees, but

1 she at least made a belated effort, and it is a
2 technical violation. I am not going to give the parties
3 a declaratory ruling about what that phrase in the
4 decree means. It's not before me.

03:34 5 What's before me is: Did she violate it or
6 did she not? I think she violated it, but I am
7 exercising my discretion not to impose terms.

8 With respect to, let's see, what was the
9 other one besides the school district. Oh, the drinking
03:35 10 and the forms. With respect to the drinking, there is
11 not enough proof that she was intoxicated in front of
12 the children. He says she was -- says he personally
13 witnessed it. She says she's not. That's a swearing
14 contest. This is not an opportunity for the Court to
03:35 15 determine who it believes. So unless there's some
16 testimony from a disinterested observer or witness, I
17 will not find contempt for drinking alcohol.

18 With respect to moving, she has not moved.
19 She has stated on the record that she still lives in the
03:36 20 same school district. There will need to be -- you have
21 her address. There will need to be a trial on the
22 relocation and on your petition to change custody. That
23 will not be decided on a motion except maybe on a
24 temporary basis. So if we're worried about timelines, I
03:36 25 suggest that one or both of you make sure that the

1 pleadings have been answered and note it for a trial
2 setting.

3 No attorney fees will be awarded to either
4 party. This matter is adjourned.

03:36 5 MR. SURINA: Thank you, Your Honor.

6 THE COURT: Prepare an order.

7 MR. BISCEGLIA: Yes, certainly, Your Honor.
8 How would you prefer I get that order to you?

9 THE COURT: Send it in the mail. Or
03:36 10 actually, in this case, prepare the order, "cc" it to
11 opposing counsel, and then note it for presentation to
12 be heard by phone in my chambers. My guy's name is
13 Miguel. I don't know what his phone number is, but he's
14 very helpful.

03:37 15 MR. BISCEGLIA: Thank you, Your Honor.

16 THE COURT: We are adjourned for now. Thank
17 you.

18 (The proceedings adjourned.)
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25

C E R T I F I C A T E

I, HOLLY M. DRAPER, do hereby certify:

That I am an Official Court Reporter for the Spokane County Superior Court, sitting in Department No. 2, at Spokane, Washington;

That the foregoing proceedings were taken on the date and place as shown on the cover page hereto;

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction, including any changes made by the trial court pursuant to Spokane County LCR 80(e).

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 28th day of August, 2023.



s/ Holly M. Draper

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