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TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

SIRINYA SURINA,

Petitioner

NO. 17-3-01817-0

And

AARON SURINA,

Respondent.

PETITIONER'S TRIAL
MEMORANDUM

I. FACTS

At issue before the court is whether Ms. Surina should be allowed to relocate with the parties' 2 boys from Spokane proper to Cheney, WA. On May 30, 2023, Ms. Surina texted Mr. Surina that she closed on the purchase of a home in Cheney and was intending to relocate there as her permanent residence. At that time, both parents were living within the boundaries of Spokane School District 81. With the move to Cheney the children would be entering the Cheney School District. One child, Andrew, is in elementary school and the other, David, was about to enter middle school in fall 2023. Ms. Surina is not seeking to change either the parenting plan or support order.

Mr. Surina served a summons and objection to Ms. Surina's relocation on June 9, 2023, and on June 16, 2023, Ms. Surina served her Notice of Intent to relocate. Mr. Surina sought to restrain Ms. Surina's relocation, but did not properly note a hearing on a Motion to

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1 Restrain the relocation. A hearing was held before Judge Dixon on September 14, 2023. An
2 order was ultimately entered on October 31, 2023, allowing Ms. Surina to relocate with the
3 children but providing that the children remain enrolled in the Spokane School District
4 pending trial. All other aspects of the parenting plan were to remain the same.
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6 The existing parenting plan was entered on December 20, 2019, that has Ms. Surina as
7 the primary parent. Of particular note is the court found there were reasons to put limitations
8 on Mr. Surina pursuant to RCW 26.09.191 as he "... has repeatedly engaged in abusive use of
9 conflict with the Petitioner and has consistently involved the minor children in the conflicts,
10 which is then contrary to the children's best interest and emotional health." Because of those
11 limitations, Ms. Surina was awarded sole decision-making relating to school/education,
12 healthcare, extracurricular activities and religious upbringing.
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14 The parenting plan provided parenting time for Mr. Surina during the school year two
15 consecutive weekends from Thursday after school until Monday morning followed by one
16 weekend with Ms. Surina, followed by Mr. Surina's two weekends. The total amount of
17 residential time Mr. Surina has over the year including holidays and vacation is approximately
18 40% of the total number of days the year. Further, Mr. Surina has the children a little more
19 than 30% of the time on the days the children are attending school.
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21 This case has been complicated by Mr. Surina's spurious and incomprehensible
22 motions including, for example, motions seeking clarification of the 2019 final orders and
23 contempt of child support orders where it is Mr. Surina who is the payor of support and who
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1 is in arrears paying his support. Historically, this case and cases that were offshoots of this
2 case have been populated with Mr. Surina's frivolous and nonsensical claims. Examples of
3 this are: 1) Mr. Surina's complaint filed in United States District Court Eastern District of
4 Washington, 2:20-cv-00345-SMJ against the Spokane County Superior Court justices and Ms.
5 Surina's attorney, claiming the Defendants violated Mr. Surina's Fourth, Fifth and Eighth
6 amendment rights. That action was summarily dismissed against all defendants. Attorney fees
7 were awarded against Mr. Surina. 2) Mr. Surina filed a petition to enforce an out-of-state
8 custody order in Spokane County Superior Court, 19-3-00129-32, alleging that there was a
9 Thai custody order. The Spokane court determined that Mr. Surina's allegations were litigated
10 in the instant Spokane County Superior Court case and that the Thai custody order was
11 obtained without formal legal notice to Ms. Surina. Consequently, the court found among
12 other things: "The filing of this notice is a frivolous and vexatious action... without basis in
13 law or fact, and solely for the purpose of harassing the Respondent." Accordingly, attorney
14 fees and sanctions were awarded against Mr. Surina.¹

15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 **II. APPLICABLE LAW**

Relocation is governed by RCW 26.09 et seq. RCW 26.09.520 provides that there is a
rebuttable presumption that the intended relocation of the child will be permitted, where, as in
this case, the parties' parenting plan is not one that provides for substantially equal residential
time. Substantially equal residential time is defined by RCW 26.09.525 that states in part:

¹ Since Mr. Surina filed his objection to relocation on June 9, 2023, 101 documents have been filed up to March 1, 2024. The

For the purposes of this section and RCW 26.09.430, “substantially equal residential time.” Includes arrangements in which forty-five percent or more of the child’s residential time is spent with each parent. *(Emphasis added)*

Mr. Surina’s residential time as set out in the parenting plan and as actually exercised by Mr. Surina does not come up to the requisite 45% and as such, the rebuttable presumption allowing relocation applies.

In that the rebuttable presumption is applicable, Mr. Surina must demonstrate pursuant to RCW 26.09.520 that “... the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person...” by looking at the statutory factors set out in the statute. Those listed factors are neither weighted nor is there an inference to be drawn by the order in which they are listed. The factors are as follows:

- (1) The relative strength, nature, quality, extent of involvement, and stability of the child’s relationship with each parent, siblings, and other significant persons in the child’s life;
- (2) Prior agreements of the parties;
- (3) Whether disrupting the contact between the child and the person seeking relocation would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;
- (4) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;
- (5) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;
- (6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its

majority of the documents have been filed by Mr. Surina.

prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

III. ARGUMENT

As Mr. Surina does not have "substantially equal residential time." He must rebut the statutory presumption for relocation. Looking at the factors the court must consider in Mr. Surina's effort to prevent relocation of the children, each factor is strongly weighted against his argument against relocating the children. Of important note is that other than the children moving from Spokane School District 81 to the Cheney School District. Ms. Surina seeks no change to the existing parenting plan or child support.

Factors #'s 1, 3, 8 are unchanged with the relocation of the children to the Cheney school district as Mr. Surina's time with the children is unchanged. The only difference would be an increase in minutes for travel time.²

² Spokane School District 81 is a very large district ranging approximately 14+ miles north to south and approximately 9 miles east to west. If Ms. Surina had decided to relocate within the district to one of the furthest points in the district, Mr. Surina could not

1 While Ms. Surina's reason for seeking the relocation is in good faith, Mr. Surina's
2 history and the nature of his filings in the relocation case show that Mr. Surina's method of
3 vexatious litigation and his objections to relocation are clearly in bad faith and amplify that
4 great weight should be given to Factor #4. The trial court's finding that Mr. Surina is subject
5 to RCW 26.09.191 restrictions as he "... has repeatedly engaged in abusive use of conflict
6 with the Petitioner and has consistently involved the minor children the conflicts, which is
7 then contrary to the children's best interest and emotional health is as appropriate today, if not
8 more so than it was when the parenting plan was entered.
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10 As to Factors #'s 6 & 7, there's nothing to suggest that the children's age,
11 developmental stage, and needs are likely to be impacted by the move of approximately 11
12 miles. Nor should there be any issue that the quality of the children's life, resources and
13 opportunities are being adversely impacted by the move to Cheney and attending schools in
14 the Cheney school district.
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16 It is Ms. Surina's belief that Mr. Surina is renting a home on the South Hill in Spokane
17 and since it is a rental there would be no impediment to his moving closer to the children in
18 Cheney once his lease ends if he feels the need to be closer to the children.
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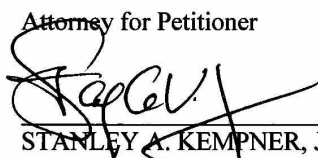
20 As to Factor #9 there should be no financial impact or difficulty with the logistics of
21 the relocation.
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31 challenge Ms. Surina's move pursuant to RCW 26.09.450 (2). This is especially ironic in that Ms. Surina's move is less miles and
32 time than if she had moved to the furthest point in Spokane School District 81 from her then address.

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Mr. Surina fails to rebut the presumption allowing Ms. Surina's relocation. This matter has been unnecessarily complicated by Mr. Surina's spurious, illogical and frivolous filings that further evidence he should be subjected to the restrictions set out in RCW 26.51 et seq. for vexation litigation. Consequently, Ms. Surina should be awarded her reasonable attorney fees in having to defend Mr. Surina's nonsense.

Respectfully submitted this 6TH day of March, 2024.

Attorney for Petitioner

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