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IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR KING COUNTY

In re:	)	
	)	NO. 04-3-00375-3 SEA
SAIYIN PHASAVATH,	)	
	)	
	)	Petitioner,
and	)	<b>UNOFFICIAL TRANSCRIPT</b>
	)	<b>REVISION HEARING 10/17/2011</b>
	)	
T. BRET HAGGERTY,	)	
	)	Respondent.
	)	

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JUDGE JAMES DOERTY: There are several housekeeping things that I wanted to mention. The bailiff handed down some documents that I wanted counsel to be aware of. The substantive matters between the parties, which are the return on the show cause for contempt and the domestic violence protection order, are matters that I am not going to be able to hear. Ms. Zaike had actually, I think, noted but not till the 24<sup>th</sup> a motion to change of judge. Which you won't need to use, because I don't think it's going to be appropriate, as you will hear from what I'm going to be talking about in a few minutes, for me to hear any more of the case other than the motion for revision. The reason that I am recusing from the case is that it is my intention to request that the King County Prosecutor prosecute Christopher Hupy for the unlawful practice of law. There are several documents that I have handed down to you so that

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1 you know what we're talking about. But among other things, Mr. Hupy had caused to be  
2 served on Commissioner Jeske a Summons and Complaint. He attempted to have the Sheriff  
3 do that in open court. There is no reason to do that in open court other than to embarrass and  
4 intimidate a Judicial Officer because the Prosecuting Attorney accepts service for us. He has  
5 not only tried to that once, but twice. I have attached the Summons and the Complaint to the  
6 materials that the bailiff distributed to you this morning. Of particular interest in the  
7 Summons and the Complaint is that the only complaint that he makes is the exact issue that is  
8 before the Court this morning on Mr. Haggerty's motion to revise. In fact, in Mr. Hupy's  
9 complaint, he references this cause number and it's that motion to revise.  
10

11 The motion to revise is entirely without merit. Mr. Haggerty, you have filed papers  
12 yourself twice on that motion, both times making representation about what Commissioner  
13 Velategui said. You did not provide the DVD of the hearing in front of Commissioner  
14 Velategui, you only provided late last week DVDs of the other hearings. But that information  
15 is available to the Court to listen to online, and I did listen to it online. And what  
16 Commissioner Velategui said when Ms. Zaike presented the ex parte motion was, first, Ms.  
17 Zaike represented that Mr. Haggerty always hung up on her when she phoned him and she  
18 had attempted to give him notice. Commissioner Velategui asked a few questions and then  
19 said I'm not going to sign this order you should take it to the Family Law Commissioner.  
20 Then there is a minute entry. There is no order from Commissioner Velategui denying  
21 anything, and he didn't make a decision denying anything. He declined to hear the matter and  
22 said it was more appropriate, as indeed it is because of the long conflicted history between the  
23 parents, that it should be heard in front of the Family Law Commissioner.  
24  
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1 Mr. Haggerty's motion is limited to the simple question of whether Commissioner  
2 Jeske committed some sort of mistake by then entering an order on Ms. Zaike's application.  
3 Commissioner Jeske entered a series of orders, as I'm sure you're aware. The first order on  
4 that day was after several efforts to call Mr. Haggerty at several phone numbers. The  
5 voicemail responses from him are on the record, clearly that effort was made, and the  
6 Commissioner then entered an order that had no prejudice to Mr. Haggerty with respect to the  
7 boys until he could come to court. But the revision is just whether or not it was improper for  
8 the Commissioner to do that. There is simply no basis for claiming that.

10 Counsel [for Mr. Haggerty], you weren't part of filing that revision, I know. I don't  
11 know if you had the opportunity to listen to the recording of the proceedings in front of  
12 Commissioner Velategui and wanted to take issue with my characterization of what I listened  
13 to. Did you have a chance to listen to it?

14 ERIC ENGEL: No, Your Honor.

16 JUDGE JAMES DOERTY: Ms. Zaike, you were there. Does that sound like what happened  
17 in front of Commissioner Velategui?

18 KARMA ZAIKE: That is correct, Your Honor. I do want to note for the record that Mr.  
19 Haggerty's motion for revision in the documents that he provided to me clearly state that he  
20 provided the DVD for the Court. I have been attempting to get that DVD unsuccessfully  
21 from Mr. Haggerty. So I am very surprised to hear from the Court that he provided different  
22 rulings, but not the ruling from Commissioner Velategui.

24 JUDGE JAMES DOERTY: He provided, well I assume it was him, they showed up last  
25 week and he had re-noted his motion for revision and he had argued it slightly differently,

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1 being a little but more assertive about what it is that Commissioner Velategui was supposed to  
2 have said. The hearings on the DVDs that I have are 9/12, 9/14, 9/15, and 9/27, and 9/12 was  
3 in fact the time that Ms. Zaike was in court twice, once in front of Commissioner Velategui  
4 and once in front of Commissioner Jeske. The DVD does not include the hearing in front of  
5 Commissioner Velategui, it starts with Commissioner Jeske. But I have accessed it online.  
6 So those are the hearings. But Commissioner Velategui couldn't have been clearer. He didn't  
7 deny the order at all. He said it's appropriate for the Family Law Commissioner to hear it.

9 KARMA ZAIKE: One other thing, Your Honor. I just want to clarify; did you say you  
10 received two motions for revision?

11 JUDGE JAMES DOERTY: It's the same motion, but he appears to have re-filed it. It came  
12 in with the note for calendar, the same erroneous note for calendar, noting it in front of Chief  
13 Civil was what the DVDs were attached to.

14 KARMA ZAIKE: So I have not received – the only motion for revision that I have  
15 received is dated October 4<sup>th</sup>. On that day, or the day after, I wrote to Mr. Haggerty notifying  
16 him that his motion was improperly filed because he failed to provide the DVDs to me and I  
17 have heard nothing on that since then. I just want the record to be clear about what I have and  
18 have not received.

19 JUDGE JAMES DOERTY: The additional difficulty that we are facing now of course is that  
20 this same complaint about what Commissioner Jeske is supposed to have done has Mr.  
21 Haggerty's associate, Mr. Hupy, now turned into a very major big deal. Since the Presiding  
22 Judge has directed me to respond to Mr. Hupy, I've provided you the draft of a letter I intend  
23 to send to him, since based on what is a very comprehensive review of the materials submitted  
24  
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1 for today, including the Renton Police Department investigation, the interactions with the  
2 CPS, the rest of it, it's difficult for me to conclude exactly what the role Mr. Haggerty thought  
3 Mr. Hupy was doing. But, Mr. Haggerty, did you think up this revision, or did Christopher  
4 think it up?

5 ERIC ENGEL: Your Honor, I think I probably should have him not say anything at this  
6 point and time.  
7

8 JUDGE JAMES DOERTY: I think you are probably right. So, the record will reflect that  
9 Mr. Haggerty is on advice of counsel not answering the Court's question.

10 So I am going to deny the motion for revision. I believe that CR 11 sanctions are  
11 appropriate under the circumstances. I think that Mr. Engel has probably been caught a little  
12 bit by surprise this morning and so I am going to invite counsel to submit the issue of CR 11  
13 sanctions to me further rather than ruling on it today. You can do that in writing to spare your  
14 clients that expense of having to make another hearing, another trip to the court.  
15

16 I will be asking Judge Fleck, on the basis of a recusal, except for retaining jurisdiction  
17 over the CR 11 sanctions to assign the substantive issues to another one of the Family Law  
18 Judges, because I do not think it is appropriate for me to be trying to deal with the parenting  
19 plan disputes and also to be trying to deal with this harassment of the Commissioner and Mr.  
20 Hupy. The two things are fairly intertwined.  
21

22 I did also hand down to you what we got from CPS, which is, if you had a chance to  
23 look at it, is not much. I have been dealing with CPS for many years and frankly I suspect  
24 that they are punting because they are not very happy at the enmeshment of Christopher Hupy  
25 with the CPS investigating social worker. Mr. Hupy had made statements that he has, quote,

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1 “taken over advocating for TJ”. That seems to me to be a violation of the parenting plan right  
2 there. He asserts, Mr. Hupy does, to the detective in the Renton Police investigation that he is  
3 a representative of a nonprofit domestic violence advocacy agency. Ms. Zaike did some  
4 research on that and submitted that in her materials that there isn’t any agency like that. It  
5 does strike me, in the long and very very difficult journey that these two parents have had  
6 with their children, that TJ’s recent escalation of anger towards his Mother seems to have  
7 erupted at just about the same time as Christopher Hupy stuck his nose into this family’s  
8 business.

9  
10 Mr. Haggerty, you need to be talking to your lawyer about the things I’m saying to  
11 you right now. You are not the first self-represented father that has some issues with the  
12 system that Christopher Hupy has injected himself into. Family Court Services is well aware  
13 of this guy. He trolls the corridors, literally, outside the domestic violence calendars and tries  
14 to find guys that come out of there feeling like they got ripped off and had a DV order that  
15 was entered that they don’t feel was fair. He intercedes on their behalf, he’s done this before,  
16 and he appears to have caught you up in that. That is giving you the benefit of the doubt here  
17 this morning.

18  
19 In any event, the motion to revise is denied and counsel should please respond to the  
20 court by October 28<sup>th</sup> in writing, and of course to each other, with respect to the  
21 appropriateness of CR 11 sanctions. I believe that in anticipating a change of judge on the  
22 substantive issues, Judge Fleck reissued by agreement your protection order and your return  
23 on show cause. So, I will let her know to assign that to another Judge. I will not be having  
24 any conversations with that other Judge, just so you are aware. But I will be entering findings  
25

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1 of fact with respect to this revision and I of course will be entering some findings or at least  
2 by letter with respect to Mr. Hupy's service of process and also his e-mail. I am moderately  
3 hopeful that not every Judge in the courthouse has been contaminated. Mr. Hupy sent that e-  
4 mail to every single Superior Court Judge, the one about the complaint for Commissioner  
5 Jeske. That is another reason that I think it's being made in bad faith and with no intent other  
6 than to intimidate and harass a Judicial Officer. Counsel, do either of you have any  
7 questions?  
8

9 ERIC ENGEL: Your Honor, just to clarify I assume you mean sanctions against my  
10 client? Or do you mean against myself as well?

11 JUDGE JAMES DOERTY: Not against you. I see no reason to file CR 11 sanctions, or to  
12 consider those, with respect to counsel. He filed Pro Se. You have made no representations  
13 to the court, you didn't file any papers on the revision, you didn't certify anything. I am  
14 looking at Mr. Haggerty only. We'll be in recess, thank you.  
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