IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of:	)	
	)	DIVISION ONE
SUZANNE E. NEVAN,	)	
	)	No. 67319-0-I
Respondent,	)	
	)	UNPUBLISHED OPINION
and	)	
	)	
DANIEL M. CASEY,	)	
	)	
Appellant.	)	FILED: May 29, 2012
_____	)	

Dwyer, J.—This is the second appeal involving dissolution of the marriage between Daniel Casey and Suzanne Nevan. Representing himself both in the trial court and on appeal, Casey challenges the trial court's order allowing Nevan and the parties' son to relocate from Seattle to Bellingham. Casey fails, however, to provide a record in accordance with the Rules of Appellate Procedure sufficient to enable appellate review. This deficiency is fatal to the claims he raises on appeal. We affirm.

I

Daniel Casey and Suzanne Nevan are the parents of Joseph Nevan-Casey, born June 15, 2002.[1] Casey and Nevan began living together and were married in 2004 and separated in 2008. Following separation, the parties lived in the same Seattle neighborhood and agreed to a temporary residence schedule.

At the time of the 2009 dissolution trial, Nevan was unemployed and testified that she had historically focused on raising her children rather than her career. Casey was employed at a retirement home. Each parent sought to provide Joseph's primary residence. Both Nevan and Casey represented themselves and relied only on their own statements to support their respective positions. Neither offered evidence of any evaluation or recommendation from a guardian ad litem, parenting evaluator, therapist, or other professional. Following trial, the court found that while both Nevan and Casey had strong relationships with Joseph, he should reside primarily with Nevan.

Casey appealed. He argued that the court failed to give adequate weight to the strength of his relationship with Joseph and improperly presumed that the child should reside with Nevan because she was the primary caregiver. Casey also claimed that the trial court erred by considering the parties' agreed residential schedule following separation, and failed to take into account the parties' intentions to maintain Joseph's relationships with his older half-siblings. Because the trial court's decision with regard

[1] The background facts are primarily derived from this court's unpublished decision in Casey's prior appeal. In re Marriage of Nevan & Casey, noted at 156 Wn. App. 1059 (2010).

to Joseph's residential schedule was well within its discretion, we affirmed.

In August 2010, about a year after the dissolution trial, Nevan filed a motion for a temporary order to allow her to relocate to Bellingham with Joseph. Nevan had been unemployed for more than a year and had exhausted her unemployment benefits. She had been unsuccessful in her efforts to find employment in Seattle. Nevan was offered a part time job in Bellingham and had to move there on short notice in order to accept the position. The court found that Nevan's motion was not brought in bad faith and that she demonstrated exigent circumstances. The court granted the motion. Nevan moved to Bellingham and enrolled Joseph in school there.

Almost a year later, the parties participated in a hearing on the relocation. Casey and Nevan again represented themselves and the court considered only their testimony in favor of and against relocation. The court entered an order authorizing the relocation. Casey appeals.[2]

II

Challenging the trial court's order allowing relocation, Casey argues that Nevan sought relocation in bad faith because she deliberately manufactured the need to relocate by not applying for positions in Seattle for which she was qualified. He further contends that Nevan made no attempt to reduce her household expenses so that she could remain in Seattle.[3]

[2] Nevan has not filed a brief in response to Casey's appeal.

Pro se litigants are held to the same standard as attorneys and must comply with all procedural rules on appeal. In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993). In this case, Casey has not met his burden of providing a sufficient record to review the issues he raises on appeal. RAP 9.2; In re Marriage of Haugh, 58 Wn. App. 1, 6, 790 P.2d 1266 (1990); Story v. Shelter Bay Co., 52 Wn. App. 334, 345, 760 P.2d 368 (1988).

Casey's primary argument on appeal hinges on the evidentiary support for the trial court's decision on the relocation issue, yet he fails to provide a record of the proceedings in accordance with applicable court rules. Casey filed a document titled "Narrative Report of Proceedings and Associated Exhibits." It is not a narrative report. Rather, it is a transcript he prepared of the hearing on the relocation application. Casey is not a "person authorized to prepare a verbatim report of proceedings" under the rules governing the compilation of the appellate record. RAP 9.2. For obvious reasons, requiring the preparation of transcripts by an authorized source protects the integrity of the appellate process. While the rules allow the parties themselves to prepare narrative reports of the proceedings to reconstruct the record when the official record of the proceedings has been either lost or damaged, neither of those circumstances is applicable here. See RAP 9.3, 9.4.

Several of the documents Casey intends for us to consider, including Nevan's

[3] Casey raises numerous claims that relate to the court's decision regarding Joseph's residential schedule in the underlying dissolution and also raises claims relating to a dissolution that preceded his marriage to Nevan. We have already addressed many of these arguments in Casey's prior appeal. Only the trial court's order on relocation is before us in the current appeal.

job log, are simply appended to his transcription, and were not prepared by the court clerk in accordance with RAP 9.6. Because the documents were not transmitted to us by the trial court, we have no way of knowing whether the documents are the actual trial exhibits. Another self-prepared transcript of the August 2010 hearing on Nevan's temporary motion is attached, along with other materials, to Casey's opening brief on appeal. None of the documents appended to the brief have been properly made a part of the record on appeal. RAP 10.3(a)(8) (an appendix to a brief "may not include materials not contained in the record on review without permission from the appellate court.").

This is not a case involving mere technical flaws in a party's failure to comply with the appellate rules. Without a proper record of the proceedings before the trial court, we are unable to assess Casey's argument that the trial court failed to properly interpret and weigh the evidence before it. Because these omissions affect our ability to review the issues presented on appeal, they are fatal. Bulzomi v. Dep't of Labor & Indus., 72 Wn. App. 522, 525, 864 P.2d 996 (1994) (insufficient record on appeal precludes review); Olmsted v. Mulder, 72 Wn. App. 169, 183, 863 P.2d 1355 (1993) (failure to designate relevant portions of the record precludes review).

The only documents relevant to Casey's appeal that are properly included in the record are the final parenting plan and the trial court's order on relocation. In the order on relocation, the court found:

The mother has been the primary custodial parent. She and the child

> relocated to Bellingham for her work before the start of the last school year. The mother had been unemployed for several months and had no prospects of employment in Seattle. She has been employed since moving to Bellingham. Joseph has successfully transitioned to his new school. He has become involved in Scouting, church and sporting activities in Bellingham. Were the petition to be denied, he will start third grade in the fall having gone to a different school every year.

The court further found that Joseph was "thriving" in Bellingham and that:

> The mother's petition was brought in good faith. She had no prospect of employment in Seattle and had a job offer and less expensive housing in Bellingham.

Ultimately, the court determined that the detrimental effect of allowing the relocation did not outweigh the benefits of the move for Nevan and Joseph.

Without a record of the proceedings, we are unable to evaluate the findings in light of the evidence before the court. In these circumstances, we must accept the court's findings as verities on appeal. See In re Parentage & Custody of A.F.J., 161 Wn. App. 803, 806 n.2, 260 P.3d 889, review granted in part, denied in part, 172 Wn.2d 1017 (2011); Happy Bunch, LLC v. Grandview N., LLC, 142 Wn. App. 81, 88 n.1, 173 P.3d 959 (2007). St. Hilaire v. Food Servs. of Am., Inc., 82 Wn. App. 343, 352, 917 P.2d 1114 (1996); Rekhi v. Olason, 28 Wn. App. 751, 753, 626 P.2d 513 (1981); Gaupholm v. Aurora Office Bldgs., Inc., 2 Wn. App. 256, 257, 467 P.2d 628 (1970). Our review is therefore limited to determining whether the trial court's conclusions of law are supported by its findings of fact. Happy Bunch, 142 Wn. App. at 88 n.1.

To rebut the presumption in favor of relocation of the parent with whom the child

resides the majority of the time, the parent opposing relocation may rely on factors set forth in the statute to establish that the intended move has a more detrimental than beneficial effect on the child and the relocating parent. RCW 26.09.520; In re Marriage of Horner, 151 Wn.2d 884, 895, 93 P.3d 124 (2004). In this case, the trial court's order on relocation addresses each of the statutory factors under RCW 26.09.520 that may rebut the presumption in favor of allowing relocation.[4] The court found that all of the applicable factors weighed in favor of allowing Nevan to relocate to Bellingham. The court's legal conclusion regarding relocation is thus supported by and follows from its findings of fact.

In addition to his evidentiary arguments, Casey appears to challenge the constitutionality of the statutory relocation provision, RCW 26.09.520, because

[4] The statutory factors that can rebut the presumption in favor of relocation are:

(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 with whom the child resides a majority of the time 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 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;

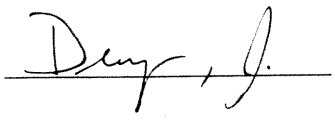
(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

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

RCW 26.09.520.

according to Casey, it is a "known fact" that mothers are generally granted more residential time than fathers and are then entitled to a rebuttable presumption allowing relocation. Casey also claims that the right of one parent to travel should not override the rights of the other parent or the right of the child to have a relationship with both parents. Casey cites no legal authority that supports his arguments and the constitutional basis for his claims is unclear.[5] The essence of Casey's complaint is that the law governing allocation of residential time in dissolutions inherently favors mothers over fathers. But Casey points to no provision of the Parenting Act of 1987, chapter 26.09. RCW, that reflects any such bias or favoritism. He identifies no evidence indicating that the trial court's decision on relocation in this case was based on any impermissible bias or prejudice. Nor does the statute permit the right of one parent to travel to override the other parent's parental rights. It is precisely for this reason that a parent may object to relocation and rebut the presumption by showing that the detrimental effect outweighs the benefits of relocation.

We affirm the final parenting plan and order granting relocation.



We concur:

[5] Casey has provided a statement of supplemental authority citing numerous United States Supreme Court cases including Santosky v. Kramer, 455 U.S. 745, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982); Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973); Loving v. Virginia, 388 U.S. 1, 12, 87 S. Ct. 1817, 18 L. Ed. 2d 1010 (1967); and Brown v. Bd. of Educ., 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954). The supplemental cited authority has no application to this case.

Appelwick, J. Leach, C.J.