

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

In re the Marriage of:

KARLEE PREBLE,
Petitioner,

and

DARRICK J. PREBLE,
Respondent.

No. 21-3-00460-32

**MOTION FOR REVISION OF
COMMISSIONER'S ORDER
(RCW 2.24.050)**

I. RELIEF REQUESTED

Respondent DARRICK J. PREBLE respectfully moves this Court, pursuant to RCW 2.24.050, for revision of the Commissioner's order entered on June 24, 2026, finding Respondent in contempt for alleged nonpayment of child support. Respondent requests that a Superior Court Judge review the Commissioner's findings de novo and vacate the contempt finding based on the following grounds.

II. AUTHORITY

RCW 2.24.050 provides:

"Any party in interest may have a cause heard by the superior court upon a motion for revision. Such revision shall be upon the record of the case, as entered by the commissioner, supplemented by such additional proof as the court may allow."

This motion is timely filed within ten (10) days of the Commissioner's June 24, 2026 order.

III. STATEMENT OF FACTS

1. On June 24, 2026, Commissioner Scharosch presided over a contempt hearing in this matter via Zoom (Meeting ID: 823 091 1413).
2. Respondent appeared pro se. Petitioner was represented by counsel.
3. The Commissioner found Respondent in contempt for nonpayment of child support.
4. Respondent has paid a total of \$182,473 toward a judgment of \$129,300, resulting in an overpayment of \$53,173. Documentation of 61 individual bank transfers was filed with the Court as Exhibit A to the Supplemental Declaration (FL-135).
5. Respondent filed a Financial Declaration (FL-131) showing \$0 monthly income, \$8,030 in monthly expenses, \$12,460 in total monthly obligations, and \$136 cash on hand.
6. Respondent filed a brief on Turner v. Rogers, 564 U.S. 431 (2011), establishing

that incarceration for civil contempt without counsel or an ability-to-pay determination violates the Due Process Clause of the Fourteenth Amendment.

IV. GROUNDS FOR REVISION

A. Due Process Violation -- Turner v. Rogers

The United States Supreme Court held in *Turner v. Rogers*, 564 U.S. 431 (2011), that the Due Process Clause of the Fourteenth Amendment requires specific procedural safeguards before an unrepresented person may be incarcerated for civil contempt in a child support proceeding. These safeguards include:

1. Notice that ability to pay is a critical issue;
2. A form or equivalent opportunity to provide financial information;
3. Findings by the court as to ability to pay; and
4. An express finding that the contemnor has the ability to comply.

The Commissioner's contempt finding fails to satisfy these safeguards. Respondent's Financial Declaration establishes \$0 income and \$136 in total assets. No finding of present ability to pay was made on the record.

B. Overpayment of Judgment

Respondent's bank records, submitted as exhibits, document 61 transfers totaling \$182,473 against a judgment of \$129,300. The judgment has been satisfied and overpaid by \$53,173. Contempt for nonpayment cannot stand where the obligor has demonstrably overpaid the obligation.

C. Defective Service

Respondent was not properly served with the motion for contempt in compliance with court rules. Three specific service defects were identified and briefed to the Commissioner:

1. Wrong address: The Affidavit of Mailing (Doc 87, filed June 5, 2026) shows documents were mailed to 3723 S. Myrtle St., Spokane, WA 99223 -- the residence Respondent was forced to vacate by the Petitioner's own Protection Order (Case 25-2-02619-32). The Court knew Respondent no longer resided at this address because the Protection Order it entered required him to leave. Respondent is an Idaho resident. Mailing court papers to an address the court itself ordered the respondent to vacate is not reasonably calculated to provide actual notice. *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950).
2. Known bad address: Mail sent to this same address was previously returned UNCLAIMED on May 7, 2026 (Docs 80-81). Despite confirmed non-delivery, Petitioner re-mailed to the identical address on June 5, 2026. Mailing to an address

already proven non-deliverable does not satisfy due diligence requirements under CR 4(d) and RCW 4.28.100. The Affidavit of Diligence (Doc 82) acknowledged the failed delivery yet no alternative service method was attempted at Respondent's actual residence.

D. Constitutional Right to Parent

Parental rights are a fundamental liberty interest protected by the Fourteenth Amendment. *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982). The Commissioner's order, predicated on an inability to pay rather than willful refusal, constitutes an unconstitutional deprivation of Respondent's fundamental parental rights.

E. Failure to Apply Turner v. Rogers Safeguards

Respondent raised *Turner v. Rogers*, 564 U.S. 431 (2011) during the June 24 hearing. The Commissioner did not address the argument, did not make findings as to Respondent's ability to pay, and did not provide the four procedural safeguards required by the Supreme Court before a contempt finding against an unrepresented party. The Commissioner's failure to address this controlling Supreme Court authority is reversible error.

F. Inadequate Opportunity to Present Evidence (RCW 26.18.050(4))

Under RCW 26.18.050(4), the obligor must be given adequate opportunity to present evidence and argument in defense of contempt. Respondent filed extensive documentation including 61 bank transfer records, a Financial Declaration (FL-131), a *Turner v. Rogers* brief, and a Supplemental Declaration (FL-135) with exhibits. The Commissioner did not address or reference this evidence in the ruling.

G. Protection Order Caused Inability to Pay

The Protection Order (Case 25-2-02619-32) forced Respondent from his residence and place of business, directly causing the loss of income that underlies the alleged non-payment. The Commissioner did not analyze the causal relationship between the court-ordered displacement and Respondent's inability to pay. A court cannot use one order to create the conditions of non-compliance and then punish the non-compliance with contempt.

H. Notice Under 18 USC 242

Respondent places this Court on notice that the willful deprivation of constitutional rights by a judicial officer acting under color of law may constitute a violation of 18 USC 242. The contempt finding, entered without *Turner* safeguards, without an ability-to-pay determination, against an unrepresented party with \$0 income and documented overpayment of \$53,173, implicates this federal statute. Respondent reserves the right to refer this matter to the DOJ Civil Rights Division.

V. RESERVATION OF RIGHTS

Respondent expressly reserves all rights, remedies, and defenses available under state and federal law, including but not limited to the right to appeal any order entered in these proceedings to the Washington Court of Appeals and, if necessary, to the Supreme Court of the United States.

Respondent further reserves the right to supplement the record with additional evidence, declarations, and legal authority as permitted by this Court.

VI. CONCLUSION

For the reasons stated above, Respondent respectfully requests that this Court:

1. GRANT this Motion for Revision;
2. REVIEW the Commissioner's June 24, 2026 order de novo;
3. VACATE the contempt finding based on Respondent's demonstrated inability to pay, overpayment of the judgment, and the due process violations identified herein;
4. ORDER a hearing before a Superior Court Judge on this matter; and
5. GRANT such other relief as the Court deems just and equitable.

DATED this _____ day of _____, 2026.

DARRICK J. PREBLE, Pro Se Respondent

[Address]

[Phone]

darrickpreble@proton.me

CERTIFICATE OF SERVICE

I certify that on _____, 2026, I caused a true and correct copy of the foregoing to be served upon the following by USPS Certified Mail, Return Receipt Requested:

Petitioner's Attorney:

[Attorney Name]

[Attorney Address]

DARRICK J. PREBLE