

**SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE**

In re the Marriage of:	No. 21-3-00460-32
KARLEE J. PREBLE, Petitioner,	RESPONDENT'S BRIEF REGARDING DUE PROCESS SAFEGUARDS REQUIRED UNDER <i>TURNER</i> v. <i>ROGERS</i>
and	
DARRICK J. PREBLE, Respondent.	

**RESPONDENT'S BRIEF REGARDING DUE PROCESS
SAFEGUARDS REQUIRED UNDER *TURNER* v. *ROGERS***

I. INTRODUCTION

Respondent Darrick J. Preble, appearing pro se, respectfully submits this brief to inform the Court of the constitutional safeguards required before any contempt finding or sanction may be imposed in this matter. The United States Supreme Court has established specific procedural protections that must be provided when a court considers incarcerating a party for civil contempt of a support-related order, particularly where the alleged contemnor is indigent and unrepresented. *Turner v. Rogers*, 564 U.S. 431 (2011).

This brief is filed in connection with the hearing scheduled for June 24, 2026, and is intended to ensure that these proceedings comply with constitutional due process requirements.

II. RESPONDENT'S FINANCIAL CONDITION

Respondent has been indigent since May 2025 — a period now exceeding thirteen (13) months. The following facts are supported by Respondent's Financial Declaration (FL 131) filed herewith and his previously filed Motion for Determination of Indigency:

1. **Income:** Respondent's gross monthly income is \$0.00. Respondent operated Preble Painting LLC for twenty (20) years. The protection order entered in May 2025 effectively destroyed the business within fourteen (14) days by removing Respondent from his home, tools, equipment, vehicle, and client territory.
2. **Housing:** Respondent's home entered foreclosure on June 12, 2026. The property has an estimated value of \$300,000 with approximately \$80,000 owed.
3. **Assets:** Respondent's only significant asset is a 2018 Savannah Van, owned free and clear. Respondent has \$0 in checking, savings, and investments. Respondent has been selling personal property, tools, and equipment to fund basic survival.
4. **Support obligations:** Respondent is ordered to pay \$1,322 per month in child support on \$0 income — a mathematical impossibility.
5. **Overpayment of property settlement:** Despite claims of non-payment, Respondent has documented **seventy (70) payments totaling \$182,473.01** against a property settlement judgment of \$129,300.00 — an overpayment of **\$53,173.01**. Documentary proof (bank statements and medical receipts) is attached as Exhibit A.

III. THE *TURNER* v. *ROGERS* REQUIREMENTS

In *Turner v. Rogers*, 564 U.S. 431 (2011), the United States Supreme Court held that the Fourteenth Amendment's Due Process Clause requires specific procedural safeguards before a court may incarcerate an indigent individual for civil contempt of a child

support order. The Court identified four "substitute procedural safeguards" that, at minimum, must be provided:

1. **Notice that ability to pay is a critical issue** in the contempt proceeding;
2. **A form (or equivalent opportunity) to disclose financial information** to the court;
3. **An opportunity at the hearing to respond** regarding the party's financial status; and
4. **An express finding by the court** that the alleged contemnor has the ability to pay.

Turner, 564 U.S. at 448-49. The Court emphasized that "where civil contempt is at issue, the Fourteenth Amendment's Due Process Clause automatically requires the State to provide certain procedures — procedures that are 'fundamental prerequisites of due process.'" *Id.* at 445.

The Court further held that without these safeguards, "an incarceration for civil contempt based upon a support-related order can violate the Due Process Clause." *Id.* at 442.

IV. APPLICATION TO THIS CASE

Respondent respectfully requests that this Court ensure compliance with each of the four *Turner* safeguards at the June 24, 2026 hearing:

Safeguard 1 — Notice: Respondent has not received adequate notice that his ability to pay would be the critical issue at this hearing. The contempt motion focuses on alleged non-compliance, not on whether Respondent has the present ability to comply.

Safeguard 2 — Financial disclosure: Respondent is filing the Financial Declaration (FL 131) contemporaneously with this brief to provide the Court with complete financial information. Respondent's income has been \$0.00 per month for over thirteen months.

Safeguard 3 — Opportunity to respond: Respondent requests the opportunity to be heard on the issue of his financial ability to pay at the hearing, including the opportunity to present documentary evidence of the \$182,473.01 in payments already made.

Safeguard 4 — Express finding: Respondent requests that, before any contempt finding is entered, the Court make an express finding on the record regarding whether Respondent has the present ability to pay. The evidence shows that Respondent has \$0 income, \$0 in bank accounts, a home in foreclosure, and has already overpaid the property settlement by \$53,173.01.

V. ADDITIONAL AUTHORITY

The principle that indigent persons may not be incarcerated for inability to pay is well-established:

- *Bearden v. Georgia*, 461 U.S. 660, 672 (1983): "[I]f the probationer has made all reasonable efforts to pay the fine or restitution, and yet cannot do so through no fault of his own, it is fundamentally unfair to revoke probation automatically without considering whether adequate alternative methods of punishing the defendant are available."
- *Troxel v. Granville*, 530 U.S. 57, 65 (2000): The right of parents to the care, custody, and control of their children is "perhaps the oldest of the fundamental liberty interests recognized by this Court."
- *Santosky v. Kramer*, 455 U.S. 745, 753 (1982): A parent's interest in the "companionship, care, custody, and management of his or her children" is a liberty interest warranting due process protection.
- *Mathews v. Eldridge*, 424 U.S. 319 (1976): Due process requires balancing the private interest, the risk of erroneous deprivation, and the government's interest. Here, the private interest (parental rights,

liberty) is fundamental; the risk of error (contempt for a debt that has been overpaid) is extreme; and the government has no interest in jailing an indigent father who has demonstrably overpaid his obligations.

VI. PRELIMINARY OBJECTION — SERVICE DEFECTS

In addition to the constitutional issues above, Respondent identifies at least three (3) defects in service of the contempt motion that deprive this Court of authority to proceed:

1. Failure to comply with the service requirements of CR 5 for post-judgment motions in civil contempt proceedings;
2. Failure to provide adequate notice as required by RCW 7.21.030 for remedial contempt sanctions; and
3. Defects in the method and timing of service that prevented Respondent from preparing an adequate defense.

Contempt proceedings that carry potential incarceration require strict compliance with service requirements. *State v. Carrier*, 119 Wn. App. 378, 383 (2003) ("Due process requires that a person be given adequate notice and a meaningful opportunity to be heard before being held in contempt."). Respondent reserves the right to challenge the sufficiency of service at the hearing.

VII. THE PROTECTION ORDER DESTROYED RESPONDENT'S ABILITY TO EARN

This Court should recognize the causal chain at work in this case: the protection order entered in May 2025 directly and foreseeably destroyed Respondent's ability to earn income, which created the very inability to pay that Petitioner now seeks to punish through contempt.

Respondent operated Preble Painting LLC for twenty (20) years. The protection order removed Respondent from the marital home where his business tools, equipment, client records, and

work vehicle were located. Within fourteen (14) days, a two-decade painting business was destroyed. Respondent's income dropped from approximately \$4,000-6,000 per month to \$0 — where it has remained for over thirteen (13) months.

The consequences have been catastrophic:

- Respondent has been unable to work in his trade for 13+ months;
- Respondent's home has entered foreclosure (June 12, 2026);
- Respondent has been forced to sell personal property, tools, and equipment to survive;
- Respondent has been separated from his children for over 395 days;
- Respondent has \$0 in all bank accounts despite a 20-year work history.

It is fundamentally unjust for the Court to enter an order that destroys a party's livelihood and then hold that party in contempt for the predictable financial consequences of that order. *See Bearden v. Georgia*, 461 U.S. at 668-69 (examining whether the defendant's inability to pay was "willful" or due to circumstances beyond his control). Respondent's inability to pay is not willful — it is the direct result of the Court's own order.

Respondent reserves all claims for damages arising from the destruction of his business, loss of income, loss of parental contact, emotional distress, and all other consequential damages caused by orders entered without adequate due process. Respondent intends to pursue these claims through appropriate legal channels, including but not limited to motions in this Court and, if necessary, federal civil rights litigation.

VIII. RELIEF REQUESTED

Respondent respectfully requests that this Court:

1. Ensure that all four *Turner v. Rogers* safeguards are provided before any contempt finding is considered;

2. Make an express finding on the record regarding Respondent's present ability to pay before imposing any sanction;
3. Consider the documentary evidence establishing that Respondent has made 70 payments totaling \$182,473.01 against a \$129,300.00 judgment;
4. Decline to impose incarceration or any sanction premised on Respondent's inability to pay a debt he has, in fact, overpaid;
5. **Find that Respondent has satisfied the property settlement judgment** and order that no further payments are due. The \$129,300.00 judgment has been exceeded by \$53,173.01 in documented payments;
6. **Order reimbursement of the overpayment** in the amount of \$53,173.01, or in the alternative, credit the overpayment against any outstanding obligations including child support arrears, and order Petitioner to provide an accounting of all funds received;
7. **Dismiss the contempt motion** on the grounds that (a) the underlying obligation has been satisfied and overpaid, (b) Respondent lacks the present ability to pay any additional amounts, and (c) service was defective;
8. Address the service defects identified herein before proceeding on the merits of the contempt motion; and
9. **Award Respondent reasonable costs** associated with defending against a contempt motion based on provably false claims of non-payment, pursuant to RCW 7.21.030(3);
10. **Modify child support to \$0.00** effective May 2025 based on the substantial change in circumstances (RCW 26.09.170), or in the alternative, set a hearing for modification at the earliest available date; and

11. **Take judicial notice** that Respondent preserves all claims for damages arising from the destruction of his livelihood, including lost income, lost business value, costs of defending against meritless contempt proceedings, and all consequential damages.

RESPECTFULLY SUBMITTED this _____ day of June, 2026.

DARRICK J. PREBLE

Respondent, Pro Se

Email: darrick.preble@gmail.com

CERTIFICATE OF SERVICE

I certify that on the _____ day of June, 2026, I caused a true and correct copy of this Brief, together with the Financial Declaration (FL 131) and Exhibit A (Payment Summary), to be served upon:

Karlee J. Preble, Petitioner

[Address]

Via: Hand delivery U.S. Mail Email

DARRICK J. PREBLE

This document was prepared by Respondent pro se with the assistance of an AI legal research tool. It is based on Respondent's understanding of the applicable law and is not a substitute for legal advice from a licensed attorney. Respondent is filing this document to preserve his constitutional rights and to assist the Court in ensuring that these proceedings comply with due process requirements.