No. 101070-2

SUPREME COURT
OF THE STATE OF WASHINGTON

TARA MARTIN,

Petitioner,

and

DANIEL MARTIN and KRISTIN PRUST,

Respondents.

CO-RESPONDENT DANIEL MARTIN'S ANSWER TO PETITION FOR REVIEW

SMITH GOODFRIEND, P.S.

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A. Introduction.

The Court of Appeals' unpublished decision affirmed dismissal of petitioner Tara Charf's petition for de facto parentage of respondent Kristin Prust's daughter AP, who is nearly 17 years old and who has expressly stated her desire not to have a continuing relationship with petitioner, the former wife of respondent Dan Martin, AP's legal guardian under an agreed nonparental custody order. Petitioner failed to establish three of the seven statutory factors to establish herself as a de facto parent—two of which are nearly identical to the factors under the common law standard established by this Court in *Parentage of L.B.*, 155 Wn.2d 679, 122 P.3d 161 (2005), *cert. denied*, 547 U.S. 1143 (2006), upon which petitioner so heavily relies.

The Court of Appeals' decision affirming the trial court's factual finding that petitioner failed to establish herself as AP's de facto parent does not raise an issue of substantial public interest warranting review by this Court,

and as petitioner was never established to be a "de facto parent," her professed assertions of what is "best" for AP are not entitled to constitutional deference. The trial court properly applied the statutory standard for de facto parentage that was in effect when petitioner filed her petition and the Court of Appeals' decision affirming the trial court does not conflict with those decisions applying the common law standard for de facto parentage. As there are no grounds under RAP 13.4 to warrant review of the Court of Appeals' decision, this Court should deny review.

B. Restatement of the Case.

1. Kristin Prust is AP's mother. Dan Martin is AP's guardian under an agreed 2014 nonparental custody order. Tara Charf is Dan's former wife.

AP is nearly 17 years old; she was born on November 7, 2005 to respondent Kristin Prust and the late Bill Prust, who died when AP was six years old. (CP 196-97) Respondent Dan Martin is AP's godfather and legal

guardian under an agreed nonparental custody order entered July 22, 2014. (RP 740-41; CP 37-40)

AP began living with Dan, who was then married to petitioner, Tara Charf, in November 2013, when AP was age 8. (RP 313) Eight months later, Kristin agreed to nonparental custody order because she was still "completely broken" from the death of AP's father and suffering from mental health issues that prevented her from working and properly caring for AP. (RP 570-71, 663) Kristin "explicitly left off Tara" from this order, wanting there to be a "clear delineation" between Dan and Tara, and limited AP's guardianship to Dan alone. (*See* CP 38, 102, 199, 327; RP 631, 742)

2. AP lived with both Dan and Tara from the ages of 8 to 13. After Dan and Tara separated in February 2019, AP lived with Dan.

When AP began living with Dan and Tara in November 2013, they were both working fulltime. (RP 640) In January 2015, Tara left her job and stayed home to care

for her and Dan's son, who has special needs. (RP 338) Tara returned to fulltime employment in August 2018. (RP 340)

No one disputes that while Tara lived with Dan and AP she provided care for AP while also caring for her and Dan's son, but it was also understood that each adult had a primary role for each child. Dan was primarily responsible for AP, and Tara was primarily responsible for the son. (RP 413, 705-06, 749, 905-06)

Tara and Dan separated on February 23, 2019 when Dan was arrested after an alleged domestic violence incident. (FF 12, CP 283) The facts surrounding the incident that resulted in Dan's arrest were highly disputed—Tara alleged that Dan was the initial aggressor and Dan alleged it was Tara. (*Compare* RP 401-03 *with* RP 778-80) As the trial court found, "[i]t is not clear to the Court what specifically occurred in this incident other than that there was admitted physical contact." (FF 12, CP 283)

Nevertheless, Dan accepted a plea deal that allowed him to avoid a trial that might cause AP "trauma" if she were called as a witness. (RP 772-74) After fulfilling the terms of his plea agreement, Dan's probation ended early and the City dismissed its charges against Dan with prejudice. (*See* RP 777; CP 48)

As she does in this Court, Tara tried to use this incident to seek custody of AP in both a nonparental custody action, which was dismissed at a threshold hearing, and the de facto parentage action, which was dismissed after a trial. Neither court found Tara's claims of domestic violence against Dan credible enough to warrant limiting Dan's contact with AP. (*See* RP 16; FF 12, CP 283)

The night of Dan's arrest, Tara sent AP to stay with a close friend of Dan. (*See* RP 89) The GAL, who was appointed in the de facto parentage action, found it "surprising" that Tara, who purportedly viewed herself as

AP's mother, did not keep AP with her after Dan's arrest. (RP 90)

While Tara disputed that she "kicked out" AP after Dan was arrested (RP 124), it is undisputed that it was her decision to send AP to stay with Dan's friend that night. (RP 404, 928) It is also undisputed that she did not seek to prevent Dan's brother from picking up AP the following day so that she could stay with his family. (RP 756-57) Once AP went to stay with Dan's brother, she never returned to live in the home that she and Dan previously shared with Tara, which Tara owned prior to her marriage to Dan. (*See* CP 323; RP 367-68)

After moving out of the shared home, AP was reluctant to see Tara, and made no attempt to contact Tara despite Dan placing no limits on her ability to do so. (*See e.g.,* RP 728, 749-50, 768, 770-71, 782-83, 803; CP 343) Tara also made no attempt to obtain visitation with AP, who primarily lived with Dan's brother for the first six

months after Dan and Tara separated while Dan worked out the terms of his probation and looked for a home that was appropriate for him and AP. (*See* RP 768, 770-71, 782, 803)

3. While living primarily with Dan, AP resumed regular visits with her mother Kristin, whose contact with AP had been previously been restricted by Dan and Tara.

After separating from Tara, Dan contacted Kristin to inform her that he and AP were no longer living in the home they had shared with Tara. (*See* RP 640-41) At that time, Kristin had not had any significant contact with AP since the end of 2014. In the first year after AP moved in with Dan, Kristin saw AP regularly. (RP 574) However, after Kristin contracted Methicillin-resistant Staphylococcus aureus (MRSA), Dan and Tara restricted Kristin's contact with AP due to concerns for their son, whose health was compromised due to various issues. (RP 580-82, 659, 830-31; CP 156, 198)

By the time Dan reached out to Kristin about his separation with Tara, she was still suffering breakouts from MRSA, but had made recent improvements in her life and used this opportunity to resume visits with AP. (RP 607-09, 631, 634, 669-70; CP 157; Ex. 45 at 6-7) After negotiations between Dan and Kristin on how best to protect AP and Dan from MRSA, Kristin and AP resumed contact. (RP 586-87) By November 2019, Kristin and AP, then age 14, were having regular weekly in-person visits, except for a brief suspension due to COVID-19, when Kristin and AP still remained in touch. (RP 600; Ex. 45 at 11-12, 14) By all accounts, AP was happy to renew her relationship with Kristin, and regularly texted and called Kristin when they were not together. (Ex. 45 at 15-16, 18-19; RP 679, 746-47, 758, 764, 874-75)

4. Four months after Dan and AP moved out of Tara's home, Tara filed a petition for de facto parentage of AP.

In June 2019, four months after AP left Tara's home, Tara filed a petition for nonparental custody, or alternatively de facto parentage, to which both Dan and Kristin objected. (CP 1, 9, 14, 19) On October 14, 2019, a court commissioner found no adequate cause on Tara's petition for nonparental custody (CP 161-65) but found "sufficient information for the court to determine that Ms. Martin may be a de facto parent under RCW 26.26A.440." (CP 162) The court appointed a guardian ad litem (GAL) to report on, among other matters, AP's "preferences." (CP 167)

A year passed between the time the court found adequate cause on Tara's petition for de facto parentage (CP 163) and the GAL issued his report. (CP 309) During that period AP had no contact with Tara, and Tara made no effort to seek agreed or court-ordered visitation with AP.

At the time of the GAL's investigation, AP, age 15, stated her preference to not have contact with Tara. (CP 342-44, 349) The GAL reported that AP had nothing overtly negative to say about Tara (CP 355), and AP acknowledged that "when she lived with Tara, she got along well with her" (CP 343), but she had no desire to resume contact or continue their relationship. AP expressed that "Tara is not part of her life anymore and [AP] has moved on" and did not "need" or "want" to see Tara. (CP 343)

The GAL described AP as "intelligent, doing well in school, and by all reports and observation is a well-functioning and happy young woman." (CP 349) The GAL reported that AP is "clear about what she does and does not want. She would like to continue to reside with Danny and to spend some time with Kristin. She is not interested in reconnecting with Tara." (CP 358) While the GAL had some concern that AP may have been influenced in her decision, he found no evidence of "alienating behavior" by

others (RP 118), and no evidence that suggested that AP's "stated preference was not reasoned or independent." (CP 358)

5. In June 2021, after a 6-day trial, the trial court dismissed Tara's de facto parentage petition.

Eight months after the GAL issued his report, the parties appeared for trial on Tara's de facto parentage petition. By then, Tara and AP had not seen each other for more than two years.

After 6 days of trial, the trial court dismissed Tara's petition for de facto parentage. The trial court found that Tara failed to prove three of the statutory factors under RCW 26.26A.440(4) to establish de facto parentage. The trial court found it was not in AP's best interest to continue a relationship with Tara. (FF 12, CP 282-83; FF 13, CP 283-84) In making this determination, the trial court found it was not in AP's best interest to require her to continue her relationship with Tara in light of AP's "strong-minded

expressed desire to not have contact." (FF 12, CP 282) The trial court considered that "any step taken by the Court" to require contact between AP and Tara would entail some form of reunification assessment and potentially reunification counseling, and because AP has already "endured counseling and many appointments over the years to address diagnosed ADHD," to "add yet another obligation to the life of what is reported to be a now well-adjusted and assertive teenager at a difficult and busy time in life" would not be in AP's best interests. (FF 12, CP 282)

The trial court found that while Tara proved that she and AP "bonded and cared" for each other while living together, that bond did not survive after they began living separately, indicating "that the bond they shared was not a strong one." (FF 10, CP 281) The trial court noted that if AP "truly had a bond" with Tara that was dependent and parent-like, "one would expect AP to be seeking out" Tara,

but "AP has not sought contact with [Tara] since [Dan] and [Tara] separated." (FF 10, CP 281)

Finally, the trial court found that Kristin, AP's only living parent, did not foster or support Tara forming a bonded and dependent parental relationship with AP. (FF 11, CP 281) The trial court noted that Kristin made a "conscious and clear decision" to exclude Tara as a guardian for AP, and only intended for Dan to be guardian with the authority to make decisions for AP. (FF 11, CP 281) The trial court concluded that knowing Tara "would be caring for AP to assist" Dan is not the same as supporting Tara "forming . . . a bonded and dependent relationship with AP" that was parental in nature. (FF 12, CP 281)

6. The Court of Appeals affirmed the trial court's decision in an unpublished decision.

In an unpublished decision, the Court of Appeals affirmed the trial court's dismissal of Tara's de facto parentage petition. First, it rejected Tara's claim, raised for

the first time on appeal, that the common law standard for de facto parentage, which existed prior to the legislature's enactment of RCW 26.26A.440(4) establishing the statutory elements for de facto parentage, should have been applied in this case. (Op. 4-6) As RCW 26.26A.440, became effective on January 1, 2019, six months before Tara filed her petition for de facto parentage, the Court held that the statute controls, and the trial court properly applied it in determining whether to dismiss Tara's petition. (Op. 5)

The Court also rejected Tara's constitutional challenge to RCW 26.26A.440, which was also raised for the first time on appeal. The Court held Tara "is not entitled to constitutional protection in this regard because, since she is not a parent of AP, she does not have a fundamental right to parent AP." (Op. 6)

Finally, the Court affirmed the trial court's dismissal of Tara's petition for de facto parentage when substantial

evidence supported the trial court's findings of fact that Tara failed to meet three of the seven statutory factors necessary to establish herself as a de facto parent, and those findings in turn supported the trial court's dismissal of her petition. (Op. 8-10)

C. Grounds for Denying Review.

1. The Court of Appeals' unpublished decision does not raise any constitutional issues because Tara has no constitutional right to parent AP.

In seeking review, Tara claims that the Court of Appeals' decision "unconstitutionally deprives a child's de facto parent deference in decision making over the child by allowing the child's legal guardian and unfit genetic parent to change the de facto parent's status using the 'best interests of the child standard.'" (Petition 3-4) However, Tara has never been established a de facto parent for AP. Thus, the Court of Appeals properly held, "Tara is not entitled to constitutional protection in this regard because,

since she is not a parent of AP, she does not have a fundamental right to parent AP." (Op. 6)

Further, Kristin, AP's "genetic parent," has never been found to be "unfit." As the Court of Appeals held, Kristin remains AP's "legal and biological parent" and her rights have never been "forfeited or limited in any way." (Op. 6) If the lower courts were required to give deference to one of the parties in this case, it was to Kristin, AP's only parent at the time the trial court entered its order. Only Kristin had a constitutional right to "make decisions concerning the care, custody, and control" of her child. *Troxel v. Granville*, 530 U.S. 57, 66, 120 S. Ct. 2054, 2060, 147 L. Ed. 2d 49 (2000). These decisions include with whom her daughter should live and spend time with. *See e.g. Magnusson v. Johannesson*, 108 Wn. App. 109, 112, 29 P.3d 1256 (2001) ("a normal right of parental decision-making" is deciding which members of the father's family

may care for the child in the father's absence during the father's residential time).

Tara also claims that this Court should grant review because the Court of Appeals "unconstitutionally applied" the Revised Uniform Parentage Act (RUPA) "to extinguish Appellant's de facto parenting rights she acquired prior to the statute becoming effective." (Petition 7) But again, Tara has never been established as a de facto parent, and thus never acquired any "parenting rights" to AP prior to the enactment of RUPA.

When the Legislature enacted RUPA, it established factors for de facto parentage under RCW 26.26A.440(4), replacing the common law standard adopted by this Court in *Parentage of L.B.*, 155 Wn.2d 679, 708, ¶ 40, 122 P.3d 161 (2005). The statutory factors under RCW 26.26A.440(4) are nearly identical to the common law factors adopted in *L.B.* However, one factor—whether "continuing the relationship between the individual and

the child is in the best interest of the child," RCW 26.26A.440(4)(g)—is unique to RUPA. Under the common law, an individual can establish "standing" as a de facto parent without proving that it is in the child's best interests. *L.B.,* 155 Wn.2d at 708, ¶ 40.

But whether that individual, who has standing as a de facto parent, is entitled to "any parental privileges" is determined based on the best interests of the child. *L.B.,* 155 Wn.2d at 708-09, ¶ 41. In other words, an individual who can establish standing as a de facto parent under the common law standard "is not entitled to any parental privileges, as a matter of right, but only as is determined to be in the best interests of the child at the center of any such dispute." *L.B.,* 155 Wn.2d at 708-09, ¶ 41. Thus, the child's "best interests" are the touchstone in both the statutory and common law formulations of de facto parentage.

Applying the RUPA in this case is not a "manifest constitutional error." (Petition 6) No court has ever

concluded that Tara has standing as a de facto parent under the common law standard. Even if Tara had standing as a de facto parent under the common law, it is not unconstitutional to require her to prove that it is in AP's best interest to continue the relationship between them before a court can enter an order granting Tara visitation with AP, as RCW 26.26A.440(4)(g) requires. This is exactly what was intended by this Court in *L.B.* 155 Wn.2d at 708-09, ¶ 41. Because Tara as a prospective de facto parent has no constitutional right to parent or make decisions for AP, the Court of Appeals' decision affirming the trial court's dismissal of her petition because she failed to establish the statutory factors under RCW 26.26A.440(4) does not involve a "significant question of law under the Constitution of the State of Washington or of the United States" to warrant review under RAP 13.4(b)(3).

2. The trial court properly applied RUPA, and review of the Court of Appeals' unpublished decision affirming the trial court is not warranted.

As Tara filed her petition after the effective date of the RUPA, the Court of Appeals properly held that Tara had to meet the statutory factors for de facto parentage. (Op. 7) In seeking review, Tara claims that RCW 26.26A.020 "specifically states that the RUPA shall not abrogate or reduce rights a de facto parent may have under the common law." (Petition 9) But the statute says no such thing. Instead, RCW 26.26A.020(2) states that this "chapter does not create, affect, enlarge, or diminish parental rights or duties under law of this state *other than*

this chapter." (emphasis added)[1] As "this chapter" established the standard for de facto parentage in RCW 26.26A.440, the legislature clearly intended to modify the common law standard.

This Court anticipated this development in *L.B.* when it noted that "[w]hile the legislature may eventually choose to enact differing standards than those recognized here today, and to do so would be within its province*, until that time*, it is the duty of this court to 'endeavor to administer justice according to the promptings of reason and common sense.'" 155 Wn.2d at 707, ¶ 37 (emphasis added). "That time" has come; the legislature enacted a seven-factor test

[1] In enacting RUPA, the legislature modified the UPA's "scope of act" language, adding the italicized language. The statute previously read, "This chapter does not create, enlarge, or diminish parental rights or duties under other law of this state." RCW 26.26.021 (abrogated). This Court relied on that language in *Custody of B.M.H.*, 179 Wn.2d 224, 315 P.3d 470 (2013) to hold that amendments to the UPA that had not included a provision for de facto parentage did not "abrogate the common law doctrine of de facto parentage." 179 Wn.2d at 241-42, ¶ 34.

for establishing de facto parentage that preempts the common law test adopted by the Court in *L.B.* Because RUPA controls, review of the Court of Appeals' unpublished decision is not warranted because it does not conflict with decisions from this Court that applied the common law standard when the legislature had not yet established statutory factors for establishing de facto parentage. RAP 13.4(b)(1).

3. The Court of Appeals' unpublished decision affirming dismissal of a de facto parentage petition that would have failed under both RUPA and the common law does not raise a matter of public importance or conflict with other decisions from the Court of Appeals.

The Court of Appeals' unpublished decision affirming the trial court's dismissal of Tara's petition for de facto parentage because she failed to prove as a matter of fact three of the seven statutory factors is not a "matter of great public importance." (Petition 10) That this case "involves an adult who lived with and cared for a child, for

a period of years, managing her medical appointments and helping with school" does not "substantially affect public interest." (Petition 12) How can the "impact" of the Court of Appeals' unpublished decision affirming dismissal of Tara's de facto parentage petition "be felt by de facto parents and children in this State that confront the same issue" (Petition 10) when Tara's petition for de facto parentage would have been dismissed under either the RUPA or the common law? Tara failed to prove, as a matter of fact, two statutory factors: RCW 26.26A.440(4)(e) and (f), which are nearly identical to two of the factors adopted by this Court in *L.B.,* 155 Wn.2d at 708, ¶ 40.

a. Substantial evidence supports the factual finding that Tara and AP did not have a parental bond, through no fault of respondents.

Whether Tara could prove that she established a bonded and dependent parent-like relationship with AP is a requirement under both the statute, RCW 26.26A.440(4)(e), and common law, *L.B.,* 155 Wn.2d at

708, ¶ 40. Tara claims review is warranted because the Court of Appeals decision "rewarded the wrongdoer(s) and punished the child" (Petition 7) by affirming dismissal of her petition when the trial court found that any bond Tara and AP had while living together was not sufficiently strong to be "bonded and dependent . . . [ ] and parental in nature" because it failed to survive their separation. (FF 10, CP 281)

Tara however does not claim that substantial evidence does not support the trial court's finding that AP did not "truly ha[ve] a bond" with Tara in light of AP's lack of interest in continuing a relationship with Tara after moving out of her home. (FF 10, CP 281) Instead, she claims that Dan "interfered with and prohibited their access to one another" (Petition 8), but cites nothing in the record to support this allegation.

To the contrary, there is substantial evidence that Dan did not prevent AP from contacting Tara, and that AP's desire not to continue a relationship with Tara was based

on her own preference. (*See* RP 85-86, 770-71, 782-83, 803; CP 343, 349, 355, 358) Meanwhile, there is no evidence that Dan prevented Tara from seeking visitation with AP during the pendency of the de facto parentage action.

Any "estrangement" between Tara and AP was not "caused by another person with control over the child." (Petition 8) The Court of Appeals' unpublished decision dismissing Tara's petition does not involve an issue of substantial public interest, and review is not warranted under RAP 13.4(b)(4).

b. Substantial evidence supports the factual finding that a parent had not fostered a bonded and dependent parent-like relationship, distinguishing this case from other de facto cases.

Whether Tara could prove that "another parent of the child fostered or supported the bonded and dependent relationship" is also a requirement under both the statute, RCW 26.26A.440(f), and common law, *L.B.,* 155 Wn.2d at

708, ¶ 40. Tara challenges the Court of Appeals' decision affirming the trial court's finding that Tara failed to prove this factor, but she does not claim that substantial evidence does not support the trial court's finding that Kristin made a "conscious and clear decision" to exclude Tara as a guardian for AP, and only intended for Dan to be guardian with the authority to make decisions for AP. (FF 11, CP 281) Tara also does not claim that substantial evidence does not support the trial court's finding that Kristin knew that Tara would be caring for AP to "assist [Dan] but she did not support [Tara]'s forming of a bonded and dependent relationship with AP." (FF 11, CP 281)

Instead, Tara argues that the trial court's decision, and the Court of Appeals' unpublished decision affirming it, conflicts with two decisions from Division Three of the Court of Appeals, which she claims hold that when a genetic parent voluntarily abdicates their parental duties to a third party, they *necessarily* "foster and encourage" a

bonded and dependent parent-like relationship. (Petition 10) The two cases that Tara relies on are very different factually from this one:

In *Parentage of J.B.R.*, 184 Wn. App. 203, 336 P.3d 648 (2014) (Petition 10, 11), the father stopped trying to visit J.B.R. when she was about two years old. Around the same time, the mother began dating York, with whom the mother later had another child. When J.B.R. was eleven years old, York filed a petition to establish himself as de facto parent. The father, who had not seen J.B.R. since she was two years old, opposed the petition. The mother also opposed the petition. In affirming the trial court's order denying the mother's motion to dismiss York's de facto parentage petition, Division Three held that the "biological father's voluntary long term absence from his child's life" 184 Wn. App. at 214, ¶ 24, and his "decision not to support J.B.R. and not to seek a relationship with his daughter for more than a decade" was evidence that he consented to,

and fostered, York's effort to establish a parent-child relationship with J.B.R. 184 Wn. App. at 213, ¶ 23.

In *Walker v. Riley*, 19 Wn. App.2d 592, 498 P.3d 33 (2021) (Petition 10, 11), the child lived with her grandmother since she was three months old, and the mother agreed to a nonparental custody order placing the child with the grandmother. When the grandmother filed a petition for de facto parentage, she alleged that the mother only visited the child, now age 14, sporadically between the age of 3 months and 9 years old. Thereafter, the mother visited the child more frequently, but the visits remained inconsistent. The grandmother further alleged that the mother waited six years from when she became sober to seek custody. Division Three held that if the mother had been sober for six years, "but chose not to re-engage with the child, her inaction necessarily fostered the continuing parent-like relationship" between the child and grandmother. 19 Wn. App.2d at 607, ¶ 36.

The facts here are much different. First, unlike in *J.B.R.,* Kristin's absence from AP's life was not "voluntary." 184 Wn. App. at 214, ¶ 25. Kristin contracted MRSA at the end of 2014, and Dan and Tara placed strict conditions on Kristin's contact with AP, based on their concern that it might impact Dan and Tara's special needs son, who had health issues. (RP 158, 580-82, 623-24, 638-39, 830-31) Before Kristin was allowed contact with AP, she had to have three negative MRSA tests in a row. (RP 583-84) Unfortunately, because Kristin continued to have intermittent breakouts she was never able to successfully have three consecutive negative tests, thus eliminating the possibility of visits with AP. (RP 583-86)

Second, unlike in *Walker*, Kristin did not "resolve her disabling condition" and then choose "not to re-engage with the child." 19 Wn. App.2d at 607, ¶ 36. Kristin was still suffering breakouts from MRSA in February 2019 when she sought to resume contact with AP, less than five years

after her contact with AP was restricted. (RP 586-87; CP 325) At this point, Dan, who was now separated from Tara, remained concerned about Kristin's MRSA, but acknowledged that "we've learned a lot more about MRSA over the years," and was agreeable to having Kristin renew contact with AP under certain conditions to ensure that MRSA did not affect AP, Dan, and Dan's son with Tara. (*See* RP 831)

Unlike the parents in *J.B.R.* and *Walker,* Kristin did not voluntarily absent herself from her child's life. Instead, during a difficult time in her life, Kristin made the decision to have Dan, her close friend and AP's godfather, care for AP because Kristin could not. In doing so, she specifically excluded Dan's wife, Tara, from the agreed nonparental custody order. Kristin did not intend to absent herself from AP's life, but was forced to do so when her contact was restricted by Dan and Tara. Once Dan and AP moved from Tara's home, Kristin saw an opportunity to resume contact

with AP and immediately sought it. The Court of Appeals' unpublished decision affirming the trial court's dismissal of the de facto parentage petition when Tara failed to prove that Kristin consented to and fostered a parent-like relationship between Tara and AP does not conflict with *J.B.R.* or *Walker*. Therefore, review is not warranted under RAP 13.4(b)(2).

D. Conclusion.

There are no grounds under RAP 13.4(b) to warrant review of the Court of Appeals' decision, and this Court should deny review.

I certify that this answer is in 14-point Georgia font and contains 4,991 words, in compliance with the Rules of Appellate Procedure. RAP 18.17(b).

Dated this 18th day of August, 2022.

SMITH GOODFRIEND, P.S.

By: */s/ Valerie A. Villacin*
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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on August 18, 2022, I arranged for service of the foregoing Co-Respondent Daniel Martin's Answer to Petition for Review, to the Court and to the parties to this action as follows:

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DATED at Brooklyn, New York this 18th day of August, 2022.

/s/ Andrienne E. Pilapil
Andrienne E. Pilapil

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