

FILED
SUPREME COURT
STATE OF WASHINGTON
4/2/2018 9:47 AM
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No. 95485-2

SUPREME COURT
OF THE STATE OF WASHINGTON

JOHN PATRICK OSMAN, Respondent

v.

TINA ANNE LISE SCHMIDT, Appellant

REPLY TO MOTION TO STRIKE

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I. Extended Family Provision:

That Mr. Osman presented a proposed parenting plan at trial that differed from the one he submitted with his petition for modification is accurate, but misses the point of the objection to his answer. His answer misrepresented that elimination of the extended family provision was part of his petition for modification which his response does not deny.

Although the Court of Appeals affirmed elimination of the provision¹ strictly on constitutional grounds, it also observed, as to modifications of parenting plans in general, that “The trial court may rely upon stipulations of the parties and does not err in failing to independently evaluate whether modification was appropriate.” (slip op at 5). That general proposition could be applied to justify affirmation of the trial court’s elimination of that provision. Thus, the misrepresentation that the agreed order acknowledging that adequate existed as to his petition for modification included elimination of that provision, when in fact his petition sought an expansion of it has significance.

The testimony cited in the response at RP 206 – 210 does focus on certain aspects of Mr. Osman’s revised proposed parenting plan submitted for the first time at trial. However, it does not contain any reference to or

discussion of his proposal to eliminate the extended family provision in its entirety.

II. Substantial Change of Circumstances Related To Decision-Making Authority.

Objections to Dr. Hutchins-Cook testifying as to vaccinations being vital to a child's well-being (RP 37), detrimental if she is not (RP 38), or the results of research were all sustained. (RP 39).

The response argues that the issue was the best interests of the child, not whether their child should be vaccinated. In fact the issue was whether Mr. Osman should have joint decision-making authority so as to be in a position to engage in dispute resolution in order to obtain vaccinations for Ella. The response does not deny that its reference in the answer to the petition for acceptance of review to RP 309-310 did not contain evidence that research reveals that vaccinations are safe and saves lives is also a misrepresentation. Mr. Osman has now acknowledged that the testimony at RP 309-310 is Ms. Schmidt's insistence that she will not obtain vaccinations, rather than evidence of vaccination studies.

The response also admits that the representation in the answer that Dr. Hutchins-Cook's testimony and recommendations related to whether a

¹ Which it referred to as the "Chicago Travel Provision" (slip op at 8).

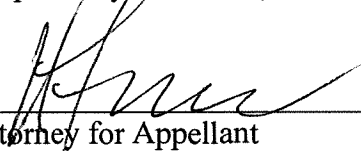
substantial change of circumstances occurred was also inaccurate. In fact, the original final parenting order, entered in Fulton County, Georgia, was entered, will full awareness of the dispute over vaccinations by the Atlanta judge who approved the order. The award of sole decision-making authority to Ms. Schmidt, applied whether she remained in the Atlanta Metropolitan area, or whether she should relocate to the State of Washington. (Ex. 3; RP 81-82).

III. Conclusion:

The misstatements contained in the answer to the petition for acceptance of review have all been admitted. The motion to strike should be granted. Fees should be awarded for having to file the motion to point out all misrepresentations.

DATED this 29 day of March, 2018.

Respectfully submitted,



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Transmittal Information

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Appellate Court Case Title: In the Matter of the parentage and Support of Ella Schmidt
Superior Court Case Number: 15-3-07774-4

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