

No. 91167-3

SUPREME COURT
FOR THE STATE OF WASHINGTON

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SHANNON MARIE LANGFORD
Respondent,

v.

CHAD FRANKLIN LANGFORD
PETITIONER.

SHANNON MARIE LANGFORD'S ANSWER TO CHAD FRANKLIN
LANGFORD'S PETITION FOR REVIEW

Defoe Pickett Law Office
830 N. Columbia Center Blvd, Ste. A1
Kennewick, WA 99336
(509)734-8787

 ORIGINAL

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I. INTRODUCTION

The petitioner's arguments have been considered by the Division III Court of Appeals and denied. A Petition for Review was subsequently filed arguing that the Court of Appeals decision is inconsistent with the decisions of both the Supreme Court and other decisions from the Court of Appeals. Each of these arguments are without merit. This Court, like the Court of Appeals, should reject the petitioner's arguments and deny review.

II. STATEMENT OF CASE

The parties were married on May 26, 2000 in Las Vegas, Nevada. (CP 194). Together they have two children, who were 6 and 5 years old when the parties began their dissolution action. (CP 194). The respondent, Shannon Langford, filed for divorce on May 17, 2012. (CP 191-197). A temporary parenting plan was entered on August 27, 2012, wherein the parties shared residential placement with the children equally and exchanged the children every Sunday at 7:00 p.m. (CP 180-188).

The parties began their 5 day trial on May 15, 2013. The Honorable Judge Salvador Mendoza presided. At trial, the parties stipulated to a final parenting plan, with the exception of a few provisions

relating to school breaks. The issues of child support and the division of debts and assets were those to be determined by the court. (CP 73-79).

The court was tasked with determining the average income of the parties in order to determine child support. Shannon Langford has worked for the State of Washington DSIIS for over 18 years. The court used her 2012 income in determining child support, and found that her monthly net income was \$3,429.46. (CP 48-52). Chad Langford's monthly net income was determined to be \$6,998.32. (CP 48-52). Mr. Langford's monthly net income doubles that of Shannon Langford. Neither party disputes this.

Mr. Langford requested a downward deviation in the transfer payment based on equal residential placement of the children. (CP 154). Judge Mendoza decided that a residential credit was not appropriate, and declined to grant one. (RP 24-25).

Mr. Langford filed a motion for reconsideration with regard to the child support ruling. (CP 121). Shannon Langford filed a memorandum in response to Chad Langford's motion for reconsideration. (CP 93-102). Shannon Langford argued that the court did not abuse its discretion in denying the deviation; the court's ruling was not contrary to the law and did not constitute a substantial injustice to Chad Langford. (CP 93-102). Judge Mendoza denied the motion for reconsideration. (CP 103 and CP 90-91).

Findings of Fact and the Final Order of Child Support were entered on September 5, 2013. (CP 73-85, CP 38-52).

Chad Langford appealed. (CP 6-7). The Division III Court of Appeals issued an opinion affirming the trial court and found no abuse of discretion. Chad Langford subsequently motioned for reconsideration, which was also denied. The petitioner then filed his Petition for Review with this Court, however, missed the filing deadline by one day due to a faxing issue and motioned for an extension of time. The respondent does not object to this motion.

III. REASONS WHY REVIEW SHOULD BE DENIED

1. The Court of Appeals decision is consistent with decisions of both the Supreme Court and Court of Appeals.

A. The Court of Appeals correctly upheld the trial court's decision to name Mr. Langford as obligor.

RCW 26.09.100(1) requires the trial court, after considering "all relevant factors," to order either or both parents to pay child support in an amount determined under RCW 26.19. The trial court calculates the total amount of child support, allocates the basic support obligation between the parents "based on each parent's share of the combined monthly net income," RCW 26.19.080(1), then orders the parent with the greater

obligation to pay the other a “support transfer payment.” RCW 26.19.011(9). **Marriage of Casey** 88 Wash. App. 662, 665, 967 P.2d 982(1997).

A December 23, 2014 decision out of the Division III Court of appeals reinforces this. **In re: Parentage of A.L.**, 340 P.3d 260(2014) involved shared residential placement and found that the trial court could declare the father the obligor for purposes of making support transfer payments. In its decision, the Court stated that “trial court held authority, under statutory sources as well as recent Washington precedent, to nominate Zasso as the obligor since he accrued the higher income and the mother received TANF benefits for the child, despite shared residential placement.” **Id** at 266.

At trial and on appeal, the respondent argued that Chad Langford earns substantially more than Shannon Langford and has the higher obligation, therefore he is the “obligor” for child support, even with equal time. The Court of Appeals agreed and found that “the obligor is the parent with the greater theoretical support obligation. Here, Mr. Langford is the obligor parent.” **Langford** at 3.

B. The Washington State Supreme Court has held that the statutory child support schedule applies in shared residential placement situations.

The primary case resolving this issue is **State ex rel. M.M.G v. Graham**, 159, Wn.2d 623, 632, 152, P.3d 1005 (2007); **State ex rel. M.M.G. v. Graham**, 123 Wn. App. 931, 933, 99 P.3d 1248 (2004), **aff'd in part, rev'd in part on other grounds, Graham**, 159 Wn.2d 623, abrogated on other grounds, **In re Marriage of McCausland**, 159 Wn.2d 607, 152 P.3d 1013 (2007).

Graham, was a support modification case. The parties had two children (both over 12) and had equal residential time. Father was originally granted a deviation because of his substantial time with the children and because the reduction “did not leave [mother] with insufficient funds to meet the children’s needs.” *Id.*, at 628.

The state filed a support modification more than two years later. Father again requested a deviation and asked the court to apply the **Arvey** formula (formula when each parent has custody of at least one child **Marriage of Arvey** 77 Wash.App. at 819, 894 P.2d 1346.). Mother and the State objected to using this formula.

The trial court Commissioner granted the residential credit deviation but refused to apply the **Arvey** formula. **Graham** at 629. Father filed a motion to revise and the Judge reversed and applied the formula. *Id.*, at 630. Mother appealed and the Court of Appeals reversed

yet again and refused to apply the Arvey formula. *Id.*, at 631. Mother petitioned for review and the Supreme Court accepted.

Father argued the Arvey formula should be applied to equal residential schedules “by analogy.” *Id.*, at 633. The Supreme Court cited two reasons for denying his request.

First, in a split residential situation, each parent has residential time with one or more children. If the children are different ages or have different needs, the parents’ respective burdens are different and the child support obligation must take those differences into account, a fact the Arvey court acknowledged but did not resolve. Conversely, in shared residential situations, both parents are responsible for the same children and the same needs.

And second, because the statute explicitly gives the trial court discretion to deviate from the basic child support obligation based on the facts of a particular case, a specific formula is neither necessary nor statutorily required to ensure the parents’ child support obligation is properly allocated.

The Legislative intent regarding child support is succinctly stated in RCW 26.19.001 (*Italics added*):

“The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child’s basic needs *and to provide additional child*

support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents."

At trial, Chad Langford did not prove a deviation would not result in insufficient resources to Shannon Langford's house, nor that it would be inequitable to order a child support transfer payment consistent with the child support guidelines.

A Division One Court of Appeals decision mirrors the facts contained within this case. **In re Marriage of Schnurman**, Wn.1d, 316 P.3d 514 (2013). This case affirms that Washington Law and legislature have determined the proper method for calculating child support when parents share equal residential time. A summary of relevant facts are as follows:

The **Schnurman** case involves parties dissolving a 10 year marriage, wherein a final parenting plan was entered granting shared and equal residential time with the children. The trial court found father's income to be \$6,338, mother's income to be \$3,380.00, and named father as the obligor. Father was ordered to pay the standard transfer amount of \$1,300.00. Father requested a downward deviation and was denied on the basis that the father could not prove having the children half the time would significantly increase his costs to support the children or reduce

wife's expenses for the children. The trial court also found that a downward deviation would result in insufficient funds for the wife's household. Father appealed. *Id* at 516.

On appeal, father argued that the standard calculation did not apply in shared custody situations like theirs; that only a parent who has the children a majority of the time is entitled to child support; the trial court abused its discretion in awarding mom a transfer payment; Washington Legislature and Courts have determined the proper method for calculating child support in shared residential cases; and requested that the Court consider and equitably apportion the expenses each parent pays. *Id* at 517.

The Division One Court of Appeals disagreed with the father and upheld the trial court's decision. Their reasoning being that the Washington State Supreme Court, affirming Division One, previously held that the statutory child support schedule applies in shared residential situations under *State ex rel. M.M.G v. Graham*, 159 Wash.2d 623, 626, 632, 152 P.3d 1005(2007). Additionally, that under RCW 26.19, the Child Support Schedule Statute, the legislature's intent was clear:

“...to ensure child support orders are adequate to meet a child's basic needs and provide adequate child support commensurate with the parent's income, resources and standard of living.” RCW 26.19.001. *Id* at 517.

The Court of Appeals also found that the **Graham** case controlled and determined the process for entering an order of child support in accordance with RCW 26.19.011(1). **Schnurman** at 518. First, the basic child support obligation is set from the table based on parent's combined monthly income and ages. Second, the trial court allocates the child support obligation between the parents based on each parent's share of the combined monthly income. RCW 26.19.080(1). Third, the court determines the presumptive amount of child support owed by the obligor parent to the oblige RCW 26.19.011(8). Fourth, if requested, the court can consider to deviate upwards or downwards from the standard calculation RCW 26.09.011(4)(8). The court has discretion to deviate from standard calculation based on factors like a parent's income and expenses, obligations to children from other relationships, and the residential schedule. If the court considers a deviation based on the residential schedule, specific statutory analysis is required as follows:

“(d) Residential schedule. The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time

spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.” RCW 26.19.075(1)(d) *Id* at 519.

RCW 26.19.075(1) explicitly states that in using its discretion to deviate from the standard calculation, the court must base their decision on such factors as the *parents' income and expenses*, obligations to children from other relationships, and the children’s residential schedule. *Id.*
(*Emphasis added.*)

RCW 26.19.075(1)(d), “[t]he court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment,” subject to the terms and conditions below:

The court *may not deviate* on that basis if the deviation will result *in insufficient funds* in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, *the court shall consider* evidence concerning the *increased expenses* to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the *decreased expenses, if any*, to the party receiving the support resulting from the significant

amount of time the child spends with the parent making the support transfer payment. (*Emphasis added*). *Id.*

Deviations remain “the exception to the rule and should be used only where it would be inequitable *not to do so.*” **Marriage of Burch**, 81 Wn. App. 756 761 (1996) (*Emphasis added*). They should be used if strict application of [the child support guidelines] would result in a significant disparity in the amount of support available for the children in each household. **Marriage of Oakes**, 71 Wn. App. 646, 652 (1993) (This case was addressing the split custody situation).

The amount of child support rests within the sound discretion of the trial court. **Marriage of Fiorto**, 112 Wn. App. 657 (2002). If the findings of fact and conclusions of law support a decision to deviate the court may then exercise its discretion to order an appropriate deviation that will assure that both children are protected with adequate, equitable and predictable child support. **Oakes**, at 652.

2. There were adequate findings of fact on which the Court of Appeals relied upon.

RCW 26.19.035(2) requires that an order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from

the standard calculation and reasons for denial of a party's request for deviation from the standard calculation.

At trial, The Honorable Judge Mendoza provided adequate factual findings, on several occasions. The Final Order of Child Support, signed by Judge Mendoza, explicitly stated that a deviation was denied based on a "large disparity in the parties' income. It is in the best interest of the children for the father to pay the full monthly transfer payment without deviation." (CP 41).

In its decision on Chad Langford's motion for reconsideration, Judge Mendoza stated:

"I have reviewed my notes and the motions filed by both parties. However, the respondent [Chad Langford] has inadvertently misquoted or taken some of the Court's statements out of context. After said review, the Court is denying Respondent's motion." (CP 90-92)

On appeal, the Court found that the findings satisfied the statutory requirement. "...since we may review the oral ruling in conjunction with the court's finding of fact, the combination satisfies RCW 26.19.075(3) for review purposes." Langford at 5.

IV. CONCLUSION

The arguments presented in the petition for review are without merit. The decision of the Court of Appeals is not in conflict with a

decision from the Supreme Court of another Court of Appeals. The Court of Appeals decision is correct. Accordingly, the petition for review should be denied.

Respectfully submitted this 2nd day of February, 2015.

Defoe Pickett Law Office

By:



Steve Defoe, W.S.B.A#25837
Attorney for Shannon Langford, Respondent.

CERTIFICATE OF SERVICE

I do hereby certify that on the 2nd day of February 2015, I caused
to be served a true and correct copy of the foregoing by the method
indicated below and addressed to the following:

Andrea J. Clare
TELQUIST ZIOBRO McMILLEN CLARE, PLLC
1321 Columbia Park Trail
Richland, WA 99352
(509)737-8500
Fax: (509)737-9500

Legal Messenger
 U.S. Mail
 Fax

Amy Crider
Amy Crider

OFFICE RECEPTIONIST, CLERK

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Subject: RE: Marriage of Shannon Langford v. Chad Langford Supreme Court Cause #91167-3

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Dear Clerk,

Attached please find Shannon Langford's Answer to Chad Langford's Petition for Review for the following case:

Case Name: Marriage of Shannon Marie Langford v. Chad Franklin Langford

Supreme Court Cause No.: 91167-3

Attorney for Respondent: Steve Defoe, WSBA #25837
Defoe Pickett Law Office
830 N. Columbia Center Blvd., Suite A1
Kennewick, WA 99336
Phone (509) 734 -8787
Fax (509) 734-9258

Sincerely,

Amy B. Crider
Associate Attorney
WSBA#48137
Defoe Pickett Law Office
830 N. Columbia Center Blvd., Suite A1
Kennewick, WA 99336
Phone (509) 734 -8787
Fax (509) 734-9258

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