

69995-4

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NO. 699954

COURT OF APPEALS  
DIVISION I  
OF THE STATE OF WASHINGTON

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In re the Marriage of:

SOHRAB DANESHFAR,  
Appellant,

and

ROXANNA VEISEH  
Respondent

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BRIEF OF RESPONDENT

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STATE OF WASHINGTON  
COURT OF APPEALS  
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## I. TABLE OF AUTHORITIES

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## II. RESTATEMENT OF THE CASE

This proceeding concerns child support for 15 year old Romtin Daneshfar. At the time of entry of the Decree of Dissolution, the parties agreed that Mr. Daneshfar would pay for Mother's housing in lieu of child support. CP 50. The Child Support Order provided for a downward child support deviation for reasons set forth in section 3.15 of the Child Support Order which stated:

Father will provide housing for mother and child at his sole expense (debt service, real estate taxes, insurance, and major maintenance) for three years from date of entry of this order. CP 53.

The Child Support Order identifies mother as the "obligee," namely, the parent receiving support. CP 51. The Child Support Order did not provide for any deviation on account of the residential schedule. CP 52.

The Petition for Modification was filed because father's obligation to provide housing terminated resulting in a severe economic hardship for mother. CP 2.

## III. ARGUMENT

Standard of Review. Mr. Daneshfar cites *In re Marriage of*

**Bell**, 101 Wn. App. 366, 4 P.3d 849 (2000) for the proposition that a child support calculation and its grounds for deviation is reviewed under an abuse of discretion standard. However, in **Fernando v. Nieswandt**, 87 Wn. App. 103, 111, 940 P2d 1380, rev. den. 133 Wn. 2d 1014, 946 P.2d 402 (1997), the court held that this standard of review applies “after the trial court determines that there are grounds for deviation from the presumptive schedule, its deviation is reviewed for abuse of discretion.” In our case, as set forth below, Mr. Daneshfar did not request a deviation from a standard child support calculation and he has not challenged any findings of fact or the court’s calculation of a standard child support amount.

Required Findings of Fact were entered.

The Findings of Fact required by RCW 26.09.035 were entered by the trial court. CP 111-113.

Mr. Daneshfar argues that the trial court failed to make findings of fact denying a deviation from a standard child support calculation. However, Mr. Daneshfar did not request a deviation.

Mr. Daneshfar did not request a deviation from a standard child support calculation in his Response to Petition for Modification of Child Support. His only Request for Relief was that child support

be based upon the Washington State Child Support Schedule. CP 4-5.

The child support worksheets filed by Mr. Daneshfar with his Response to Petition likewise did not claim a downward deviation. CP 6-10. The filing of worksheets is required by King County Local Family Court Rule 14(b)(1)(B). The contents of the worksheets are mandated by RCW 26.19 App. which provides in part as follows:

Worksheets Instructions,” Line 26 “Other factors for Consideration: In the space provided, list any other factors that should be considered in determining the child support obligation. (For information regarding other factors for consideration, refer to DEVIATION STANDARDS.)

Mr. Daneshfar left line 26 blank on the child support worksheets he submitted in these proceedings. CP 9-10. He did not in any way request a downward deviation in his child support worksheets. CP 6-10.

Further, Mr. Daneshfar did not request a deviation in his trial declaration, CP 81-93, and he did not provide any other documents to the court at trial requesting a deviation from the standard child support calculation. Despite the fact that he cited several statutes

relating to imputing income in his trial declaration, CP 87-88, Mr. Daneshfar failed to even refer to the deviation statute RCW 26.19.075 and he did not make any request for a deviation from a standard child support calculation.

Mr. Daneshfar alleges at page 9 of his Brief that he indicated to the trial court that “certain adjustment to transfer payment should be made.” That statement is not correct. Mr. Daneshfar made no such indication to the trial court. He did not request an adjustment to the transfer payment. He did not specify any amount for the support payment he was requesting. As noted above, he did not cite the deviation statute. He did not use the word deviation. He did not in any way ask for a reduction in child support below a standard support calculation. CP 81-93.

The trial court did enter the Findings of Fact required by RCW 26.19.035(d). CP 111-113. Since a deviation from the standard calculation was not requested, the trial court was not required to make any findings of fact with respect to deviation. Findings of Fact regarding deviation are only required under RCW 29.19.035(2) when a deviation has been requested. That statute provides in part as follows:

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.

Here no deviation was requested by Mr. Daneshfar so findings of fact regarding deviation under RCW 26.19.035(2) were not required.

Evidence did not Support Deviation based on Residential schedule.

Mr. Daneshfar further asserts that the trial court should have deviated from the basic child support obligation and claims that there was evidence in the record which would have supported a downward deviation based on the residential schedule. However, Mr. Daneshfar did not satisfy the requirements of RCW 26.19.075(1)(d) for a deviation on the basis of the residential schedule.

Initially, Mr. Daneshfar failed to submit the required financial information. He failed to provide documents necessary to verify his income or expenses. The only information provided for 2011 and 2012 were copies of the pay stubs for checks he wrote to himself

from his wholly owned corporation. He failed to provide any evidence of his business income for the past two years. He also failed to provide statements for all of his bank accounts as specified by King County Local Family Court Rules ("KCLFLR").

KCLFLR 14(b)(1)(B) provides in part as follows:

(B) Documents Required from Responding Parties.  
Each responding party shall file and serve a Response to Petition, a completed Financial Declaration, child support worksheets (if applicable), and the financial documents specified in LFLR 10....

KCLFLR 10 provides in part as follows:

(b) Supporting Documents to be filed with the Financial Declaration. Parties who file a financial declaration shall also file the following supporting documents:

(1) Pay stubs for the past six months. If a party does not receive pay stubs, other documents shall be provided that show all income received from whatever source, and the deductions from earned income for these periods;

(2) Complete personal tax returns for the prior two years, including all Schedules and all W-2s;

(3) If either party owns an interest of 5% or more in a corporation, partnership or other entity that generates its own tax return, the complete tax return for each such corporation, partnership or other entity for the prior two years;

(4) All statements related to accounts in financial institutions in which the parties have or had an interest during the last six (6) months. "Financial institutions" includes banks, credit unions, mutual fund companies, and brokerages.

Further, the court entered in this proceeding an Order Compelling Answers requiring Mr. Daneshfar to provide bank account statements and documents verifying his income. CP 197-198.

The deviation statute, RCW 26.19.075(1)(d), provides that the court may not deviate on the basis of the residential schedule if

the deviation will result in insufficient funds in the household receiving support to meet the basic need of the child. RCW 26.19.075(1)(d) reads in part as follows:

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....

Here, Ms. Veiseh's Trial Declaration, CP 46, and her Financial Declaration, CP 140, show that without child support, her reasonable monthly expenses, including the expense of the child, exceed her monthly income leaving her without sufficient funds for the child's basic needs. Significantly, Mr. Daneshfar has not challenged on appeal the court's Finding of Fact 2.3 that the existing order worked a severe economic hardship. CP 112.

Next, RCW 26.19.075(1)(d) requires evidence of the increased expenses to a parent making child support payments resulting from the significant amount of time spent with that parent and the decreased expenses to the party receiving the support resulting from the residential schedule. RCW 26.19.075(1)(d) provides in part as follows:

When determining the amount of the deviation, the

court shall consider evidence of the increased expenses to a parent making child support 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.

In this case, not only did he fail to request a deviation, Mr. Daneshfar submitted no evidence that he incurred any increased expenses on account of the residential schedule. Further, the evidence showed that there was no decrease of the mother's expenses on account of the residential schedule. CP 46. Mr. Daneshfar failed to identify any of his claimed expenses and he failed to submit any evidence such as receipts, canceled checks or bank account statements to show his payment of expenses. CP 81-93.

Since there was no evidence that Mr. Daneshfar incurred any increased expenses on account of the residential schedule and the evidence showed that Ms. Veisheh's expenses did not decrease because of the schedule, there was no basis for a downward

deviation on account of the residential schedule.

Finally, Mr. Daneshfar requests this court to award him attorney's fees. However, he has not had an attorney of record in the proceedings and he has not complied with the requirements of RAP 18.1.

#### IV. CONCLUSION

The court entered Findings of Fact as required by RCW 26.19.035(2). Since Mr. Daneshfar did not request a deviation on the basis of the residential schedule, findings of fact regarding deviation were not required. Further, the evidence did not support a deviation under RCW 26.19.075(1)(d). A downward deviation would leave mother with insufficient funds to meet the child's needs and Mr. Daneshfar failed to meet the requirement of that statute that he show an increase in his expenses and a decrease in mother's expenses on account of the residential schedule.

The decision of the trial court should be affirmed.

Respectfully submitted this 7<sup>th</sup> day of August, 2013

  
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**DECLARATION OF MAILING**

I mailed a true and correct copy of this document to Sohrab Daneshfar, Respondent, pro se on the 7<sup>th</sup> day of August, 2013 at the following address:

Sohrab Daneshfar  
17207 N.E. 138<sup>th</sup> Street  
Redmond, WA 98052

I declare the above statement to be true and correct under penalty of perjury under the laws of the State of Washington.

SIGNED AT Bothell, Washington this 7<sup>th</sup> day of August, 2013.

  
Alane Brown