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STATE OF WASHINGTON
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No. 102639-1

**SUPREME COURT
OF THE STATE OF WASHINGTON**

In Re

BETHANY ALHAIDARI,

Respondent

v.

GHASSAN ALHAIDARI,

Appellant

**RESPONDENT'S ANSWER TO
PETITION FOR REVIEW AND
CONDITIONAL CROSS-PETITION**

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I. Introduction

Ghassan strategically chose to raise a single procedural challenge to the Superior Court's decision to exercise jurisdiction under RCW 26.27.051(4). Having lost that challenge, Ghassan now seeks to contest—for the first time—the Superior Court's factual finding under RCW 26.27.051(4). The Court should deny review for three reasons.

First, Ghassan failed to raise his factual challenge despite having multiple opportunities. Ghassan had a month to respond when Bethany asked the Superior Court to exercise jurisdiction under RCW 26.27.051(4). He filed nothing. He had the chance to seek reconsideration when the court found RCW 26.27.051(4) applicable. He chose not to. He could have raised the issue before Division Three. He was silent. This Court should not review Ghassan's factual challenge in the first instance.

Second, the Superior Court's factual finding is supported by substantial evidence. The evidence shows that (a) Saudi Arabia imposes the death penalty on people who renounce Islam or

criticize the Saudi government; (b) Bethany has done both publicly; (c) the Saudi government previously targeted Bethany for retribution; and (d) it is likely to do so again.

Yet Ghassan asserts—without citation—that Bethany safely “abandoned and renounced Islam while living in Saudi Arabia and continued her advocacy for human rights there.” Pet. at 5. Ghassan is wrong. Bethany did not renounce Islam while in Saudi Arabia; she pretended to still be Muslim so she was not stripped of any right to parent her daughter. And while Bethany researched human rights issues for her PhD, she never publicly criticized the Saudi government. But more importantly: *Bethany was not safe in Saudi Arabia*. She was nearly thrown in jail.

Third, Ghassan does not raise an issue of substantial public interest. Ghassan raises a narrow factual question that, while important to the parties, does not have the “sweeping implications” that warrant this Court’s review.

II. Statement of the Issues

A. Is review warranted of the Superior Court's factual finding under RCW 26.27.051(4)?

B. If the Court grants review, should it also review whether the Superior Court properly exercised jurisdiction under RCW 26.27.051(3)?

III. Statement of the Case

A. Proceedings in Saudi Arabia

1. Bethany seeks a divorce but faces significant roadblocks as a non-Saudi woman

Bethany is from Washington. CP 75. She met Ghassan while working as a University Lecturer in Saudi Arabia. CP 74. They married one year later, in November 2013, and had a child, ZA, in December 2014. CP 74, 993.

During Bethany's pregnancy, Ghassan exhibited signs of emotional instability, emotional abuse, and substance abuse. CP 74-75, 559, 993. Bethany and Ghassan tried to resolve these issues in counseling, but Ghassan's abusive behavior and drug use

worsened. CP 75, 187, 320-21, 581, 638, 975, 993. Bethany asked for a divorce in September of 2017. CP 75, 994.

Because Bethany is a woman, she could not divorce Ghassan unless she gave a sufficient reason supported by the testimony of male witnesses. CP 75, 242, 994, 1002. Ghassan could divorce Bethany without giving any reason, but he refused. CP 75, 431-32, 994. He also refused to update Bethany's legal residency, which she needed to "take any legal action, pay her salaries for her company, [or] access her bank account for risk of being deported or jailed." CP 994; *see also* CP 76-77, 179-80, 320-21, 443-45, 496, 735.

With her legal residency about to expire, Bethany filed for divorce and custody on November 28, 2018. CP 74, 433, 440. The case was overseen by Judge Abdulelah bin Mohammed al-Tuwaijiri. *See* CP 467-68.

During the proceedings, "Bethany wore a full body black covering that also covered her hair, [but] she was ordered by [Judge Tuwaijiri] to leave the courtroom and only return if her

entire face, including her eyes, was covered as well.” CP 994; *see also* CP 76, 676-77. Bethany complied, and Judge Tuwaijiri eventually granted a divorce. *See id.*

2. Bethany’s residency status expires, leaving her trapped

Bethany still needed Ghassan’s assistance to renew her residency status. CP 77, 321, 994. Bethany asked Ghassan for help repeatedly, but he did nothing. *Id.* Judge Tuwaijiri also refused to renew Bethany’s residency status. CP 77, 994.

Bethany’s residency status expired in February 2019, leaving her trapped in Saudi Arabia. CP 77, 321, 445, 994. Bethany turned to the *New York Times*, which published an article titled, “American Woman, Divorced from Saudi Husband, Is Trapped in Saudi Arabia.” CP 77, 180, 322, 445, 994. Following publication, the Saudi government renewed Bethany’s residency status. CP 77, 445, 994. But the next day, someone associated with the Saudi government went to Bethany’s work and told her: “since we did a favor for you, you need to ... take down your human

rights articles online and stop affiliation with the Human Rights Center where you do your PhD.” CP 77-78.

3. Ghassan plays to Judge Tuwaijiri’s prejudices, and Bethany loses custody

In April 2019, Ghassan asked Judge Tuwaijiri to grant custody of ZA to his mother. CP 64, 78, 560, 994-95. Ghassan tried to support his case by showing Judge Tuwaijiri a video of Bethany doing yoga. CP 78, 322, 995. When the judge initially refused to watch the video, “Ghassan reported Bethany to the authorities for investigation.” CP 995; *see also* CP 78-79, 322. Bethany was “called in by the police and investigated for criminal charges of public indecency and disrupting public order, a criminal charge that could result in lashings and prison.” CP 995; *see also* CP 78-79, 322.

Judge Tuwaijiri ultimately watched the video. CP 79, 995. During the next hearing, Ghassan “accused Bethany of gender mixing” (a crime); “accused Bethany of adultery by presenting a photo of her with a male friend who he claimed was her

boyfriend (a crime punishable by death)”; and “accused Bethany of insulting Islam and Saudi Arabia (also crimes punishable by death).” CP 995; *see also* CP 79, 323.

Bethany tried to fight Ghassan’s allegations. She “presented videos of verbal abuse and death threats from Ghassan, and videos of his drug use,” but “[t]he judge did not consider [them].” CP 995; *see also* CP 79. She also called Ghassan’s sister, Leena Alhaidari, to testify. CP 79, 187, 190, 995-96. Leena told Judge Tuwaijiri that “her mother was abusive, unfit to parent, and addicted to pills.” CP 995; *see also* CP 79, 187, 190.

Nevertheless, Judge Tuwaijiri awarded custody to Ghassan’s mother, reasoning:

[Bethany] is new to Islam, is a foreigner in this country, and continues to definitively embrace the customs and traditions of her upbringing: we must avoid exposing [ZA] to these customs and traditions, especially at this (early) age of rapid development.

CP 299; *see also* CP 79-80, 995.

4. Bethany tries to appeal, but Saudi officials force her to settle

Bethany tried to appeal. CP 80, 995-96. But Saudi Arabia's Human Rights Commission told her "they did not want [her] nor [her lawyer] to go to the court, nor follow up on the appeal." CP 579, 619. And Bethany "began receiving phone calls from high profile Saudi government officials pushing [her] to stop speaking to the media and to settle the case outside of court." CP 583, 623.

Bethany learned that her appeal would not be heard; the case was being "sent back to the civil court to force a settlement." CP 995-96; *see also* CP 64-65, 80-81, 180-81, 580-83, 585, 678, 1003. The settlement was overseen by the head of the Personal Status Court because he had taken a "personal interest" in the case. CP 988; *see also* CP 64-65, 80-81, 180-81, 245-46, 274, 323, 581-83, 585, 678, 996, 1003. The head judge "push[ed] for negotiation outside of court" and told Bethany he would close the case if the parties did not come to an agreement. CP 583, 996.

“This meant that Ghassan, as ZA’s father, would have all rights and Bethany could do nothing.” CP 996.

With no other choice, Bethany decided “to reconcile her relationship with Ghassan in order to convince him to reach a settlement affording her custody rights to ZA.” CP 996; *see also* CP 80-81, 182, 323, 447-49, 584. Bethany went to the U.S. embassy to document the duress she was under. CP 65, 583-84. She wrote, “I declare that any custody agreement that is signed by me ... has been forced, and that I have been robbed of my right to a fair legal process.” *Id.*; *see also* CP 64, 581-82.

5. Judge Tuwajjiri issues a deed based on a forced “agreement”

On November 6, 2019, Judge Tuwajjiri issued a deed based on an “agreement” between Bethany and Ghassan. CP 22-28. The deed declared ZA’s “homeland [to be] Saudi Arabia”; gave Ghassan the right “to ask [Bethany] to return with [ZA] to ... Saudi Arabia at any time”; and specified the months when ZA would stay with Ghassan or Bethany. CP 25-26.

Crucially, the deed did not give Bethany *guardianship* of her daughter. *See* CP 25-26, 1003-04. In Saudi Arabia, every woman has a guardian. CP 735. Guardians must be men, and a father serves as a guardian of his daughter until she marries, when her husband becomes her guardian. CP 315, 994, 1004. Women and girls are “ward[s]” of their male guardians, and guardians make all major decisions for them. CP 1004; *see also* CP 683, CP 852. This traditional structure was not disturbed by Judge Tuwajiri’s deed. CP 25-26, 1003-04. Ghassan remained ZA’s guardian. CP 585.

6. Bethany escapes

Because Ghassan was still ZA’s guardian, Bethany had to “continue to degrade [herself], be subject again to his abuse, and pretend to love him ... in order for him to issue the travel permission for [ZA] to exit the country.” CP 585; *see also* CP 323-24, 447-49. Ghassan eventually gave Bethany permission to visit her parents in Washington with ZA. CP 996. And on December 15, 2019, Bethany and ZA escaped Saudi Arabia. CP 81.

B. Proceedings in Washington

Upon arrival in Washington, Bethany asked the Superior Court to exercise temporary emergency jurisdiction over ZA and to enter a temporary parenting plan for ZA and an immediate restraining order against Ghassan. CP 2, 68-73. Ghassan was notified but did not initially appear. CP 996-97. During Ghassan's absence, the Superior Court issued a restraining order against him and a temporary parenting plan. CP 91-93, 124-30, 996-97. Bethany then filed a petition asking the Superior Court to issue a parenting plan, order Ghassan to pay child support, and extend the restraining order. CP 138-42. Ghassan appeared and filed a petition to enforce the deed that the Saudi court issued relating to the parties' supposed "agreement." CP 203-35.

1. Bethany renounces Islam

Ghassan and Bethany briefed motions to dismiss. *See, e.g.*, CP 237-368. During that briefing, Bethany publicly renounced Islam for the first time. CP 247. She explained,

My Saudi ID lists my religion as Islam, the [Saudi] judge wrongfully believed that I am Muslim, of

which I am not. I knew that if the court knew my religious beliefs, I would have no right to custody. I should not be forced to pretend to be Muslim in order to retain custody of my daughter in a Saudi court anymore. I declare that I am not a Muslim.

Id. (citations omitted); *see also* CP 676.

2. The Superior Court finds that it has jurisdiction under RCW 26.27.051(3)

On February 9, 2021, the Superior Court issued a letter ruling reaching two conclusions.

First, the Superior Court concluded that it had jurisdiction under RCW 26.27.051(3) because Saudi Arabia’s child custody law violates fundamental principles of human rights. CP 998, 1004. The court considered examples of “actual custody determinations” in Saudi Arabia, CP 1002 (citing CP 243, 316-17); how “Saudi laws regarding the justice system” impact women in child custody cases, *see* CP 1002-03; Saudi Arabia’s male guardianship system, *see id.*; and the specifics of Bethany’s case, *see* CP 1002-04. The court found, “As a woman, an American citizen, and a non-Muslim, Bethany was not honored with due process and equality as a parent in Saudi Arabia.” CP 1004.

Second, the court rejected Ghassan’s argument that it would be “fair” to enforce the party’s purported “agreement.” CP 1003. The court observed how “Ghassan’s reasoning ignores the effect of the male guardianship system,” CP 1003, which prevents Bethany from having full parental rights “[r]egardless of the rights conveyed to a mother in a Saudi child custody order,” CP 1004; *see also* CP 314, 930. The court found that Bethany was “forced into a settlement by the Head of the Court in the Personal Status Court of Riyadh” and entered the agreement “under duress so that she could keep ZA protected from the abusive paternal grandmother and because she had been threatened with deportation.” CP 1003.

3. The Saudi government targets Bethany

Following the letter ruling, Bethany learned that Saudi Arabia’s intelligence agency had taken individuals whom she is associated with into custody and interrogated them about her. CP 1039, 1070. Bethany also learned that a figure in Saudi Arabia’s state-affiliated media had accused her of working as a spy in a

widely viewed news video. CP 1039, 1067. Bethany informed the Superior Court about these threats, CP 1038-39, to which Ghassan replied, “[t]he Petitioner should have known that her media campaign regarding Saudi Arabia would engender opposition in some circles.” CP 1054.

4. The legislature enacts RCW 26.27.051(4)

On April 14, 2021, Washington’s legislature enacted RCW 26.27.051(4) and made the provision retroactively applicable to pending cases. The legislature thus empowered Washington courts to determine custody in a case like ZA’s “if the law of a foreign country holds that apostasy, or a sincerely held religious belief or practice, or homosexuality are punishable by death, and a parent or child may be at demonstrable risk of being subject to such laws.” RCW 26.27.051(4). The legislature defined “apostasy” as “the abandonment or renunciation of a religious *or* political belief.” *Id.* (emphasis added).

Five days after the law was passed, Bethany filed a declaration asking the Superior Court to “add RCW 26.27.051(4) as

further legal grounds for the decision rendered by this court in our case.” CP 1075. Bethany also filed a motion on May 14, 2021, asking the court to “find[] RCW 26.27.051(4) applicable.” CP 1102-04.

5. The Superior Court finds that RCW 26.27.051(4) supports its jurisdiction

On May 17, 2021, the court issued an order codifying its letter ruling. CP 1155-57. The order (1) denied Ghassan’s motion to enforce the Saudi deed for the reasons articulated in the letter ruling and (2) concluded that “newly enacted RCW 26.27.051(4) is an additional ground and support for the Court’s ruling.” CP 1156. That same day, the court granted Bethany’s motion asking the court to exercise jurisdiction under RCW 26.27.051(4). CP 1142. The court “f[ound] RCW 26.27.051(4) applicable ... as Petitioner has demonstrated imminent risk of imprisonment and death if subject to the laws of Saudi Arabia due to her rejection of the Muslim faith and status therefore as apostatizing.” *Id.*

6. Division Three affirms

Ghassan sought and received discretionary review of the Superior Court's decision to exercise jurisdiction under RCW 26.27.051(3) and (4). Regarding subsection (4), Ghassan argued that the court erred because "[n]either the court's March 12, 2020 oral ruling nor its February 8, 2021 letter ruling contains any discussion or analysis whatsoever of RCW 26.27.051(4)." Br. of Appellant at 5. Division Three rejected Ghassan's argument, explaining that the Superior Court was well within its authority to add an additional basis for its letter ruling. Slip. Op. at 17.

Division Three also observed, "[a]mple evidence supports the superior court's ruling that Bethany Alhaidari faced a death sentence if she returned to Saudi Arabia because of both her religious and political beliefs." *Id.* at 18. The court emphasized that "Ghassan AlHaidari does not challenge the superior court's substantive ruling on 'apostacy'" or "that Bethany could garner the death sentence on her return to Saudi Arabia." *Id.*

IV. Argument for why review should be denied

A. Ghassan failed to previously raise his factual challenge to the Superior Court’s decision under RCW 26.27.051(4)

Ghassan’s petition does not contain a “concise statement of the issues presented for review” as RAP 13.4(c)(5) requires. But the petition appears to raise a factual challenge to the Superior Court’s decision to exercise jurisdiction under RCW 26.27.051(4). *See* Pet. at 3–5. Ghassan’s factual challenge is new and should not be reviewed.

1. Ghassan failed to raise his factual arguments to the Superior Court

Review is inappropriate because Ghassan failed to raise his factual arguments to the Superior Court, despite having the opportunity. *See* Slip. Op. at 17. When Bethany asked the court to exercise jurisdiction under RCW 26.27.051(4), CP 1075, 1102-04, Ghassan could have argued that she did not face a demonstrable risk of being subject to Saudi laws that hold that apostasy, or a sincerely held religious belief or practice, are punishable by death. But Ghassan did not. *See* CP 1075-1166. And

when the court “f[ound] RCW 26.27.051(4) applicable,” CP 1142, Ghassan chose not to ask the court to reconsider.

Appellate courts routinely “refuse to review any claim of error which was not raised in the trial court,” and this Court should do the same. RAP 2.5(a); *see In re Marriage of Buecking*, 167 Wn. App. 555, 559-60, 274 P.3d 390 (2012), *aff’d* 179 Wn.2d 438, 454, 316 P.3d 999 (2013). Ghassan’s strategic decision precluded the Superior Court from considering his factual arguments in the first instance. Ghassan’s decision also prejudiced Bethany because it prevented her from offering evidence that would have further disproven the arguments that Ghassan now makes. Consider Ghassan’s new—and unsupported—argument that Bethany “advocat[ed] for human rights” without punishment while in Saudi Arabia. *See* Pet. at 5. If Ghassan had made this argument to the Superior Court, Bethany could have explained that she wrote under a pen name because she feared what would have happened if she publicly criticized the Saudi government.

Bethany readily acknowledges that RAP 2.5(a) allows a party to raise “lack of trial court jurisdiction” for the first time on appeal. But that exception does not apply here because it is limited to a superior court’s “*subject matter jurisdiction.*” *See, e.g., Skagit Surveyors & Eng’rs, LLC v. Friends of Skagit Cnty.*, 135 Wn.2d 542, 556, 958 P.2d 962 (1998) (emphasis added); *Buecking*, 167 Wn. App. at 559-60, 274 P.3d 390. Provisions like RCW 26.27.051(4) “do[] not—and cannot—divest a superior court of [its] subject matter jurisdiction,” because the court’s subject matter jurisdiction is dictated by Washington’s constitution. *See In re Marriage of McDermott*, 175 Wn. App. 467, 479-82, 307 P.3d 717 (2013); *In re Custody of A.C.*, 165 Wn.2d 568, 573 n.3, 200 P.3d 689 (2009).¹ Consequently, a superior court commits only

¹ Consistent with this Court’s practice, Bethany refers to the Superior Court’s “jurisdiction” under RCW 26.27.05(3) and (4) because that term is used in the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). *A.C.*, 165 Wn.2d at 574 n.3, 200 P.3d 689. But this Court explained that the UCCJEA “might have more accurately used the term ‘exclusive venue’” because Washington courts have subject matter jurisdiction in all child custody cases. *Id.*

“an error of law” if it incorrectly applies RCW 26.27.051(4). *See In re Schneider*, 173 Wn.2d 353, 360–62, 268 P.3d 215 (2011) (analyzing analogous family law statute). Such errors cannot be raised for the first time on appeal. *See Buecking*, 167 Wn. App. at 559-60, 274 P.3d 390.

2. Ghassan failed to raise his factual arguments to Division Three

Review is also inappropriate because Ghassan failed to raise his factual arguments with Division Three. In his appellate brief, Ghassan spent only a single paragraph discussing RCW 26.27.051(4). *See* Br. of Appellant at 5. Nowhere did Ghassan argue that Bethany “abandoned and renounced Islam while living in Saudi Arabia and continued her advocacy for human rights there.” Pet. at 5; *see* Slip Op. at 18. Ghassan challenged “only the court’s adding of [RCW 26.27.051(4)] in the final order without having mentioned the basis earlier.” Slip Op. at 18.

This Court should do what it typically does and “decline review of questions not raised before the Court of Appeals.”

State v. Clark, 124 Wn.2d 90, 104-05, 875 P.2d 613 (1994). By doing so, the Court will “encourage parties to raise issues before the Court of Appeals, thereby ensuring the ‘benefit of developed arguments on both sides and lower court opinions squarely addressing the question.’” *Id.* (quoting *Yee v. City of Escondido*, 503 U.S. 519, 538 (1992)).

B. Division Three correctly affirmed the Superior Court’s decision under RCW 26.27.051(4)

Even if Ghassan had properly raised his factual arguments below, review would be unwarranted because “[a]mple evidence supports the superior court’s ruling that Bethany faced a death sentence if she returned to Saudi Arabia both because of her religious and political beliefs.” Slip Op. at 18; *see David v. Dep’t of Labor & Indus.*, 94 Wn.2d 119, 123, 615 P.2d 1279 (1980) (“[A] trial court’s findings of fact will not be disturbed if they are supported by ‘substantial evidence.’”).

1. The Superior Court’s decision is supported by substantial evidence

The Superior Court found, and Ghassan does not dispute, that “[i]nsulting Islam and Saudi Arabia ... are crimes punishable by death” in Saudi Arabia. CP 1003. Likewise, Ghassan does not dispute that renouncing Islam is punishable by death. *See* CP 676 n.4. And Bethany is at demonstrable risk of being subject to such laws for several reasons.

First, Ghassan has shown he is willing to report Bethany for crimes—including crimes punishable by death. Ghassan previously accused Bethany of multiple crimes punishable by death, CP 79, 323, 995, and Ghassan’s leak of the yoga video prompted Saudi authorities to investigate her for “a criminal charge that could result in lashings and prison,” CP 995; *see also* CP 78-79, 322. These actions demonstrate that Ghassan will use Saudi Arabia’s harsh laws to control Bethany and ZA, dramatically increasing the chance that Bethany will be subject to laws punishable by death should she return to Saudi Arabia. *See* CP 676.

Second, Bethany has declared publicly that she is no longer Muslim and has criticized the Saudi government during these proceedings. *See, e.g.*, CP 240-44, 247, 674-77. In doing so, Bethany violated Saudi laws that are punishable by death. CP 79, 995. Those laws are taken seriously by the Saudi government, and the record shows how dangerous it can be to violate them. For example, Bethany presented the Superior Court with a report of a man who was sentenced to death for “renouncing his Muslim faith,” CP 676 n.4, and a report from the United States Commission on International Religious Freedom (“USCIRF”) observing that women who denounce Islam after leaving Saudi Arabia are “potentially subject[] ... to capital punishment were they to return home,” Scott Weiner, U.S. Comm’n on Int’l Religious Freedom, Guardianship, Women, and Religious Freedom in Saudi Arabia 5 (Nov. 2020) (cited at CP 959) [hereinafter 2020 Guardianship Report].

Third, Bethany is at particular risk because she is a woman who has spoken out against Saudi Arabia’s guardianship system.

Dr. Abdullah Alaoudh, a Saudi legal expert, described how Saudi Arabia has engaged in “systematic human rights violation against females,” especially those who “fought against [the] guardianship system” or “challenge[d] a male guardian.” CP 735; *see also* CP 997 (finding Dr. Alaoudh credible). Dr. Alaoudh’s testimony is supported by the USCIRF’s report, which details “the “severe [penalties] for Saudi activists who oppose the Saudi government’s interpretation and enforcement of [the guardianship] system.” 2020 Guardianship Report 5.

Fourth, Bethany is already a target of the Saudi government. After the *New York Times* story, an informant demanded that Bethany take down the article and stop working with a human rights organization. CP 77-78. In addition, the Saudi government criminally investigated her, CP 78-79, 80, 322-23, 578, 995, and pressured her to settle quietly, CP 579, 619. Bethany stood up to this pressure and now advocates against the Saudi government’s abuses. But that too made her a target: she has been

accused of being a spy, and her colleagues have been interrogated by Saudi intelligence. CP 1038-39, 1067, 1070.

2. Bethany did not publicly renounce Islam until she escaped Saudi Arabia

Ignoring this evidence, Ghassan asserts that Bethany could safely return to Saudi Arabia because she (1) “renounced Islam while living in Saudi Arabia”; (2) “advocat[ed] for human rights” there; and (3) did not face any repercussions. *See* Pet. at 5. Ghassan is wrong on all three counts.

Bethany’s testimony was crystal clear: she did not publicly renounce Islam when she was in Saudi Arabia. CP 247, 676. Although she had lost her faith by 2019, she was “forced to pretend to be Muslim” because Judge Tuwajjiri would have summarily stripped her of custody had he known that she was no longer Muslim. *See id.*

Bethany’s testimony is supported by the record before Judge Tuwajjiri. For instance, when Ghassan presented photos of Bethany and her American friends in bikinis, Bethany’s attorney

responded, “praise be to Allah the plaintiff [Bethany] *is Muslim*, but this does not mean that her relatives, friends, family and social environment shall be committed to Sharia.” CP 42 (emphasis added); *see also* CP 79, 676, 677 (discussing photos). Likewise, when Judge Tuwaijiri stripped Bethany of custody, he did so because she was “*new to Islam*.” CP at 46 (emphasis added).

Bethany publicly renounced Islam for the first time on April 14, 2020, when she told the Superior Court, “I declare that I am not a Muslim.” CP 247; *see also* CP 676. Bethany’s public declaration places her at demonstrable risk of being subject to Saudi laws punishable by death. *See supra* Part IV.B.1.

3. Bethany did not publicly criticize the Saudi government while in Saudi Arabia

Ghassan suggests that Bethany *publicly criticized* the Saudi government during the period in which she engaged in human rights research for her PhD when she lived in Saudi Arabia. She did not. She did just the opposite.

For example, after the *New York Times* published the article that was instrumental in getting Bethany’s residency status restored—and after the Saudi government intimidated her at her place of work, CP 77-78—Bethany tried to distance herself from the article by speaking to *Arab News*. See CP 752-54. Bethany told *Arab News*, “I was never trying to escape Saudi Arabia. I have dedicated my life’s work to this country and being a part of its growth, development, and vision for its future.” CP 753.

Bethany was not able to freely express her views until she fled the country. CP 676. Since then, Bethany has publicly criticized the Saudi government and the country’s guardianship system on numerous occasions. See, e.g., CP 240-44, 674-77. Bethany’s public criticism, like her public renunciation of Islam, places her at demonstrable risk of being subject to Saudi laws punishable by death. See *supra* Part IV.B.1.

4. Bethany was not safe in Saudi Arabia

Ghassan ignores the serious risks that Bethany faced while in Saudi Arabia. Ghassan accused her of multiple crimes

punishable by death. CP 79, 323, 995. The Saudi government criminally investigated her, CP 78-79, 322, 995; issued arrest warrants and a 10-year travel ban against her, CP 80; and intimidated her into settling with Ghassan under duress, *supra* Part II.A.4-6.

These events are essential to understanding the risk that Bethany would face if she returned to Saudi Arabia. Bethany would be returning to a country where she was—and continues to be—a target of the Saudi government. She would be returning to a legal system that is structurally biased against her and has been weaponized by her ex-husband multiple times. And she would be returning after she publicly renounced Islam, criticized the Saudi government, and spoke out against the guardianship system—“crimes” that are punishable by death. This is the exact scenario that RCW 26.27.051(4) was designed to address.

C. Ghassan does not raise an issue of substantial public interest

Finally, the Court should deny review because Ghassan has not raised an issue of substantial public interest. RAP 13.4(b). The “substantial public interest” standard sets a high bar that is met only by issues with “sweeping implications,” *State v. Watson*, 155 Wn.2d 574, 577-78, 122 P.3d 903 (2005), or “the potential to affect a number of proceedings in the lower courts,” *In re Flippo*, 185 Wn.2d 1032, 380 P.3d 413, 413-14 (2016). Ghassan’s petition does not raise these sorts of issues. It raises a narrow factual question not likely to recur: does substantial evidence support the Superior Court’s conclusion that Bethany is at demonstrable risk of being subject to Saudi Arabia’s draconian laws that impose capital punishment on people who repudiate Islam or criticize the Saudi government? While the answer to that question is of importance to the parties, it is the type of question that is best answered by the court of error correction—the Court of Appeals.

V. Conditional request for cross-review

If the Court grants review, the Court should also review whether the Superior Court properly exercised jurisdiction under RCW 26.27.051(3). The Superior Court had two independent bases for jurisdiction: RCW 26.27.051(3) and (4). *See* CP 1156. Division Three addressed only RCW 26.27.051(4), Slip Op. at 14, but Bethany continues to assert that jurisdiction was independently appropriate under RCW 26.27.051(3). Accordingly, the Court should review whether jurisdiction was appropriate under RCW 26.27.051(3) if it decides to grant review. The issues raised by the Superior Court’s decision under RCW 26.27.051(3) are at least of equal “public interest” as the issues raised by Ghassan’s petition. RAP 13.4(b).

VI. Conclusion

The Court should deny review. But if the Court grants review, it should also review whether the Superior Court had jurisdiction under RCW 26.27.051(3).

* * *

This document contains 4941 words, excluding the parts
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CERTIFICATE OF SERVICE

I, June Starr, certify that on February 12, 2024, I caused to be served upon the below named counsel of record at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document.

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this February 12, 2024.


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February 12, 2024 - 11:24 AM

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