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SUPREME COURT
STATE OF WASHINGTON
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No. 89093-5

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

In re the Marriage of

NEHA CHANDOLA NKA NEHA VYAS
Respondent

and

MANUL VARN CHANDOLA
Appellant

ON REVIEW FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

RESPONDENT'S ANSWER
TO AMICI MCKENNA AND BINFORD

PATRICIA NOVOTNY
Attorney for Respondent
3418 NE 65th Street, Suite A
Seattle, WA 98115
(206) 525-0711

 ORIGINAL

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A. IDENTITY OF RESPONDENT

The respondent is Neha Vyas, formerly Neha Chandola, who was the petitioner in the Superior Court and the respondent in the Court of Appeals.

B. RESTATEMENT OF ISSUE RAISED BY AMICI

The issue in this case is about *no sleeping*, not cosleeping.

C. RESPONSE TO THE ISSUE AMICUS RAISES

From the start, Amicus McKenna seems not to understand the facts of this case. He observes that a court may only restrict a parent's conduct to protect a child's "physical, mental, or emotional health." Br. McKenna, at 4-5. That is what the court did here. The trial court made no decisions about "the theory of attachment parenting" or "[o]ne of the tenants [sic]" of attachment parenting, cosleeping. These were not the subjects of the trial below. This was not a "baby sleep" version of the "Scopes Monkey Trial," pitting Dr. Sears against Dr. Ferber.¹ Or even pitting the parents against one another as to the issue of cosleeping *per se*. See RP 767-768 (mother does not object to cosleeping itself). Rather, the more mundane issue at trial in this case involved not sleeping, as in the child not sleeping when in the father's care.

¹ An Internet search of "Sears method vs. Ferber method" suggests something of the depth and breadth of this debate.

The evidence established the father interfered with the child's sleep. He kept her up until 1-2 a.m., watching YouTube videos. RP 408. He interrupted her sleep to hold her. RP 411-412. Not only did he fail to help the child get the routine sleep she needs, he blocked the mother's attempts to do so. See, e.g., RP 107. Because the father would not or could not leave the child alone at night, so that she could sleep, she suffered the predictable ill effects. RP 110-111 (clingy, fearful, prone to tantrums), 246 (cranky, somber, tired, "a stressed little girl"), 354-355 ("a tired little girl"), 410 (cranky), 567-568 (cranky), 651 ("really closed in"; really fussy and cranky; never got any sleep; seemed fearful, held apart from other children, suspicious).

This is not merely "overprotective" on the father's part, as Amicus McKenna would have it. Br. McKenna, at 27. It is dangerous to the child's health and development and symptomatic of the larger problem: the father's inability to place the child's needs before his own.

Accordingly, the court devised a solution, one tailored to this particular problem. RP 241 (parenting evaluator describing the recommended restriction on father). When the child is with the father, she must sleep in her own room. This solution did not

require the court to take sides as between Doctors Sears and Ferber, fortunately. The parenting plan contains no blanket prohibition against cosleeping; for example, she may cosleep with her mother. RP 765 (sometimes cosleeps with mother). Rather, the court imposed a rule to correct the “no sleeping” problem caused by father’s nighttime interruptions. The father’s conduct, not the practice of cosleeping, is the problem the court had to solve for the child’s best interests. And that is the problem it did solve.

Moreover, a child’s sleep is as dynamic as a child’s growth, changing constantly. Accordingly, the sleeping issue is best addressed in “real time,” meaning, through those mechanisms incorporated into the parenting plan for that purpose, including the case manager and the parent trainer. CP 89-90. Indeed, the case manager has the authority to alter the restriction on sleeping arrangements as deemed appropriate. CP 81. If the goal is to improve the child’s well-being, these mechanisms are far superior to battling over sleeping theories in the state appellate courts.

Finally, the cultural bias argument is carried to an absurd point. It is undermined by the fact that the court did not prohibit cosleeping altogether, i.e., the mother may cosleep with the child.

The court simply was not influenced for or against cosleeping for cultural reasons.

The cultural bias argument is further undermined by the simple fact of Dr. Sears, a notable non-Indian cosleeper if ever there was one.

Not only is this not India, where, according to the McKenna brief, “most Indians ... consider it mistreatment of a child” to separate her for sleep (Br. McKenna, at 26), but it seems unlikely most Indians would think it was okay to prevent the child from sleeping. Yet, the no-sleeping problem is what the trial court addressed. The court did not wade into a worldwide debate over infant sleeping practices. There is no reason this Court should do so.

D. MOTION FOR ATTORNEY FEES

The mother restates her request for attorney fees. The father’s extraordinary effort to manufacture a cause célèbre unfairly burdens the mother, costing her time, worry, and money better spent in other ways. The father should pay. Accordingly, the mother hereby incorporates the argument in support of her request for attorney fees as made in her Answer to Petition for Review.

E. CONCLUSION

For the foregoing reasons, Neha Vyas respectfully asks this Court to deny review of Varn Chandola's petition and to award her fees.

Dated this 15th day of October 2013.

RESPECTFULLY SUBMITTED,

/s/ Patricia Novotny

PATRICIA NOVOTNY
WSBA #13604
Attorney for Respondent

OFFICE RECEPTIONIST, CLERK

To: Pat Novotny
Cc: Janet M. Helson; David Zuckerman; Greg Miller; joe@josephshaub.com; james.pirtle@gmail.com; lippek@aol.com
Subject: RE: No. 89093-5, Marriage of Chandola

Rec'd 10-15-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Pat Novotny [<mailto:novotnylaw@comcast.net>]
Sent: Tuesday, October 15, 2013 11:31 AM
To: OFFICE RECEPTIONIST, CLERK
Cc: Janet M. Helson; David Zuckerman; Greg Miller; joe@josephshaub.com; james.pirtle@gmail.com; lippek@aol.com
Subject: No. 89093-5, Marriage of Chandola

Attached for filing in pdf format is the Respondent's Answer to Amici NPO & SAVE Services, Answer to Amici DeOrnellas, Answer to Amici McKenna & Binford, and Declaration of Service in Marriage of Chandola, COA No. 68424-8-I. The person submitting these pleadings is Patricia Novotny, WSBA No. 13604, whose email address is novotnylaw@comcast.net.

Thank you.

Patricia Novotny
Attorney at Law
novotnylaw@comcast.net
3418 NE 65th Street, Suite A
Seattle, WA 98115
(206) 525-0711