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No. 89093-5

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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In re the Marriage of

NEHA CHANDOLA NKA NEHA VYAS  
Respondent

and

MANUL VARN CHANDOLA  
Appellant

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

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RESPONDENT'S ANSWER  
TO AMICI NATIONAL PARENTS ORGANIZATION  
AND SAVE SERVICES

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 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 ISSUES**

1. The father engages in abusive use of conflict, heedless of the impact on the child, and otherwise engages in conduct that is adverse to the child's best interests, and that is why the court imposed restrictions, not for the reasons Amici claims.

2. The trial court expressly discounted as to both parents the conduct related to what the father and his amici call "unfounded allegations," meaning there simply is no issue in this case relevant to the concerns discussed by Amici National Parents Organization and SAVE Services.<sup>1</sup>

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<sup>1</sup> According to the Southern Poverty Law Center, SAVE Services works:

to roll back services for victims of domestic abuse and penalties for their tormentors, while working to return the focus to the "true victims of abuse" — the falsely accused. The site trumpets as a "key fact" that "[f]emale initiation of partner violence is the leading reason for the woman becoming a victim of subsequent violence ..."

SPLC Intelligence Report, Spring 2012, Issue No. 145. SAVE Services has been highly critical of Washington's domestic violence laws and policy. See SAVE Services, Special Report: Ranking of States' Domestic Violence Laws, November 2010 ([www.saveservices.org](http://www.saveservices.org)).

**C. ARGUMENT IN RESPONSE TO AMICI NPO AND SAVE SERVICES.**

The trial court restricted the father's residential time based on his conduct adverse to the child's best interests. The appellate court upheld that discretionary decision. Underneath the father's problematic conduct, a personality trait or disorder was of particular concern to the court and the mental health professionals. As the court put it, Varn "lacked, in concerning degree, objectivity with respect" the child's healthy development. CP 92. As the court-appointed parenting evaluator explained, Varn has an impaired relationship to reality. He lacks an ability to integrate effectively or accurately information inconsistent with his own view, which is often fixed, rigid and narrow. RP 230-231. Dr. Wheeler identified a number of personality traits that impaired his parenting and were suggestive of an underlying personality disorder. RP 184-191.

In particular, these psychological problems manifested in a persistent failure to place the child's needs above the father's own needs. As Dr. Wheeler explained, "in some important ways he has prioritized his own needs" over those of the child. RP 223; see, also RP 189 (examples), 192 (same), 226-229 (harms to the child from father meeting his needs at expense of child's). The father's

parenting expert, Dr. Marsha Hedrick, likewise recognized in the father's conduct a prioritizing of his needs over those of the child. RP 726, 728-729.

A predictable outcome of a fixed, rigid, and narrow perspective is conflict. Repeatedly, the father rejected advice and recommendations from others, despite the source's greater experience or expertise. He rejected advice from friends with children, for example, that he use a baby monitor for when the child was sleeping and that he carry the child less. RP 53, 643-644, 674. He refused to end night-time bottle feeding of milk despite repeated recommendations from two pediatricians about the risks to the child. RP 190-192, 411-412, 543, 548-549, 551-552, 930-932. And, of course, he refused to collaborate with the mother or take her suggestions regarding basic needs of the child, such as for sleep and nutrition and routine and independence. CP 92 (actively undermined mother's efforts to meet child's basic needs), 107 (same), 128 (same).

The father's rigid, inflexible style, including his insistence on always having exactly his own way, led the parenting evaluator to conclude restrictions were warranted by the father's abusive use of conflict. RP 194-197. As she described it, the father focused so

completely on the conflict and winning the conflict, he lost sight of the potential for harm to the child. RP 196. Nothing illustrated this danger so well as the father's exaggerated response to the "private parts" issue. While the mother was satisfied with assurances from the psychologist, the father wanted a full-scale Harborview sexual assault evaluation and wanted to tell the child about the conflict. RP 196-199, 522-523, 909-911. He seemed determined to place the child in the middle of this issue, which Dr. Hedrick predicted would be "just devastating" and which raised concerns about Varn's ability to empathize and to put aside his own agenda. RP 728-729.

However, and oddly, for Amici's position, the court actually discounted the entire "private parts" episode, attributing the issue on the mother's side to perhaps needing to precipitate a crisis to end the marriage and discounting the father's dramatic reaction to the issue. CP 94. In other words, the trial court reached its decision without considering what Amicus NPO calls "unfounded allegations of abuse." See, e.g., Br. NPO, at 4. Thus, Amici's expressed desire to offer a broader perspective on "some of the important issues raised by the case" (Br. NPO, at 1-2, 5) is misdirected. This is not the "false accusations" case Amici apparently want it to be.

First, the father was not “falsely accused,” as Amici claim. Br. NPO, at 5. Rather, inquiry was made into concerning statements by the child, heard by various adults; the inquiry ended when a qualified professional offered reassurance. RP 205-206, 271, 802-803. No one doubted the child made the statements, so, no falsehoods were told. Nor did the mother make “allegations”; she sought help with her concerns, which the expert (Dr. Wheeler) recognized as a “meaningful distinction.” RP 287. The mother immediately integrated the inquiry’s reassuring conclusions, but the father would not or could not and still will not let go of his singular and baseless view of the issue.

Second, contrary to Amici’s assertion (Br. NPO, at 6), the father was not penalized by the inquiry, or by the ensuing period of supervised visitation, or, even, by his own over-reaction. The court did not weigh the issue for or against either parent. CP 94. Yet Amici accuse the Court of Appeals of “gloss[ing]” over the evidence that the trial court was influenced by the temporary period of supervised visitation post-separation. Br. NPO, at 6. But there is nothing to gloss over. There is no evidence of influence, and Amici cite to none. Rather, Amici argue there was a “necessary impact” flowing from the temporary order. Br. NPO, at 6. This is not

evidence, but inference, and it is a hard inference to draw when the trial court expressly disavows any impact.

Moreover, for what it is worth, Amicus makes no effort to acknowledge that trial courts must routinely judge family law cases from a post-separation distance, meaning that the family does not arrive at trial without some intervening period of disrupted family life. Granted, most cases do not involve supervised visitation. But most do involve one or both parents spending less time with the child, under circumstances quite different from those that existed when the family was intact. Here, under the temporary order entered by agreement of the parties, the father saw the child four times a week in the home of friends.

In any case, there was plenty of other pre-separation evidence to support the court's conclusion that Varn's conduct was adverse to the child's best interests, and it is on that evidence the trial court based its decision. CP 92. It is the various assertions of Amici that lack evidence. This case simply does not raise the issue Amici want to debate. Accordingly, Amici are poorly positioned to propose this Court usurp the legislature and instate a host of new rules governing family law cases, or order in this case relief the father did not even request below (e.g., "frequent review hearings").

The family in this case has a case manager to assist in managing developments as they occur. The father has a parent trainer, to which he agreed. Review is ongoing in these respects, and also in respect of the potential review at every stage where the father's residential time might increase. CP 81-84, 89-90. In short, there is already a large team working on this case as the family moves forward. Amici make a very poor showing of any need for more judicial involvement.

**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.

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**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 15<sup>th</sup> day of October 2013.

RESPECTFULLY SUBMITTED,

*/s/ Patricia Novotny*

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**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](mailto:novotnylaw@comcast.net).

Thank you.

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