

Ohio Supreme Court Affirms Grandparents' Visiting Rights

By JAMES DAO
Tuesday, October 11, 2005

Ohio's highest court unanimously ruled yesterday that the grandparents of an 8-year-old girl must be allowed to visit her over the objections of her father, upholding the constitutionality of a state law granting nonparents visitation rights to children.

The decision by the Supreme Court of Ohio comes at a time when parents across the nation have been challenging the constitutionality of such laws. While courts in some states, like Florida and Washington, have struck down those laws, courts in others have upheld them.

The Ohio court's ruling came in a bitter legal battle over Brittany Collier, who was born to a single mother, Renee Harrold, in 1997. She was raised for the first two years of her life by her mother, who lived with her parents, court records show.

In 1999, Ms. Harrold died of cancer, and her parents, Gary and Carol Harrold, were granted temporary legal custody of Brittany.

But in 2002, a court awarded custody to her father, Brian S. Collier, who removed her from the Harrolds' home several months later. The Harrolds then petitioned a court for visitation rights, setting off a seesawing legal struggle that ultimately brought the case before Ohio's highest court.

Ohio law says that in cases where a parent of an unmarried minor dies, courts may grant grandparents and other relatives of the deceased parent visitation rights if those visits are deemed "in the best interest" of the child.

Mr. Collier argued that Ohio's law was overly broad and infringed on his constitutionally protected rights as a parent. He cited a 2000 United States Supreme Court ruling, *Troxel v. Granville*, in which the court found that a Washington State law went too far in permitting a judge to order visiting rights for grandparents over a mother's objections.

Yesterday, the Ohio Supreme Court rejected Mr. Collier's argument, saying that Ohio's law was more narrowly drawn than Washington's and conformed with the Troxel ruling. The Washington law allowed any person to petition for visitation rights, while Ohio's law specifies that only parents and other relatives of a deceased parent can petition for visitation.

The decision, written by Justice Alice Robie Resnick, also took into special account the fact that Brittany had lived in the Harrolds' home for her first five years.

"The facts of this case clearly warrant granting grandparent visitation" to the Harrolds, Justice Resnick said.

It was not clear whether Mr. Collier would appeal to the federal courts. Lawyers for Mr. Collier and the Harrolds did not return calls for comment yesterday.

Ronald W. Nelson, a Kansas lawyer who specializes in family law, said he considered it unlikely that the United States Supreme Court would hear another case on grandparents' visitation rights, saying that federal courts traditionally have allowed the states to decide such rules.

"They got involved in Troxel because they wanted to reassert a balance that gives the parents the primary right to raise their children," said Mr. Nelson, vice chairman of the child custody committee of the American Bar Association's family law section. "But now that they have said something on that, it is unlikely that they will get back into that thicket."

Richard S. Victor, a Michigan lawyer who founded the Grandparents Rights Organization, a nonprofit group that advocates visitation rights for grandparents, said the Troxel ruling shifted the burden for proving the best interest of a child from parents to grandparents. But it did not strike down laws that allow grandparents visitation rights under prescribed circumstances.

"This ruling shows that Ohio's law met the threshold," Mr. Victor said. "And that is the theme of what is going on around the country right now."

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