

SUPREME COURT OF PENNSYLVANIA

Jean Schmehl and David Schmehl v. Ann Wegelin and Perry Schmehl

592 Pa. 581 (2007) (Pa. 2007) · Decided June 12, 2007

SUMMARY

The Supreme Court of Pennsylvania considered whether 23 Pa.C.S. § 5312, which permits grandparents to seek partial custody or visitation when a child's parents are divorced, involved in divorce proceedings, or separated for at least six months, violates equal protection. The majority held that the statute's classification between intact and non-intact families survives strict scrutiny because it serves the Commonwealth's parens patriae interest in protecting children's welfare and is narrowly tailored. The court reversed the Berks County Court of Common Pleas and remanded for further proceedings; separate opinions dissented.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Saylor; Chief Justice Cappy; Justice Castille; Justice Eakin; Justice Baer; Justice Baldwin; Justice Fitzgerald
JURISDICTION	Pennsylvania
DECIDED	June 12, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Paternal grandparents appealed directly to the Supreme Court of Pennsylvania from an order of the Berks County Court of Common Pleas dismissing their petition for partial custody under 23 Pa.C.S. § 5312 after the trial court declared the statute unconstitutional on equal protection grounds.
STANDARD OF REVIEW	Plenary review of the constitutionality of a statute, which presents a question of law. A duly enacted statute is presumed valid and will not be declared unconstitutional unless it clearly, palpably, and plainly violates the Constitution; the challenger bears a heavy burden of persuasion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jean Schmehl, David Schmehl v. Ann Wegelin, Perry Schmehl

TOPICS

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QUESTIONS PRESENTED

1. Whether 23 Pa.C.S. § 5312 violates the Equal Protection Clause by authorizing grandparents to seek partial custody or visitation when a child's parents are divorced, involved in divorce proceedings, or separated for six months or more, while denying comparable standing when the parents are married and living together.
2. Whether the facial constitutional challenge should be resolved under strict scrutiny because Section 5312 implicates a parent's fundamental right to make decisions concerning the care, custody, and control of the parent's children.
3. Whether the case should be remanded for consideration of the mother's unresolved substantive due process challenge.

HOLDINGS

1. Section 5312's classification between intact families and divorced or separated families survives strict scrutiny and does not violate the Equal Protection Clause.
2. In applying Section 5312, courts must afford special weight and deference to a fit parent's decision concerning grandparent access and must ensure that visitation or partial custody does not interfere with the parent-child relationship.

KEY QUOTATIONS

“The present case was addressed in the trial court on equal protection grounds as opposed to substantive due process principles and involved Section 5312 of the Domestic Relations Code, as opposed to Section 5311, which was the subject of Hiller. In this context, however, the substantive due process and equal protection inquiries are essentially identical.” (927 A.2d at 188)

“Given the statute's focus on the protecting the child upon the breakdown of a marriage, and the limited circumstances in which it applies, that are directed toward promoting the welfare of the child and limiting the intrusion upon the parent, we find that the classification under Section 5312 is valid, upon the application of strict scrutiny.” (927 A.2d at 189-90)

FACTUAL BACKGROUND

The children's parents separated and entered a custody arrangement before divorcing five months later. The paternal grandparents sought partial custody after the mother refused to allow them to pick up the children from school during her custodial period, although the father supported the grandparents' claim. The grandparents proceeded under 23 Pa.C.S. § 5312, which authorizes grandparent partial custody or visitation when parents are divorced, involved in dissolution proceedings, or separated for at least six months.

PROCEDURAL HISTORY

During the parents' separation, a custody order was entered concerning their two children, and the parents were later divorced. After the mother refused to permit the paternal grandparents to pick up the children during her custodial period, the grandparents filed a petition for partial custody under Section 5312. The Court of Common Pleas dismissed the petition, holding that Section 5312 impermissibly classified intact families differently from divorced or separated families and violated equal protection. The grandparents appealed to the Pennsylvania Supreme Court, which reversed and remanded for further proceedings, including consideration of the mother's due process claim.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Common Pleas was directed to conduct further proceedings consistent with the opinion, including consideration of the mother's substantive due process claim in light of *Hiller* and the Supreme Court's rationale.

CASES CITED

- *Hiller v. Fausey*, 588 Pa. 342, 904 A.2d 875 (2006)
- *Troxel v. Granville*, 530 U.S. 57 (2000)
- *Theodore v. Delaware Valley School District*, 575 Pa. 321, 836 A.2d 76 (2003)
- *Purple Orchid v. Pennsylvania State Police*, 572 Pa. 171, 813 A.2d 801 (2002)
- *Commonwealth, Department of Transportation v. McCafferty*, 563 Pa. 146, 758 A.2d 1155 (2000)
- *Smith v. Coyne*, 555 Pa. 21, 722 A.2d 1022 (1999)
- *Clark v. Jeter*, 486 U.S. 456 (1988)
- *Khan v. State Board of Auctioneer Examiners*, 577 Pa. 166, 842 A.2d 936 (2004)
- *Seagrave v. Price*, 349 Ark. 433, 79 S.W.3d 339 (2002)
- *Blixt v. Blixt*, 437 Mass. 649, 774 N.E.2d 1052 (2002)
- *Curtis v. Kline*, 542 Pa. 249, 666 A.2d 265 (1995)
- *Bearden v. Georgia*, 461 U.S. 660 (1983)
- *Johnson v. California*, 543 U.S. 499 (2005)
- *Commonwealth v. Albert*, 563 Pa. 133, 758 A.2d 1149 (2000)
- *Danson v. Casey*, 484 Pa. 415, 399 A.2d 360 (1979)
- *Commonwealth v. Bell*, 512 Pa. 334, 516 A.2d 1172 (1986)
- *Stanley v. Illinois*, 405 U.S. 645 (1972)
- *Meyer v. Nebraska*, 262 U.S. 390 (1923)
- *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11 (1905)
- *King v. King*, 828 S.W.2d 630 (Ky. 1992)

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