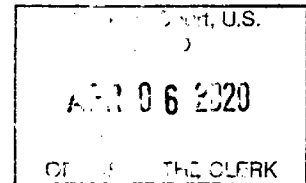


20-5863

ORIGINAL



In THE  
Supreme Court of the United States

Appeal No. 2019AP002025 NM  
Circuit Court No. 2017 TP 66

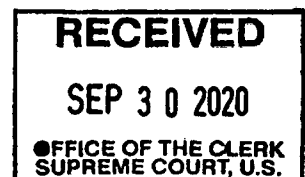
In re Termination of Parental Rights of;  
K.A.N. A Person under the Age of 18

State of Wisconsin  
Petitioner-Respondent  
vs.

Andrew Newson  
Respondent-Appellant,

ON Petition for a Writ of Certiorari  
to the Court of Appeals of Wisconsin  
District I

Petition For a Writ of Certiorari



## Questions Presented

1. In a termination proceeding in a State that provides appeals as a matter of right from decisions terminating parental rights, does the State violate the Due process and equal protection clause by denying the 3 day mailing rule to TPR cases but allowing the 3 day mailing rule in other cases.

## Parties To The Proceeding

Because this case involves a child, the Wisconsin Court of Appeals used initials and pseudonyms to identify the parties. But the parties full names are in the trial court pleadings.

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## Table of Authorities

Wisconsin Statute 801.15 ss (AD)  
Law Revision Committee Note. 1985;  
(Sub (1))

Stanley v. Illinois 405 U.S. 645, 651  
(1972)

Parham v. J.R. 442 U.S. 584, 602 (1979)

Froxel v. Granville 530 U.S. 57, 91 (2000)

Meyer v. Nebraska 262 U.S. 390, 399 (1923)

Santosky v. Kramer 455 U.S. 745, 774 (1982)

## STATEMENT OF FACTS

K.A.N. was born on July 7, 2016 and was removed from her mother's care when she was 3 days old. (1:1) She was found to be a child in need of protection or services (CHIPS) on February 7, 2017, in Milwaukee County Circuit Court. (1:1-10) A.N. was alleged to be the father of K.A.N. *Id.* K.A.N. has remained out of her parents' care since her removal. *Id.*

On October 12, 2017, a petition to terminate the parental rights (TPR) of A.N. was filed in the Milwaukee County Juvenile Court. The basis for the TPR petition was stated as Failure to Assume Parental Responsibility under Wis. Stats. § 48.415(6). *Id.*

A.N. appeared without counsel at a hearing on November 9, 2017. The court ordered genetic testing for A.N. since he was only alleged to be the father. The hearing was adjourned for cause on this date. (80:1)

The genetic test results filed with the court on November 21, 2017, showed that A.N. was the biological father of K.A.N. (11:1) Given the test results, at the hearing on December 5, 2017, A.N. was served with a copy of the TPR petition and referred to the public defender's office to obtain counsel. (81:2-7)

A.N. appeared at a hearing on January 8, 2018 with Attorney Mike Rosen. (83:3-4) A.N. indicated his desire to contest the grounds phase of the TPR case. *Id.* A trial date was set by agreement of the parties. *Id.*

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A.N. appeared at a hearing on November 29, 2018. (89:1) It was indicated that the matter was not resolved. A pretrial and trial date was set for February 4, 2019 and February 11, 2019, respectively. *Id.*

On February 11, 2019, it was indicated that A.N. wished to enter a no-contest plea to the TPR ground of Failure to Assume Parental Responsibility under Wis. Stats. § 48.415(6). (91:8) The court examined A.N. as to his understanding of the plea and the voluntariness of the plea to the TPR ground. (91:9-19) After accepting the plea, testimony was heard from social worker, Andrea Delwiche. (91:26) After hearing this testimony, the court found that there was clear and convincing evidence as to a factual basis for A.N.'s no-contest plea to the TPR ground. (91:41) The court found A.N. to be an unfit parent. *Id.* The dispositional hearing was scheduled and ultimately took place on June 26, 2019.

At dispositional hearing on June 26, 2019, A.N. appeared with his attorney and testified. (93:1) The court heard testimony from Andrea Delwiche, the foster mother, a maternal aunt and from A.N. The court, after hearing testimony and arguments from the parties regarding the best interest of K.A.N., in a written decision, entered an order terminating the parental rights of A.N. to K.A.N. (72:1-3) A.N. now appeals.

## Jurisdiction

The Wisconsin Supreme Court denied a timely petition for review on March 17<sup>th</sup>, 2020 based on the provisions of Wis. Stat §901.15(5), which provide that three days may be added to the prescribed filing period in certain instances, do not apply to the filing of petitions for review. See: First Wis Nat'l Bank of Madison v. Nicholas 87 Wis.2d 360, 364-65,

In the present case Andrew Newson's petition for review was due on February 12, 2020.

A.N mailed his petition to the Wisconsin Supreme Court on Feb 15, 2020 via certified mail. Sent Ex. A attached which was on a Saturday.

The State Supreme Court dismissed Respondents Petition for Review because it received it on February 19, 2020, A date more than 30 days after the Court of Appeals January 17, 2020 decision.

Respondent mailed off his Petition for Review on February 15, 2020 via certified mail, and the receipt indicates that the State Supreme Court should receive the Petition on February 18, 2020. see exhibit B.

Although respondent's deadline falls on February 17th, 2020. Post offices weren't open due to the day being a federal holiday. President's day.

#### REASONS FOR GRANTING THE PETITION

I wasn't the one they took the child from. I've never neglected the child and I've never been charged with a violent crime. I feel the case should be remanded to the childrens court. I feel like its only right. Thanks you for your consideration and time.

Amber Nasson Jr

## Argument

Pursuant. to Wis. Stats 801.15 (time)  
ss. (A) If the notice or paper is  
served by mail, 3 days shall be  
Added to the prescribed period.

Law Revision Committee Note 1985;  
(Sub (1) under the current statute, the  
time period specified by law or by  
a court relating to a period falls  
on a Saturday, Sunday or legal  
holiday.

## Reasons for Granting the Writ

This case presents important questions  
of Federal Constitutional law concerning  
the State's handling of parental-rights  
termination cases. Nearly a century  
ago, this Court held that the Due

Process Clause protects the right of parents to "establish a home and bring up children." *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923). Since then, this Court consistently has recognized the primacy of the parent-child relationship and cast a skeptical eye on government attempts to burden it. See *Stanley v. Illinois*, 405 U.S. 645, 651 (1972). *Parham v. J.R.*, 442 U.S. 584, 602 (1979). Even in cases yielding divided opinions, this Court's justices find common ground in their agreement that the interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the fourteenth Amendment. *Santosky v. Kramer*, 455 U.S. 745, 774 (1982).

And justices who do not view parental rights as constitutionally protected nevertheless concede their place among the "unalienable Rights" the Declaration of Independence posits and bestowed on all Americans by "their Creator." See Troxel v. Granville 530 U.S. 57, 91 (2000).

The question this case presents is whether the state's failure to honor the 3 day mailing/filing rules in termination of Parental rights cases violates the due process and equal protection clause.

In the present case respondent is seeking the restoration of his parental rights in the above captioned matter and seeks withdrawal of his no-contact plea which was wrongfully

entered AND accepted by the trial court.  
see Exhibit C

### Conclusion

Based on the State's failure to grant the filing of Respondent's Petition for Review, the petition for a Writ of Certiorari should be granted.

Dated this 20 17 9, 2020

Respectfully Submitted,

Andrew Lawrence

A copy has been submitted to opposing Counsel.

Gregory Bates, 1018846

P.O. Box 70

Wash. 53141-0070