No.

IN THE

Supreme Court of the United States

SAMUEL COLLIN ROBINSON,
Petitioner
v.
KATHERINE LYMAN ROBINSON,
Respondent

On Petition for Writ of Certiorari
to the Colorado Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Samuel Collin Robinson
Post Office Box 4033
Grand Junction, CO 81502
(970) 822-2079

QUESTION TO REVIEW

Parenting time scarcity wreaks havoc on relationships between children of divorce and a parent on whom minority time is imposed by court order. Where both parents are within the same class of fitness, does disparate allocation of time under auspice of standardless best interest State statute violate the equal protection provision of the Federal Constitution?

PARTIES TO THE PROCEEDING

All parties to this proceeding are named by the caption of the case on the cover page. Katherine Lyman Robinson has remarried, taking the surname Freeman. The State of Colorado may opt to intervene per 28 U.S.C. §2403(b).

RELATED PROCEEDINGS

In Re the Marriage of Robinson, 12DR18, District Court for Mesa County, Colorado. Order filed January 14, 2022.

In Re the Marriage of Robinson, 12DR18, District Court for Mesa County, Colorado. Order filed July 17, 2022.

In Re the Marriage of Robinson, 22CA1484, Colorado Court of Appeals. Opinion announced June 1, 2023.

In Re the Marriage of Robinson, 2023SC502, Colorado Supreme Court. Order filed December 11, 2023.

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PUBLIC APPENDIX
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SUPPLEMENTAL APPENDIX
(SEPARATE VOLUME UNDER SEAL)

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OPINIONS BELOW

On December 11th, 2023, The Colorado Supreme Court declined certiorari review of this case by an unpublished order that appears as Appendix C to the present petition. The Colorado Court of Appeals is the highest State court to review the merits of the case. The unpublished opinion of that court was announced on June 1st, 2023, and it appears verbatim as Appendix E to this petition.

JURISDICTION

The Petitioner pleads for the United States Supreme Court to exercise discretionary jurisdiction given by 28 U.S.C. § 1257(a) to review this case, because the validity of State statute is drawn in question on the ground that it is repugnant to the Federal Constitution. Current domestic relations statute inadequacy leads to decisions that wreck relationships between children and one, or the other, of their parents. This problem elicits continuing public interest. Please make occasion to cure this case by protecting the equal participation of both fit parents.

LEGAL PROVISIONS CONCERNED

Colorado Revised Statutes § 14-10-124:

This is the operative State statute under scrutiny in this case. The statute is lengthy. The pertinent portions are found in subsections 1 and 1.5, as presented by Appendix B to this petition.

Constitution of the United States of America, Amendment Fourteen, Section One:

This is the Federal law that the opinions below violate. The relevant part states, "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

In May of 2005 Katherine and Collin married. As the years passed, their daughter and their son were born. Then Katherine departed and sought divorce. The terms of the divorce were reached through mediation in late 2012. At that time, their daughter had seen six summers and their son four. Although, as result of settlement, the children got only 25% of the time with Dad, the terms protected them from the threat of being taken out of state. The parties remained in the same community, here in Colorado, where the children continued to benefit from involvement with their dad.

During the next three years, they all coped with the settlement parenting plan. Then, in January 2016, Collin filed a motion to modify parenting time, to give the children equal opportunity to benefit from contributions of both parents and to reduce the frequency of stressful exchanges. After a hearing in 2017, the hearing magistrate denied the motion and ordered a parenting plan that exacerbated the disproportionate allocation. In 2018, the District Court affirmed. In 2019, the Colorado Court of Appeals affirmed. In the same year, certiorari review was declined by the Colorado Supreme Court. Review was also declined by the United States Supreme Court. Docket Number 19-356.

After the two years required by State statute, Collin filed a fresh motion to modify parenting time in August of 2021. This motion was given its own

hearing in January of 2022. The necessity of restoring balance to the lives of the children by correcting allocation of parenting time was raised in the motion to modify and during the hearing; yet, the hearing magistrate denied the motion and adopted Katherine's proposed parenting plan, giving her 86% of the time with the children, while further restricting their time with Collin to 14%. Appendix I, Separate Booklet, Under Seal.

The case was raised to the District Court judge via petition for judicial review on grounds of failure to honor the legislative intent of the operative statute and failure to give the parties equal protection of law. Appendix H. The judge adopted the order without even mentioning that an equal protection claim was raised by the petition. Appendix G. The case was then elevated to and denied by the Colorado Court of Appeals. Appendix F; Appendix E, Paragraph 1. The Constitutional claim was rejected by that court on the grounds that the pertinent statute is unambiguous and does not create any groups, so it cannot implicate equal protection concerns. Appendix E, Paragraphs 9, 15, and 16. The Colorado Supreme Court chose to pass on the opportunity to correct these fallacies. Appendix D; Appendix C.

The children, at present 16 and 14, are not well served by the existing parenting time schedule that keeps them from their dad as they grow and develop their independence. Unconstitutional, unwarranted,

unequal treatment by the District Court has suppressed and marginalized participation by their dad to the extent of being misperceived by them as an unwelcome disruption.

This petition pleads for the Supreme Court to correct the faulty orders of the courts below and restore equity to the lives of the children.

REASON TO GRANT WRIT

In this family law case, the District Court judge adopted a magistrate's order that is contrary to the Constitution by ignoring a clear plea for equal protection. The court relied on State statute commonly referred to as the "best interests of the child standard" or the "best interest standard". These terms are misnomers. The indicated provisions are *standardless*. They lack objective elements necessary to survival of Constitutional scrutiny.

Under the statute applied here, two fit parents found themselves navigating a process that rewarded sensationalized subjective testimony and character assassination again and again by giving increasing outsized majority portions of parenting time and associated financial gain to the parent willing to disparage the other with a sustained, orchestrated campaign of malicious fiction. This steamrolled the genuine need of the children to retain whole relationships with both parents. The resulting parenting time disproportion created hegemony that is arbitrary, dysfunctional, and far foul of the equal protection provision of the Fourteenth Amendment of the United States Constitution. Where fact ought to govern, faulty statute left decision to ephemeral impression, manipulable impulse, and personal preference.

The Colorado Court of Appeals defended the unjust order by asserting that 14-10-124(1.5) of the Colorado Revised Statutes (C.R.S.) requires

consideration of factors enumerated in unambiguous language, equally applicable to all parents, so it does not create any groups that would be treated differently, and does not implicate any equal protection concerns. Appendix E, Paragraphs 9, 15, and 16.

In truth, the statute recognizes two separate classes of parents and sets forth treatment for each. There are parents that endanger their children and parents that do not. Absent a finding of endangerment, parenting time is allocated to fit parents according to best interests of the children. Statute text lists factors to consider in relation to best interests; however, the text does not give objective standards for evaluation of the factors. This lack allows arbitrary disparate allocation of time to parents within the same class.

As example, 14-10-124(1.5)(a)(IV) directs courts to consider adjustment of a child to their home, school, and community. Appendix B. By what standard is adjustment to home at Mom's or home at Dad's determined to be best? How is best interest interpreted as it relates to school enrollment, academic performance, attitude about education, and extra-curricular activities choices? What relative weight should each of these topics be given? Is participation in one church somehow preferable community involvement to participation in another church, tribe, or volunteer organization?

Power to dispel the haze of ambiguity and bridge the fissure between composition and implementation is found by turning judicial attention to the legislative declaration articulating the intent of the statute. 2-4-203(1)(g), C.R.S. Appendix A. The Colorado General Assembly declared finding that, in most circumstances, best interest of all involved in dissolution of marriage is served by encouraging frequent and continuing contact between each parent and the minor children. The assembly urged parents to share the rights and responsibilities of bringing up their children. The word "share" appears without any modifier that would indicate imbalance. Equal time gives optimum contact with each parent in the best interest of *all*. This is the general policy of the statute. 14-10-124(1), C.R.S. Appendix B.

Exception to the typical prescription is defined by 14-10-124(1.5)(a). Appendix B. Parenting time is to be given according to best interest *unless* the court finds that parenting time with a party would endanger the children's physical health or significantly impair their emotional development. Under such abnormal circumstances, time with parents of this class may be restricted. The exception cannot be triggered by speculative or subjective testimony; it must be warranted by fact.

In this case, the magistrate did not find that either party presents a danger to, or impairs development of, the children. Therefore, the

situations of Mom and Dad relating to fitness to parent are similar; they are both in the same class. On this basis, they should have been given like treatment; yet, they were not. The magistrate awarded 86% of parenting time to Mom and restricted Dad to 14%. No objective standard supports this absurd result.

The Colorado Court of Appeals proclaimed that the ordinary meaning of the word "share" does not mandate equal participation. Appendix E, Paragraph 10. The Court went on to imply that skewed allocation does not amount to "restriction", because it does not deny reasonable parenting time or otherwise impede relationships between the children and their dad. Appendix E, Paragraphs 12 and 13.

Life experience does not agree. The disproportionate schedule marginalizes the relationships between the children and their dad through atrophy. Once-continual, shared involvement is degraded to intermittent interruption of prevailing routine and perspective. Over years of imposed progressive diminution of contact, the children grow to misperceive their dad as an outsider.

An involved parent gives some beneficial personal attention to their children on most days. Here, a fit divorced parent, living under an arbitrary court order, is, by practical means, *prohibited* from giving beneficial attention to their children on most

days. No conviction of wrongdoing led to this sentence, this senseless ongoing one-sided suppression of relationships that flourished before divorce. The defective law and resulting ruling at root of this heartbreaking injustice are unconstitutional, intolerable, and way past ripe for correction.

SUMMARY

The children in this case are caught in a cruel game of keep-away. They have been taken and kept from a fit parent for most of the time, as a matter of mere discretion, under a statute that lacks objective, factual criteria. The situation is an inexcusable violation of the equal protection provision of the Constitution of the United States. This vital question of Federal law begs response by the Supreme Court. Please enunciate a bold decision to cure the ongoing wrong being done here by protecting the equal participation of both parents, endeavoring to raise their children, consistent with the affirmed legislative intent to encourage their love.

Pled from the heart,

Samuel Collin Robinson 2024.04.05

Samuel Collin Robinson Date

STATE OF COLORADO
COUNTY OF MESA

THIS DOCUMENT WAS PRESENTED TO ME THIS____
DAY OF April 5, 2024, BY Samuel Collin Robinson

Jacqueline Sue Harding 12/8/27
NOTARY PUBLIC MY COMM. EXP. D:

JACQUELINE SUE HARDING
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20234046078
MY COMMISSION EXPIRES 12/08/2027