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Colorado Court of Appeals

2025CA306

On Appeal From
District Court, Mesa County, 2012DR18

In re the Marriage of
Appellee: Katherine Lyman Robinson,
n/k/a Katherine Lyman Freeman

v.

Appellant: Samuel Collin Robinson

MANDATE

This proceeding was presented to this Court on the record on appeal. In accordance with its announced opinion, the Court of Appeals hereby **ORDERS: APPEAL DISMISSED IN PART AND ORDER AFFIRMED**

TIFFANY MORTIER
CLERK OF THE COURT OF APPEALS

Date: NOVEMBER 25, 2025

Colorado Supreme Court

2025SC589

Certiorari to the Court of Appeals, 2025CA306
District Court, Mesa County, 2012DR18

In re the Marriage of
Petitioner: Samuel Collin Robinson
and
Respondent: Katherine Lyman Robinson
n/k/a Katherine Lyman Freeman

ORDER OF COURT

Date Filed: November 24, 2025

Upon consideration of the Petition for Writ of
Certiorari to the Colorado Court of Appeals and after
review of the record, briefs, and the judgment of said
Court of Appeals,

IT IS ORDERED that said Petition for Writ of
Certiorari shall be, and the same hereby is,
DENIED.

BY THE COURT, EN BANC, NOVEMBER 24, 2025.
JUSTICE HART does not participate.

Colorado Supreme Court

2025SC589

Certiorari to the Court of Appeals, 2025CA0306
District Court, Mesa County, 2012DR18

In re the Marriage of
Katherine Lyman Freeman, Appellee
and
Samuel Collin Robinson, Appellant

PETITION FOR WRIT OF CERTIORARI

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Issues for Review

¶1 Time with each parent is allocated to children of divorce according to a statute listing factors to be considered by the court. C.R.S. 14-10-124(1.5)(a)(I) – (XI). The statute does not provide standards for evaluation of the factors. Therefore, they are not dispositive. They are so vague that they invite arbitrary imposition of disproportionate parenting time. This prompts questions of law. Should the factors be struck down as unconstitutional for violating due process and equal protection rights granted by the Fourteenth Amendment? May a motion to modify parenting time be summarily denied for declining to recite the litany of unconstitutional factors?

Opinion to be Reviewed

¶2 The Colorado Court of Appeals filed its decision in this case on August 14th, 2025. Appendix

A⁹. The mandate is to issue after 43 days. This petition stays the mandate. There has been neither a petition for rehearing nor a motion for extension of time.

Grounds for Jurisdiction

¶3 Without even holding a hearing, the district court relied on unconstitutional statute to deny a motion to correct a disproportionate parenting time schedule. The court of appeals defended the district court without addressing important questions posed by the opening brief. Faulty allocation of parenting time is an issue of substantial and continuing public interest within Colorado and beyond. Therefore, this case is raised to the Colorado Supreme Court in supplication of discretionary exercise of jurisdiction, per Colorado Appellate Rule 49.

Statement of the Case

¶4 On May 20th, 2005, Katherine and Collin married. In due time, they were blessed with a daughter and then a son. On October 18th, 2012, the Mesa County District Court decreed the marriage dissolved, with parenting time allocated according to a stipulated parenting plan. The parenting plan went through several revisions over the years. On January 14th, 2022, the court adopted the current version, proposed by Katherine during a contested

⁹ Appendix D in the present document.

hearing. The plan gives Katherine 86% of the parenting time, while giving just 14% to Collin. This hegemony sabotages the relationships between Collin and the children. Collin appealed all the way to the United States Supreme Court, where certiorari was denied on October 7th, 2024.

¶5 On November 12th, 2024, Collin renewed the effort by filing the subject Verified Motion to Modify Parenting Time with the district court. CF pp 2,870 – 2,871. The motion seeks replacement of the existing parenting plan with a new plan bringing balance to the parenting time schedule. CF pp 2,872 – 2,881. On November 14th, 2024, Katherine filed an objection, asserting that the motion failed the particularity requirement of C.R.C.P. 7(b)(1) by neglecting to address the factors listed by C.R.S. 14-10-124(1.5)(a)(I) – (XI). CF pp 2,884 – 2,888. On November 19th, 2024, Collin filed a response explaining that the factors were not addressed because they lack evaluation standards and are, therefore, not dispositive. The response also gave additional information in the form of a detailed example of the dysfunction to be cured by the new plan, so the court could ascertain that genuine issues exist and necessitate a hearing. CF pp 2,968 – 2,972. Without holding a hearing, on February 6th, 2025, Magistrate Garcia issued an order directing that the motion be denied for failing the particularity requirement. No further explanation was given. The

flaw in the statute and the additional information were ignored. CF p 2,992.

¶6 On February 10th, 2025, Collin filed a Petition for Judicial Review of the magistrate's order. The petition addressed the particularity requirement and pointed out that no amount of detail in the text of a motion can overcome the deficiency of the statute. The lack of objective criteria invites arbitrary interpretation, resulting in violation of due process and equal protection rights granted by the Fourteenth Amendment. CF pp 2,995 – 2,999. On February 12th, 2025, Judge Lawrence issued the order of the district court, adopting the magistrate's order completely. As basis for the decision, the Judge found that the movant did "not identify specifically the provision of the parenting time order that was violated". This finding was out of place, because neither the motion, nor the petition for review were based on, or even mentioned, any violation of the plan, so of course they did not identify a violated provision. Also, in the order there was no mention of evaluation standards or constitutionality of the statute. These important issues were raised by the petition, and ignored by the district court. CF p 3,000.

¶7 The district court judge's adoption of the magistrate's order, without even acknowledging that constitutionality of the statute was questioned by the petition for review, appears to defy explanation. Additional information is necessary to understand

the mistake made by the judge. While the events described by the preceding paragraphs were occurring, a second series of events was going on in parallel. On December 17th, 2024, Collin filed a motion concerning parenting time disputes that seeks an increase of the bond paid by Katie to the district court. The motion cited a specific violation of the existing parenting plan and sought relief designed to support future compliance. CF pp 2,974 – 2,976. On December 23rd, 2024, Katie filed an objection. CF pp 2,979 – 2,981. On December 27th, 2024, Collin filed a response. CF pp 2,988 – 2,990. On February 15th, 2025, Magistrate Garcia issued an order directing that the motion be set for hearing. CF pp 3,012 – 3,013.

¶8 The facts of the case indicate that the district court judge confused or conflated the motion to replace the parenting plan with the motion to increase the bond. This failure to recognize the two motions as distinct actions lead to subsequent failure to consider the points raised by the petition for judicial review. The result is that the district court order mentions violation of the parenting plan, which was not raised by the petition, and fails to mention constitutionality of the statute, which was raised by the petition. CF p 2,997 at ¶5.

¶9 Although a final order was issued, the primary questions requiring review here were missed or skipped outright by the district court. As these remained to be addressed, notice of appeal was filed

with the district court on February 13th, 2025. CF pp 3,008 – 3,011. On February 18th, 2025, the same was filed at the Colorado Court of Appeals. On May 7th, 2025, Collin sent the opening brief to the court of appeals. On August 14th, 2025, with concurrence of two other judges, Judge Freyre of the Colorado Court of Appeals affirmed the district court order. Appendix A¹⁰.

¶10 The court of appeals was correct to point out that, although the elder of the two children in this case was a minor when the motion to modify parenting time was filed on November 12th, 2024, that child turned 18 on [] [], 2025, so the parenting plan no longer applies to one of the two children. All of the issues for review remain valid as they relate to the younger child, who is 16 years of age at present. The court of appeals' dismissal in part relating to the elder child is not in dispute. The questions of law are raised to the Colorado Supreme Court by the present petition for Certiorari.

Argument

¶11 Reasons to Issue Writ: Time with each parent is allocated to children of divorce according to a statute listing factors to be considered by the court. C.R.S. 14-10-124(1.5)(a)(I) – (XI). Statute text does not give standards for evaluation of the listed factors. Without objective criteria, the factors are not

¹⁰ Appendix D in the present document.

dispositive. As example, 14-10-124(1.5)(a)(IV) directs courts to consider adjustment of a child to their home, school, and community in determining their best interest. 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?

¶12 This example reveals that the statute gives no protection against subjective interpretation apt to result in lopsided apportionment and imposition of minority time on one parent by the court, as occurred here in a prior action. Such arbitrary de-facto restriction of parenting time violates due process and equal protection rights granted by the Fourteenth Amendment of the Constitution of the United States. The deficient statutory factors should be struck down as unconstitutional.

¶13 No amount of copious detail in the text of a motion can overcome the deficiency of this statute lacking objective criteria for processing and evaluating the information. Therefore, recapitulation of the factors is not a necessary component of a viable motion to modify parenting time. A specific reason or set of reasons may well

warrant modification independent of the statutory list, which does not exclude other considerations and does not settle the dispute. Summary denial of the motion to modify should be overturned.

¶14 Attempting to defend the statute, the court of appeals distinguishes procedural due process from substantive due process and treats the question here as the latter. Appendix A¹¹, ¶11. The opening brief makes no such distinction because, although the court of appeals has described those terms as addressing different aspects of due process, not all jurists agree with the segregation. Here, the statute gives no evaluation standard to notify parents what will be considered adequate and to prevent the court from ruling in an arbitrary manner. This is a simultaneous violation of both aspects, so the claim is valid whether the distinction is valid or not. The United States Supreme Court found statute to be unconstitutional according to the Due Process Clause of the Fourteenth Amendment for encouraging arbitrary enforcement by failing to describe what a suspect must do in order to satisfy the statute. *Kolender v. Lawson*, 461 U.S. 352, 353, 361, (1983).

¶15 As the present case is not a criminal proceeding, the court may claim that the need for clarity is not as strong. Personal experience of the party deprived here of equal opportunity to parent their children for 14 years, and counting, forecloses

¹¹ Appendix D in the present document.

that argument. Less than equal parenting time is a grievous loss. The most exacting anti-ambiguity standard should govern here¹². *Sessions v. Dimaya*, 584 U.S. 148, 156-157, (2018)¹³.

¶16 In this case, a parent is suspected of parenting that is less supportive of the best interest of the child than the other parent. Statute text gives notification as to the factors to be considered in evaluating parenting; however, the text gives no indication of what a parent must do to satisfy the court that their parenting does support the best interest of their child to equivalent degree as the effort of the other parent. Although the factors are described with clear language, the standards against which each factor is judged are not described at all. This isn't just less clarity, it's no clarity.

¶17 According to the definition used by the court of appeals, a determination made without consideration of fixed rules is arbitrary. Black's Law Dictionary, p 128, definition 1 (12 ed. 2024). Therefore, the court of appeals attempts to prop up its assertion that the statute is not arbitrary by noting that it provides a discrete list of considerations that must inform an

¹² This was footnote 1 in the original document. The footnote reads: The petition to the district court for judicial review in the present case includes one claim that is inconsistent with this paragraph. CF pp 2,996. Please accept this apology.

¹³ This was footnote 2 in the original document. The footnote reads: This is from the opinion of Justice Kagan, referring to a different court order of similar gravity.

order. Appendix A¹⁴, ¶12. The statutory best interest factors that must be considered are not fixed rules – as presented, they are aspects of a child’s life to ponder. It is well and good to think over the factors – it’s just not the same as implementing fixed rules.

¶18 Recall the example from paragraph 11, herein, where one of the factors directs courts to consider adjustment of a child to their home, school, and community. There is no rule as to what allocation of time should result from a particular adjustment finding. For contrast, 26 USC 1(a) does give fixed rules. Married individuals filing joint returns whose income exceeds \$36,900 without exceeding \$89,150 are to pay tax in the amount of \$5,535 plus 28% of the excess over \$36,900. Those whose income exceeds \$89,150 without exceeding \$140,000 are to pay \$20,165 plus 31% of the excess over \$89,150. Additional rules give clear prescriptions for several other income levels and marital status designations. There is a stark difference between these clear rules and the standardless best interest factors.

¶19 The court of appeals attempts to further prop up their argument by stating that the district court must make factual findings on the relevant factors to explain the basis of the parenting time order by identifying the evidence which the fact finder deemed determinative, as if this will prevent an

¹⁴ Appendix D in the present document.

arbitrary order here. Appendix A¹⁵, ¶12. *In re Marriage of Garst*, 955 P.2d 1056, 1058.(Colo. App. 1998). In the absence of fixed rules, factual findings cannot prevent arbitrary orders, because different decision makers may well return different decisions from the same facts. According to a definition neglected by the court of appeals, a judicial decision founded on preference rather than reason is arbitrary. Black’s Law Dictionary, p 128, definition 2 (12 ed. 2024). Considering statutory factors without clear guidance on how to evaluate those factors does not give a rational basis for making a determination independent of the preferences of the decision maker. While factual findings are a good start, they do not cure the problem.

¶20 The court of appeals also takes the fallback position that since the opening brief does not cite any supporting legal authority or develop the argument beyond a conclusory statement, the court may decline to decide the point. Appendix A¹⁶, ¶13. The allegation is not true. The opening brief does cite legal authority – the Fourteenth Amendment. The opening brief does develop the argument – as repeated by Paragraphs 11, 12, and 13 of the present petition.

¶21 Unacceptable statutory ambiguity was mentioned by Justice Gorsuch in 2018 when finding

¹⁵ Appendix D in the present document.

¹⁶ Appendix D in the present document.

a statute to be so ambiguous that people cannot discern answers to any of the questions the law begets by resorting to traditional canons of statutory interpretation. *Sessions v. Dimaya*, 584 U.S. 148, 189, (2018). In the present case, the opening brief to the court of appeals goes further, developing the argument by asking specific questions begotten by the statute that is the subject of this appeal¹⁷. The opening brief cites no authoritative source for the questions because they are original. It is discouraging that the court of appeals refuses to even acknowledge presentation of the questions. Could the reason for ignoring the questions be that they lay bare the fatal flaw in the statute that the court seeks to defend? The accusation that the brief does not develop the argument is false.

¶22 In addition to disagreeing about the failure of the statute to satisfy the due process requirement, the court of appeals disagrees that the statute fails to give equal protection of law to both parties. The only basis mentioned was that because the statute does not classify people, a valid equal protection claim cannot be made. Appendix A¹⁸. ¶8, 9, 10. This fails to recognize that the United States Supreme Court has granted certiorari to determine whether the Equal Protection Clause gives rise to a cause of action where the plaintiff did not allege membership

¹⁷ This was footnote 3 in the original document. The footnote reads: Please refer to Paragraph 11, herein.

¹⁸ Appendix D in the present document.

in a class, and, as the plaintiff did allege arbitrary treatment, the court found the claim for relief to be valid under traditional equal protection analysis. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564-565 (2000). The contradictory assertion of the court of appeals is invalid.

¶23 The reason that the statute here violates equal protection arises from the same fault as the reason that it violates due process – the statute is too vague. Drawing a question from Paragraph 11, above, is participation in one church somehow preferable community involvement to participation in another church, tribe, or volunteer organization? Nothing in the subject statute prevents a magistrate from finding that one parent takes the child to activities with organization A, while the other takes the child to activities with organization B, as basis to give the bulk of the parenting time to the parent who takes the child to the organization the magistrate prefers. Statement of such a finding could be customized to justify the decision, even in cases where the actual reason is personal preference of the decision maker. This would violate equal protection by giving preference to one organization, one class of people, over another. Examples could include Methodists over Catholics, Christians over atheists, Ute over Cherokee, etc. Although the statute does not classify people, it is so vague that it allows decision in favor of classes of people that pique the interest of decision makers, as well as decision in favor of preferences of

decision makers that are independent of class membership. Either way, equal protection is violated.

¶24 What will result from striking down the best interest factors as unconstitutional, either according to due process, or equal protection, or both? Will decision makers be left without means to protect children when real danger is present? Will the legislature attempt to enact evaluation standards so exhaustive that every minute detail of family life will be codified in dystopian style? Such dark futures need not prevail. In the few authentic cases of endangerment, courts would remain authorized to restrict parenting time according to C.R.S. 14-10-124(1.5)(a). For the rest of us, C.R.S. 14-10-124(1) would continue to encourage sharing the rights and responsibilities of parenting, in the best interest of all. As no modifier indicates disproportionate sharing, in most cases, children should be granted equal time with each parent.

¶25 Preservation on Appeal: The flaw in the statute was raised before the magistrate by the response to the objection. CF pp 2,970 – 2,972. This was not even mentioned by the subsequent order. CF p 2,992. The flaw was next raised before the district court by the petition for judicial review. CF pp 2,997 – 2,998. Even after this reiteration, the issue was ignored again by the final order. CF p 3,000. The flaw was then raised to the court of

appeals. The flaw is again raised, to the Colorado Supreme Court, at present.

¶26 Standard of Review: A question of statutory constitutionality is reviewed de novo. Appendix A¹⁹, ¶6.

Conclusion

¶27 The applicable statute is commonly referred to as the “best interests of the child standard”. This term is a misnomer. The statutory factors are standardless. They lack evaluation criteria, so they are not dispositive. They fail to give adequate notice and they invite arbitrary decisions. C.R.S. 14-10-124(1.5)(a)(I) – (XI) is way past ripe to be struck down as unconstitutional for violating due process and equal protection rights granted by the Fourteenth Amendment. A motion to modify parenting time must not be summarily denied for declining to recite the litany of unconstitutional factors. Please cure this ongoing wrong by striking down the defective factors and clearing the way for equal participation of parents endeavoring to raise their children with love.

Pled from the heart,

s/ Samuel Collin Robinson

Samuel Collin Robinson

2025.09.18

Date

¹⁹ Appendix D in the present Document.

Colorado Court of Appeals

2025CA0306

On Appeal From
Mesa County District Court, 12DR18
Honorable Jennilynn Everett Lawrence, Judge

In re the Marriage of
Katherine Lyman Robinson,
n/k/a Katherine Lyman Freeman, Appellee
and
Samuel Collin Robinson, Appellant

APPEAL DISMISSED IN PART
AND ORDER AFFIRMED

Division IV
Opinion by JUDGE FREYRE
Gomez and Meirink, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced August 14, 2025

No Appearance for Appellee
Samuel Collin Robinson, Pro Se

¶1 In this post dissolution proceeding involving Samuel Collin Robinson (father) and Katherine Lyman Robinson (mother), father appeals the district court's adoption of the magistrate's order denying his motion to modify parenting time. We affirm.

I. Background

¶2 Mother and father are the parents of two children. The district court dissolved their marriage in 2012. Following a series of parenting time modifications, father was exercising regular parenting time consisting of two overnights every third weekend, plus Wednesday dinner visits.

¶3 In November 2024, via a one paragraph motion citing "substantial dysfunction" under the existing parenting time order, father moved to modify parenting time to an equal parenting time schedule. In a written objection, mother asserted that father's motion had failed to state with particularity under C.R.C.P. 7 grounds for modifying parenting time based on the section 14-10-124(1.5)(a), C.R.S. 2024, best interests factors. Without holding a hearing, the magistrate agreed and denied father's motion for failure "to state with particularity the basis for the relief being requested." After father petitioned for district court review, the reviewing district court judge adopted the magistrate's order.

II. The Appeal is Moot as to the Parties' Older Child

¶4 The record reflects that the parties' older child turned eighteen while this appeal was pending. As an adult, she has the right to make her own decisions, including whether and how often to visit her parents, rendering any parenting time orders unenforceable as to her. See *In re Marriage of Tibbetts*, 2018 COA 117, ¶¶ 12-13. Therefore, father's appeal as to the older child is moot, and we dismiss the appeal as it relates to her. See *id.* at ¶¶ 7-8, 21, 28.

¶5 However, we address father's contentions as they relate to the parties' younger child.

III. Standards of Review

¶6 Our review of a district court's order adopting a magistrate's decision is effectively a second layer of appellate review. *In re Marriage of Sheehan*, 2022 COA 29, ¶ 22. We must accept the magistrate's factual findings unless they are clearly erroneous, meaning that they have no support in the record. *In re Marriage of Young*, 2021 COA 96, ¶ 8. However, we review de novo questions of law, including constitutional challenges. See *Sheehan*, 11 22; *Howard v. People*, 2020 CO 15, ¶ 11.

IV. Father's Contentions of Error as Applied to the Younger Child

¶7 As best as we can discern, father asks us to reverse the denial of his motion to modify parenting time because the statutory best interests factors under section 14-10-124(1.5)(a) are unconstitutional and therefore his failure to sufficiently plead those factors should not have resulted in the denial of his motion. Father specifically contends that the best interests factors violate both equal protection and due process principles because the factors are subjective in nature. We are not persuaded.

A. Equal Protection

¶8 To start, we reject father's contention that the best interests factors violate equal protection.

¶9 The right to equal protection of the law guarantees that all individuals who are similarly situated are treated similarly. See Colo. Const. art. II, § 25; *In re Marriage of Tonnessen*, 937 P.2d 863, 866 (Colo. App. 1996). If a law does not classify individuals, there can be no equal protection issue presented. See *Tonnessen*, 937 P.2d at 866.

¶10 Section 14-10-124(1.5)(a) sets forth the factors relevant to a child's best interests as related to allocation of parental responsibilities. The statute does not create any groups that would be treated differently in an allocation of parental responsibilities matter. Rather, it requires the court to consider the child's best interests in all cases

involving parenting matters. See § 14-10-124(1.5); see also § 14-10-123.4(1)(a), C.R.S. 2024 (children have the right to have decisions in parental responsibilities proceedings made based on their best interests). Because the applicable statutes do not create a classification, father has not presented a valid equal protection issue. See *Tonnessen*, 937 P.2d at 867.

B. Due Process

¶11 As best as we can discern, father alleges that because the section 14-10-124(1.5)(a) best interests factors are subjective, they are arbitrary and violate due process. Although father does not specify whether he is asserting a violation of procedural due process or substantive due process, his argument appears to be predicated upon an alleged violation of substantive due process. See *In re Marriage of Smith*, 7 P.3d 1012, 1017 (Colo. App. 1999) (describing procedural due process as involving "the manner in which state action occurs and requires notice and an opportunity for a hearing," whereas substantive due process "prohibits the government from engaging in conduct which is arbitrary, capricious, or irrational, regardless of the procedures used to implement it").

¶12 But, because the statute provides the district court with a discrete list of considerations that must inform a parenting time order, we disagree that the section 14-10-124(1.5)(a) best interests factors are arbitrary and therefore violate substantive due

process. See Black's Law Dictionary 128 (12th ed. 2024) (defining "arbitrary" as "involving a determination made without consideration of or regard for facts, circumstances, fixed rules, or procedures," [i]nvolving the unrestrained exercise of will," and "uncontrolled in power or authority"). Moreover, the district court must make sufficient factual findings on the relevant best interests factors to explain the basis of any parenting time decision to both the parties and any reviewing court. See *In re Marriage of Garst*, 955 P.2d 1056, 1058 (Colo. App. 1998) (recognizing that there "must be some indication in the record that the trial court considered" the relevant factors and therefore the court must make "findings of fact and conclusions of law to enable the appellate court to understand the basis of its order," which means "identify[ing] the evidence which the fact finder deemed persuasive and determinative of the issues raised").

¶13 Lastly, father does not cite any legal authority in support of his contention, nor does he develop his argument beyond a conclusory statement that the best interest factors violate due process because they are subjective. We therefore decline to further consider his undeveloped argument. See *Woodbridge Condo. Ass'n, Inc. v. Lo Viento Blanco, LLC*, 2020 COA 34, ¶ 44 (declining to consider undeveloped and conclusory contentions of error made without supporting argument or authority) *aff'd*, 2021 CO 56;

Barnett v. Elite Props. of Am., Inc., 252 P.3d 14, 19 (Colo. App. 2010) ("We will not consider a bald legal proposition presented without argument or development.").

¶14 For these reasons, we disagree with father's assertion that the section 14-10-124(1.5)(a) statutory best interests factors violate due process. Accordingly, we reject his contention that the district court erred by adopting the magistrate's order denying his motion to modify parenting time because of his failure to sufficiently plead why a parenting time change was in the child's best interests.

V. Disposition

¶15 Father's appeal as to the parties' older child is dismissed, and the district court's adoption of the magistrate's order is otherwise affirmed.

JUDGE GOMEZ and JUDGE MEIRINK
concur.

Colorado Court of Appeals

2025CA0306

On Appeal From
Mesa County District Court, 12DR18
Honorable Jennilynn Everett Lawrence, Judge

In re the Marriage of
Appellee: Katherine Lyman Robinson
n/k/a Katherine Lyman Freeman
and
Appellant: Samuel Collin Robinson

OPENING BRIEF

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²⁰ Page numbers here correspond to the present document, so they differ from the original.

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Issues on Appeal

Time with each parent is allocated to children of divorce according to a statute listing factors to be considered by the court. C.R.S. 14-10-124(1.5)(a)(I) – (XI). The statute does not provide standards for evaluation of the factors. Therefore, they are not dispositive. They are susceptible to subjective interpretation prone to yield lopsided apportionment and arbitrary imposition of minority time on one parent by the court. This prompts questions of law. Should the statute be struck down as unconstitutional for violating due process and equal protection rights granted by the Fourteenth Amendment? May a motion to modify parenting time be summarily denied for declining to recite the litany of unconstitutional statutory factors?

Statement of the Case

On May 20th, 2005, Katherine and Collin married. In due time, they were blessed with a daughter and then a son. On October 18th, 2012, the

Mesa County District Court decreed the marriage dissolved, with parenting time allocated according to a stipulated parenting plan. The parenting plan went through several revisions over the years. On January 14th, 2022, the court adopted the current version, proposed by Katherine during a contested hearing. The plan gives Katherine 86% of the parenting time, while giving just 14% to Collin. This hegemony sabotages the relationships between Collin and the children. Collin appealed all the way to the United States Supreme Court, where certiorari was denied on October 7th, 2024.

On November 12th, 2024, Collin renewed the effort by filing the subject Verified Motion to Modify Parenting Time with the District Court. CF pp 2,870 – 2,871. The motion seeks replacement of the existing parenting plan with a new plan bringing balance to the parenting time schedule. CF pp 2,872 – 2,881. On November 14th, 2024, Katherine filed an objection, asserting that the motion failed the particularity requirement of C.R.C.P. 7(b)(1) by neglecting to address the factors listed by C.R.S. 14-10-124(1.5)(a)(I) – (XI). CF pp 2,884 – 2,888. On November 19th, 2024, Collin filed a response explaining that the factors were not addressed because they lack evaluation standards and are, therefore, not dispositive. The response also gave additional information in the form of a detailed example of the dysfunction to be cured by the new plan, so the court could ascertain that genuine issues

exist and necessitate a hearing. CF pp 2,968 – 2,972. Without holding a hearing, on February 6th, 2025, Magistrate Garcia issued an order directing that the motion be denied for failing the particularity requirement. No further explanation was given. The flaw in the statute and the additional information were ignored. CF p 2,992. On February 10th, 2025, Collin filed a Petition for Judicial Review of the Magistrate’s order. The petition addressed the particularity requirement and pointed out that no amount of detail in the text of a motion can overcome the deficiency of the statute. The lack of objective criteria permits biased interpretation, resulting in violation of due process and equal protection rights granted by the Fourteenth Amendment. CF pp 2,995 – 2,999. On February 12th, 2025, Judge Lawrence issued the order of the District Court, adopting the Magistrate’s order completely. As basis for the decision, the Judge found that the movant did “not identify specifically the provision of the parenting time order that was violated”. This finding was out of place, because neither the motion, nor the petition for review were based on, or even mentioned, any violation of the plan, so of course they did not identify a violated provision. Also, in the order there was no mention of evaluation standards or statutory constitutionality. These are two important issues that were raised by the petition. CF p 3,000. On February 13th, 2025, notice of the present appeal was filed with the District Court. CF pp 3,008 –

3,011. On February 18th, 2025, the same was filed by the Colorado Court of Appeals.

The Judge's adoption of the Magistrate's order, without even acknowledging that constitutionality of applicable statute was questioned by the petition for review, appears to defy explanation. Additional information is necessary to understand the mistake made by the judge. While the events described by the preceding paragraph were occurring, a second series of events was going on in parallel. On December 17th, 2024, Collin filed a motion concerning parenting time disputes that seeks an increase of the bond paid by Katie to the District Court. The motion cites a specific violation of the existing parenting plan and seeks relief designed to support future compliance. CF pp 2,974 – 2,976. On December 23rd, 2024, Katie filed an objection. CF pp 2,979 – 2,981. On December 27th, 2024, Collin filed a response. CF pp 2,988 – 2,990. On February 15th, 2025, Magistrate Garcia issued an order directing that the motion be set for hearing. CF pp 3,012 – 3,013. The bond increase motion was set for hearing before the District Court Magistrate from 1:30 to 3:30 pm on July 17th, 2025, a couple of months after the present opening brief to the Colorado Court of Appeals.

The facts of the case indicate that the judge confused or conflated the motion to replace the parenting plan with the motion to increase the bond. This failure to recognize the two motions as distinct

actions lead to subsequent failure by the Judge to consider the points raised by the petition for judicial review. The result is that the Judge's order mentions violation of the parenting plan, which was not raised by the petition, and fails to mention constitutionality of the statute, which was raised by the petition. CF p 2,997 at ¶5. Although a final order was issued, the primary questions requiring review here were missed or skipped outright by the District Court and remain to be addressed by the Court of Appeals.

Argument Summary

Time with each parent is allocated to children of divorce according to a statute listing factors to be considered by the court. C.R.S. 14-10-124(1.5)(a)(I) – (XI). Statute text does not give standards for evaluation of the listed factors. Without objective criteria, the factors are not dispositive. Subjective interpretation operates in the absence of proper standards. No amount of detail in the text of a motion can overcome the deficiency of the statute. The statute violates due process and equal protection rights granted by the Fourteenth Amendment. For this reason, the Motion did not, and should not be required to, go through the list of faulty factors to establish basis.

Argument

Standard of Review: A question of statutory constitutionality is reviewed de novo. Here, this will be a literal new review, because the District Court got confused and missed or skipped the issue presented by the petition for judicial review.

Preservation on Appeal: The flaw in the statute was raised before the magistrate by the response to the objection. CF pp 2,970 – 2,972. This was not even mentioned by the subsequent order. CF p 2,992. The flaw was next raised before the District Court by the petition for judicial review. CF pp 2,996 – 2,998. Even after this reiteration, the issue was ignored again by the final order. CF p 3,000.

Discussion: Time with each parent is allocated to children of divorce according to a statute listing factors to be considered by the court. C.R.S. 14-10-124(1.5)(a)(I) – (XI). Statute text does not give standards for evaluation of the listed factors. Without objective criteria, the factors are not dispositive.

As example, 14-10-124(1.5)(a)(IV) directs courts to consider adjustment of a child to their home, school, and community in determining their best interest. 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?

This example reveals that the statute is susceptible to subjective interpretation apt to result in lopsided apportionment and imposition of minority time on one parent by the court, as occurred here in a prior action. Such arbitrary de-facto restriction violates due process and equal protection rights granted by the Fourteenth Amendment of the Constitution of the United States. The deficient statutory factors should be struck down as unconstitutional.

No amount of copious detail in the text of a motion can overcome the deficiency of the statute that lacks objective criteria for processing and evaluating the information. Therefore, recapitulation of the factors is not a necessary component of a viable motion to modify parenting time. A specific reason or set of reasons may well warrant modification independent of the statutory list, which is inoperable anyway. Denial of the present motion should be overturned.

Conclusion

The applicable statute is commonly referred to as the "best interests of the child standard". This

term is a misnomer. The subject provisions are standardless. They lack evaluation criteria, so they are not dispositive, and are instead susceptible to subjective, arbitrary, biased interpretation. C.R.S. 14-10-124(1.5)(a)(I) – (XI) is way past ripe to be struck down as unconstitutional for violating due process and equal protection rights granted by the Fourteenth Amendment. A motion to modify parenting time must not be summarily denied for declining to recite the litany of unconstitutional factors. Please enunciate a bold decision to cure the ongoing wrong being done here by striking down the defective law and clearing the way for equal participation of parents endeavoring to raise their children with love.

Pled in earnest,

s/ Samuel Collin Robinson

Samuel Collin Robinson

2025.05.07

Date

District Court, Mesa County, Colorado

2012DR18

Petitioner: Katherine Lyman Robinson
and
Respondent: Samuel Collin Robinson

Order: Motion Concerning Parenting Time Disputes

The motion/proposed order attached hereto: SET
FOR HEARING.

HEARING REQUIRED:

A hearing is necessary to address the issues raised in the attached motion. The moving party shall contact my division within 15 days to schedule a setting conference. Should the moving party fail to contact my division, the motion may be deemed abandoned and DENIED for failure to prosecute.

MEDIATION:

The parties are ordered to engage in good faith mediation prior to any contested hearing on the matter. Should the parties fail to engage in good faith mediation prior to the hearing, and file a certificate of compliance with the Court, the Court may impose sanctions for failure to comply. The

sanctions may include the Court vacating the hearing due to the parties failure to comply or preventing a non-complying party from presenting evidence. Costs of mediation shall be equally divided between the parties unless otherwise agreed. Either party may request relief from this order based on a claim that he or she has been the victim of physical or psychological abuse or that there are compelling reasons not to require mediation. C.R.S. 13-22-301 et seq..

DISCLOSURES AND EXHIBITS:

In addition to the requirements of CRCP Rule 16.2, at least 14 days prior to the hearing, each party shall send the following to the other party and file the same with the Court:

A list of possible witnesses, including the witness' contact information and a brief summary of their expected testimony.

A copy of any documents or exhibits that you would like the Court to consider at the hearing, including any proposed parenting plan, if parenting time is at issue.

At the time of the hearing, the parties shall bring with them, sufficient copies of all proposed exhibits for all parties to have a copy as well as the Court (at least 3 copies, one for each party and one for the Court). All exhibits shall be marked for identification. Petitioner's exhibits shall be marked with numbers (e.g. 1, 2, 3) and the Respondent's exhibits shall be marked with letters (e.g. A, B, C).

If a modification of parenting time is sought, a proposed parenting plan indicating the desired modifications to the current plan shall be filed with the Court at least 7 days prior to the hearing. If child support is at issue, the parties shall comply with Rule 16.2 regarding disclosures of financial information and at a minimum both parties shall provide a sworn financial statement, previous three years of tax returns and the last three months of pay stubs.

Failure to comply with the disclosure and exhibit requirements may result in sanctions, including a parties exclusion from the presentation of evidence.

Issue Date: 2/15/2025

s/ Daniel M. Garcia
DANIEL MANUEL GARCIA
Magistrate

District Court, Mesa County, Colorado

2012DR18

Petitioner, Katherine Lyman Robinson
and
Respondent, Samuel Collin Robinson

Order: Petition for Judicial Review
of Magistrates Order

The motion/proposed order attached hereto: SO
ORDERED.

The standard of review for a magistrate's order that does not require consent is governed by C.R.M. Rule 7(a). Under this rule, a party seeking review of such an order must file a petition for review with the district court judge within 21 days.

The review of the magistrate's factual findings is limited to determining whether they are "clearly erroneous" *In re Marriage of Evans*, 504 P.3d 988 (Colo. App. 2021). This means that the reviewing judge will not alter the magistrate's findings unless there is no support for them in the record. *Id.* Legal conclusions, however, are reviewed *de novo*, meaning the reviewing judge will consider them anew without

deference to the magistrate's conclusions *In re Marriage of Vega*, 497 P.3d 1056 (Colo. App. 2021). A magistrate's final order or judgment, it is subject to de novo review by the district court C.R.M. Rule 7. A final order is defined as one that fully resolves an issue or claim. *In re Marriage of Matheny*, 558 P.3d 666 (Colo. App. 2024).

The Court has reviewed the magistrate's order as well as the Petition for review, the Motion to Modify Parenting Time and the corresponding Response. The Court does not require any further proceedings or additional evidence.

The Court finds that the motion and the response present substantial venting regarding each parent's disagreement with parenting priorities, particularly regarding how a teenage girl spends her time. The Motion does not identify specifically the provision of the parenting time order that was violated. The Motion largely expresses discontent in how negotiations outside the parenting time order took place.

Thus, the Court finds that the magistrate properly considered the facts and applied the law and declined to take further action as there was not sufficient material and pertinent information provided to require or facilitate any action by the Magistrate. The Magistrate's order declining to take any further action is adopted in full.

Issue Date: 2/12/2025

s/ J E Lawrence

JENNILYNN EVERETT LAWRENCE

District Court Judge

District Court, Mesa County, Colorado

2012DR18

In re the Marriage of:

Petitioner: Katherine Lyman Robinson
and

Respondent: Samuel Collin Robinson

PETITION FOR JUDICIAL REVIEW
OF
MAGISTRATE'S ORDER

On 2025.02.06 Magistrate Garcia issued an Order that DENIED the Motion to Modify Parenting Time that was filed in the captioned case by the Respondent on 2024.11.12. The reason was described as failure by the Motion to state with particularity the basis for the relief requested, per C.R.C.P. 7. Notice of the 21 day allowance to petition for judicial review per C.R.M. 7 was given. The Order contained no further information. The present Petition invokes review of the Magistrate's Order by a District Court Judge.

1. Particularity

The cited provision of C.R.C.P. 7 is found in Section (b)(1), requiring that a motion, "...state with particularity the grounds therefor,..." The rule does not elaborate what is meant by "particularity". Dictionary entries give several different definitions. The Colorado Supreme Court has interpreted the rule to require that a motion, "...identify with specificity the grounds in support of it or the reasons relief is warranted." In *Re Marriage of Durie*, 2020 CO 7, ¶23.

2. Specific Reasons Given by Motion

In the subject Motion, the Respondent specified the reasons why relief in the form of a modification of the Parenting Time schedule to an alternating week arrangement should be granted.

"The [current] plan creates conditions that sabotage the relationships between the children and their father. During the 2 years and 10 months [now 3 years] that the plan has been in effect, substantial dysfunction has resulted. For this reason modification of parenting time is past due. The children will be well served by a new plan that restores balance to their parental relationships and minimizes stressful exchanges with a schedule that alternates from one parent to the other by week."

These are specific reasons that warrant the specific relief sought by the Motion, in order to serve the children well. The issues pending here deal with

cumulative conditions of existence and experience, as opposed to the isolated discrete events that may be of interest in a criminal proceeding. Therefore, the requisite level of particularity is different. The Motion is not a claim that on day X, person Y, did thing Z. The motion is a plea for help from a loving father who is concerned about his children.

3. Objection

The Petitioner protested, by Objection filed on 2024.11.14, alleging, "Quite simply, Respondent's current Motion fails under C.R.C.P. 7 to state with particularity the grounds therefor..." The Objection went on to acknowledge that the Court may "...modify...parenting time...whenever such...would serve the best interests of the child[ren]", according to 14-10-129(1)(a)(I) C.R.S., before faulting the Motion for not addressing the factors listed by 14-10-124(1.5)(a)(I)-(XI) C.R.S., and requesting that the Motion be denied, without hearing.

4. Response

A Response to the Objection was filed on 2024.11.19. The Response is reiterated and incorporated by reference here. The transcript of a previous hearing addressing a different motion was filed as Exhibit A²¹ to the Response, and may be found in the Court record of this case. It is true that, 14-10-124(1.5)(a) C.R.S. states that for the purpose of

²¹ Exhibit A is distinct from Appendix A. Exhibit A was relevant to the dispute proceeding, not the modification proceeding, so it is not part of this appendix.

allocating parenting time, the Court shall consider all factors relevant to determination of the best interest of the children, and that these include a list given by the statute text. As described by the Response, this subsection of statute lacks objective evaluation standards to use for processing information about the factors, so the subsection is not dispositive. For this reason, the Motion did not go through the litany of factors.

5. Statute Unconstitutional

As example to show that the factors are not dispositive, a factor from the list is given by 14-10-124(1.5)(a)(IV), which directs the Court to consider adjustment of a child to their home, school, and community. 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? The law gives no answers to these questions. Arbitrary interpretation is left to fill the void. No amount of copious detail, given by a motion, can overcome the deficiency of the statute. The statute violates due process and equal protection rights granted by the Fourteenth Amendment of the Constitution of the United States. This is another reason the Motion did not go through the litany of factors.

6. Additional Particulars

The Motion was accurate in specifying that substantial relationship dysfunction resulted from the current Parenting Plan during the preceding 2 years and 10 months. Compilation of a day-by-day catalogue of the particulars of the dysfunction during that time would result in a senseless tsunami of written material at a scale beyond the Court's capacity for thorough review. Therefore, the Response gave limited supplemental information at a practical scale to show the type of dysfunction occurring, so that the Magistrate could ascertain that genuine issues do exist and necessitate a hearing – the threshold question at this step in the process.

“As example, [] played in the double reed day activity for oboe, English horn, bassoon, and contrabassoon players at CMU on November 9th, while on scheduled parenting time with the Respondent. Prior to the event, which went on for much of the day, she was not initially forthright about the fact that a concert would take place that evening at Love Recital Hall. When the Respondent attended, it was observed that families of other performers were also there. The Respondent sat with them, and there were no problems. After the performance, the Respondent walked [] to her car, and wished her a fun time at the dance she was

heading to, like any loving father would. Her belief that it is acceptable to evade requests for information about the activity results from [the context of interaction between the children and their dad being gross hegemony of time with their mom that gives them unrealistic relationship boundary expectations [such as] the misguided “boundary” that their dad not attend their musical performances at school, and the friction that results from him going anyway, just like all the other parents.]”

These specifics were available to the Magistrate while the Motion remained under consideration, but they were ignored. Lack of requisite specificity is a valid reason to deny a motion, however, it did not exist here.

7. Conclusion

Please reject the subject Order and set a hearing at the soonest convenient time. Thank you.

The foregoing is true, as hereby verified under penalty of perjury.

Pled in earnest,

s/ Samuel Collin Robinson

Samuel Collin Robinson

2025.02.10

Date

District Court, Mesa County, Colorado

2012DR18

Petitioner: Katherine Lyman Robinson
and
Respondent: Samuel Collin Robinson

Order: Motion to Modify Parenting Time

The motion/proposed order attached hereto:
DENIED.

The Court has reviewed the attached motion seeking a modification of parenting time. The motion fails to state with particularity the basis for the relief being requested. see C.R.C.P. 7. For that reason the motion is DENIED.

Notice: This order is issued in a proceeding in which consent of the parties was unnecessary. Any appeal of this order must be taken within 21 days pursuant to Rule 7(a) C.R.M.

Issue Date: 2/6/2025

s/ Daniel M. Garcia
DANIEL MANUEL GARCIA, Magistrate

District Court, Mesa County, Colorado

2012DR18

In re the Marriage of:
Petitioner: Katherine Lyman Freeman
and
Respondent: Samuel Collin Robinson

VERIFIED MOTION CONCERNING PARENTING
TIME DISPUTES

The current Parenting Plan in this case was proposed by the Petitioner and then adopted by Court Order issued 2022.01.14. The Respondent files the present motion to plead that the Court please enforce the plan. The attorney representing the Petitioner has indicated that this motion is opposed.

The Petitioner is violating the parenting plan. The plan specifies that when school is not in session on Friday, and for holiday visits, the children will be dropped off at, or delivered to, the receiving parent's home. The plan also provides that minor changes may be made at any time, if both parties agree to the changes. The children were scheduled, per the plan, to spend the weekend of November 29th to December 1st with the Respondent. The Petitioner contacted the Respondent to arrange to trade dates in order to

accommodate an extended family activity on November 30th. The Petitioner offered to trade work days earlier in the week for non-work days that weekend. This was not a good faith offer that would afford the Respondent, who works, at least equal opportunity for meaningful interaction with the children. The Respondent countered, offering to reschedule his highest priority planned activity by one day to allow a trade of non-work days for non-work days, giving the Petitioner the 30th and the 1st for her stated highest priority activity in exchange for the 28th (Thanksgiving) and 29th. The Petitioner declined. Without reaching mutually acceptable terms for a trade, the Petitioner failed to deliver [] to the Respondent's home on November 29th. The Petitioner did not even notify the Respondent that she would not be delivering []. It was left to [] to make an emotional telephone call about half an hour prior to the scheduled delivery time.

Later, the children visited the Respondent, arriving at the home of the parents of the Respondent well after dark at about 8:00 pm on November 30th, after missing the entire day of splitting wood to heat the home of their grandparents. The Petitioner has subsequently unilaterally dictated a date in January when the children will purportedly make up the time. This misses the points that parenting time value derives from the nature of activities; not all activities can be rescheduled to any old time months later, and allowing the children to miss scheduled parenting time without mutual agreement sabotages the other parent's ability to plan and execute activities that

support the development of the character of the children, in particular where that parent is already given very limited opportunity by a disproportionate allocation of time. The petitioner refused a reasonable trade and then took what she wanted anyway, without mutual agreement, in classic “What’s yours is mine, and what’s mine is mine too” style. In other settings this is called theft. The result of this selfishness is that we are raising a daughter that will take her grandmother’s money to tour Europe, but will not help split wood to heat the log cabin where she makes her home, being led to believe that it is acceptable to party on when she feels like it and make the time up after the work is all done, when we can just go skiing.

Please impose a substantial increase to the bond designated to support compliance with the parenting plan, as the modest bond posted after a similar breach one year ago is inadequate.

The foregoing is true and correct, as hereby verified under penalty of perjury.

Pled in earnest,

s/ Samuel Collin Robinson

Samuel Collin Robinson

2024.12.17

Date

District Court, Mesa County, Colorado

2012DR18

In re the Marriage of:
Petitioner: Katherine Lyman Robinson
and
Respondent: Samuel Collin Robinson

RESPONSE TO OBJECTION
TO MOTION TO MODIFY PARENTING TIME

The objection filed by the Petitioner's attorney on 2024.11.14 seeks to have the motion denied without hearing. Ongoing relationship dysfunction caused by the current parenting plan will be resolved by modification of the plan, as is well within the purview of the court. The motion to modify could be granted, and the plan proposed by the Respondent could be adopted, without a hearing; however, in the interest of being thorough and transparent, a hearing is required. Please set this issue for hearing forthwith. Detailed responses to the Petitioner's claims follow, by number, as set forth in the objection document.

1. True.

2. False. There has been one parenting plan or another in effect since 2012; however, there was not any “domestic violence abuse” and the children spent time with their dad almost every day prior to the false accusations of abuse made by the Petitioner to mislead the court. Reiteration of those false accusations here, by reference, is simply muckraking. It is disappointing that counsel would stoop so low. 12 years without incident reveal the fallacy of the accusations.

3. True.

4. Mostly true. The statement that, “an additional eight consecutive overnights with Respondent were added” [during the summer], is false. That iteration of parenting plan reduced the opportunity for consecutive overnights during the summer from 3 nonconsecutive weeks to 2.

5. True. This fails to account for the context of interaction between the children and their dad being gross hegemony of time with their mom that gives them unrealistic relationship boundary expectations. As example, the misguided “boundary” that their dad not attend their musical performances at school, and the friction that results from him going anyway, just like all the other parents.

6. True. This unfortunate statement by the Court is, however, not supported by the hearing transcript, filed herewith as Exhibit A²². The Respondent did not indicate “that he felt like if the children had activities during his parenting time, he should be allotted additional parenting time to make

²² Please see footnote 21. Thank you.

up for the children not being in his presence during the entirety of the parenting time.” What the Respondent did say is this.

“...the children are involved in a great many activities, but part of being a good, involved parent, is also being involved in those activities. And, there should be discussion, between the parent and the children, about the level of involvement; whether it’s just, simply dropping them off and picking them up, or some greater degree of involvement. But the children are home with whichever parent before, between, and after these events and social activities. And, that’s part of what parenting time is. That’s how you be part of their lives, and know what’s going on, what’s important to them, is those interstitial times, those opportunities to brief and debrief, and get the blow-by-blow, and, you know, go see their concert, that you weren’t made aware of, in Montrose, and pick them up from it. And that’s a lot of what I’m asking the Court to help enforce, is availability of that opportunity...” Exhibit A²³. TR 2024.05.07, pp 69:13-70:3.

The main opportunity sought by the Respondent is the interstitial time before, between, and after activities – The Space Between, if you will.

7. True.
8. False.
9. No dispute.

²³ Please see footnote 21. Thank you.

10. False. The motion specifies just what is occurring here.
11. No dispute.
12. True.
13. True. The objection fails to mention that 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. The factors listed by 14-10-124(1.5)(a) may affect logistics, but they cannot override the preceding directive. Exception to the typical prescription is defined in the same subsection. 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. Further, statute text does not give objective standards for evaluation of the listed factors. As example, 14-10-124(1.5)(a)(IV) directs courts to consider adjustment of a child to their home, school, and community. 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?

14. Mostly false. The listed factors are not addressed by the motion, because, as they lack evaluation standards, they are not dispositive. They could serve to inform formulation of suitable logistics; however, that consideration is resolved here without over-complication by the simplicity of the proposed parenting plan. Although the parties have reached accommodations to work around some difficulties, substantial dysfunction continues to result from the current plan. As example, [] played in the double reed day activity for oboe, English horn, bassoon, and contrabassoon players at CMU on November 9th, while on scheduled parenting time with the Respondent. Prior to the event, which went on for much of the day, she was not initially forthright about the fact that a concert would take place that evening at Love Recital Hall. When the Respondent attended, it was observed that families of other performers were also there. The Respondent sat with them, and there were no problems. After the performance, the Respondent walked [] to her car, and wished her a fun time at the dance she was heading to, like any loving father would. Her belief that it is acceptable to evade requests for information about the activity

results from the disproportionate parenting time allocation of the present plan, as described by point 5, above. [] will be 18 in [], and free from parenting time requirements. These are not reasons to give up on her. In this case, a country song is right. Daddies don't just love their children every now and then – it's a love without end, amen. As this perplexes counsel for the Petitioner, he would do well to engage in introspection. Further, [] is just 15. This is no time to give in to the tyranny of false accusations of abuse asserted to monopolize time with these children and brainwash them into thinking it is acceptable to ghost their own family.

Please set a hearing at the soonest convenient time.
Thank you.

The foregoing is true, as hereby verified under penalty of perjury.

Pled in earnest,

s/ Samuel Collin Robinson
Samuel Collin Robinson

2024.11.19
Date

District Court, Mesa County, Colorado

2012DR18

In re the Marriage of:

Petitioner: Katherine Lyman Robinson
n/k/a Katherine Freeman

and

Respondent: Samuel Collin Robinson

PETITIONER'S OBJECTION
TO RESPONDENT'S MOTION TO MODIFY
PARENTING TIME

Petitioner, Katherine Freeman, through
counsel, Joshua Martin, hereby states the following:

BACKGROUND INFORMATION

1. The parties are the parents of [REDACTED] [REDACTED],
born [REDACTED] [REDACTED], 2007, and [REDACTED] [REDACTED],
born [REDACTED] [REDACTED], 2009.
2. The kids have been dealing with a parenting plan
since 2012. Due to the domestic violence abuse found
by Magistrate McNulty and prior PRE evaluations,
the children have never had more than every other
weekend and some time in the week due to said prior
abuse.

3. Respondent last filed a Motion to Modify Parenting Time on August 18, 2021. Under the then-existing parenting time order, the children resided primarily with Petitioner and had parenting time with Respondent every Wednesday from 3 p.m. until 7 p.m. and on alternating weekends from Friday evening until Sunday evening. Among other things, the Respondent's 2021 Motion sought a week on/off schedule and argued that this was in the best interests of the children because "[p]erpetuation of the lopsided allocation of parenting time set forth by the prior order is contrary to the long-term interests of the children. An alternating week plan would restore the balance that has been too long lacking from their parental relationships." Respondent's 2021 Motion, ¶ 10b.

4. The Court conducted a hearing on January 4, 2022, regarding Respondent's Motion to Modify. Following the January 4, 2022, hearing, the Court issued an Order on January 14, 2022, that adopted Petitioner's proposed parenting time that was filed on October 19, 2021. This reduced the children's parenting time with Respondent during the school year to every third weekend and to Wednesday afternoons on the weeks that they will not be overnighing at Respondent's home. During the summer, Wednesdays were eliminated for Respondent's parenting time but an additional eight consecutive overnights with Respondent were added. Joint decision-making remained in place and has been in place since Final Orders on October 12, 2012.

5. Notably, the Court's January 14, 2022 Order indicated that the evidence presented at the January

4th hearing “was substantially more convincing that the children’s relationship problems with Respondent were the result of his interactions with them” and that “[i]t would be better for Respondent to ‘do a better job respecting the children’s boundaries and listening to their opinions,’ as the Court stated in its order issued on July 9, 2019. Respondent’s lack of progress on this issue suggests that it will not happen soon.” See, January 14, 2022, Order, p. 5 (internal quotations in original).

6. Similarly, on June 10, 2024, this Court issued an Order regarding Respondent’s Parenting Time Dispute Motion that noted Father made statements that were concerning to the Court. Namely, Respondent indicated that he felt like if the children had activities during his parenting time, he should be allotted additional parenting time to make up for the children not being in his presence during the entirety of the parenting time. “The Court finds this troubling as the children are clearly of an age where they are involved in activities and Mother does not receive time from Father’s parenting time if the children are not with her 24 hours per day. The position lacks any credibility and foresight.”

7. Now, Respondent is again seeking to modify parenting time. Respondent argues in his November 12, 2024, Motion to Modify Parenting Time that the January 14, 2022 Order “creates conditions that sabotage the relationships between the children and their father . . .substantial dysfunction has resulted. For this reason, modification of parenting time is past due.”

8. It as if Respondent takes no responsibility for why the parenting time schedule is what it is as the result of Court Order nor the problems that have been present in his relationships with the children. Quite simply, Respondent's current Motion fails under C.R.C.P. 7 to state with particularity the grounds therefor and does not suffice for modification under C.R.S. 14-10-129.

PARENTING TIME MODIFICATION

9. C.R.C.P. 7(b)(a)(1) expressly requires that each motion "...shall state with particularity the grounds therefor. . ."

10. Respondent's Motion fails the particularity requirement as the general averment to why modification would be in the best interests of the children is a summary statement.

11. Even if the Court were not to deny Respondent's Motion outright on that ground,

12. C.R.S. 14-10-129(1)(a)(I) states "...the court may make or modify an order granting or denying parenting time rights whenever such order or modification would serve the best interests of the child."

13. C.R.S. 14-10-124(1.5) provides that a court "shall determine the allocation of parental responsibilities, including parenting time and decision-making responsibilities, in accordance with the best interests. . . ." At subsection (1.5)(a) of § 14-10-124, the best interests of the child, in relevant part, include the following:

- (I) The wishes of the child's parents as to parenting time;
- (II) The wishes of the child if he or she is sufficiently mature to express reasoned and independent preferences as to the parenting time schedule;
- (III) The interaction and interrelationship of the child with his or her parents, his or her siblings, and any other person who may significantly affect the child's best interests
- (IV) The child's adjustment to his or her home, school, and community;
- (V) The mental and physical health of all individuals involved, except that a disability alone shall not be a basis to deny or restrict parenting time;
- (VI) The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party; except that, if the court determines that a party is acting to protect the child from witnessing domestic violence or from being a victim of child abuse or neglect or domestic violence, the party's protective actions shall not be considered with respect to this factor;
- (VII) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support;
- (VIII) The physical proximity of the parties to each other as this relates to the practical considerations of parenting time;
- ...
- (IX) (XI) The ability of each party to place the needs of the child ahead of his or her own needs.

14. Respondent's proposed parenting time modification does not address these factors and summarily states that a 50/50 parenting time schedule (which has never existed) would be in the children's best interests. Any dysfunction that has resulted in the current parenting plan has been ameliorated through the parties working out plans to accommodate the children's extracurricular activities. Moreover, [REDACTED] is going to be 18 years-old in [REDACTED] of 2025 and so it is all the more perplexing that Respondent is now seeking to modify parenting time. Respondent has repeatedly not respected the children's requests for autonomy by showing up to their extracurricular events and social events without being invited by them or contrary to their express wishes that he not attend. As reflected in the January 2022 Order, even two years ago the children were expressing wanting some control about the amount and duration of parenting time with Respondent. See, January 2022 Order, page 2.

WHEREFORE, Petitioner requests that this Court denies Respondent's Motion without a hearing.

Respectfully Submitted,

Joshua Martin /S/

Joshua Martin #45661

Attorney for Petitioner

Dated: November 14, 2024

District Court, Mesa County, Colorado

2012DR18

In re the Marriage of:
Petitioner: Katherine Lyman Freeman
and
Respondent: Samuel Collin Robinson

VERIFIED MOTION TO MODIFY
PARENTING TIME

The current Parenting Plan in this case was adopted by Order issued 2022.01.14. The plan creates conditions that sabotage the relationships between the children and their father. During the 2 years and 10 months that the plan has been in effect, substantial dysfunction has resulted. For this reason, modification of parenting time is past due. The children will be well served by a new plan that restores balance to their parental relationships and minimizes stressful exchanges with a schedule that alternates from one parent to the other by week. Counsel for the Petitioner has indicated that this motion is opposed. A proposed Parenting Plan and a blank Order are filed herewith.

The foregoing is true and correct, as hereby
verified under penalty of perjury.

Pled in earnest,

s/ Samuel Collin Robinson

Samuel Collin Robinson

2024.11.12

Date

Colorado Revised Statutes 14-10-124

Best interests of the child.²⁴

(1) While co-parenting is not appropriate in all circumstances following dissolution of marriage or legal separation, the general assembly finds and declares that, in most circumstances, it is in the best interest of all parties to encourage frequent and continuing contact between each parent and the minor children of the marriage after the parents have separated or dissolved their marriage. In order to effectuate this goal when appropriate, the general assembly urges parents to share the rights and responsibilities of child-rearing and to encourage the love, affection, and contact between the children and the parents.

...

(1.5) Allocation of parental responsibilities. The court shall determine the allocation of parental responsibilities, including parenting time and decision-making responsibilities, in accordance with the best interests of the child giving paramount consideration to the child's safety and the physical, mental, and emotional conditions and needs of the child as follows:

(a) Determination of parenting time. The court, upon the motion of either party or upon its own

²⁴ The statute text is extensive; relevant parts are given here verbatim.

motion, may make provisions for parenting time that the court finds are in the best interests of the child, with the child's safety always paramount, unless the court finds, after a hearing, that parenting time by the party would endanger the child's physical health or significantly impair the child's emotional development. In addition to a finding that parenting time would endanger the child's physical health or significantly impair the child's emotional development, in any order imposing or continuing a parenting time restriction, the court shall enumerate the specific factual findings supporting the restriction, including findings related to domestic violence, child abuse, and child sexual abuse, and may enumerate the conditions that the restricted party could fulfill in order to seek modification in the parenting plan. ... In determining the best interests of the child for purposes of parenting time, the court shall consider all relevant factors, including:

- (I) The wishes of the child's parents as to parenting time;
- (II) The wishes of the child if he or she is sufficiently mature to express reasoned and independent preferences as to the parenting time schedule;
- (III) The interaction and interrelationship of the child with his or her parents, his or her siblings, and any other person who may significantly affect the child's best interests;
- (III.5) Any report related to domestic violence that is submitted to the court by a child and family

investigator, if one is appointed pursuant to section 14-10-116.5; a professional parental responsibilities evaluator, if one is appointed pursuant to section 14-10-127; or a legal representative of the child, if one is appointed pursuant to section 14-10-116. The court may consider other testimony regarding domestic violence from the parties, experts, therapists for any parent or child, the department of human services, parenting time supervisors, school personnel, or other lay witnesses.

(IV) The child's adjustment to his or her home, school, and community;

(V) The mental and physical health of all individuals involved, except that a disability alone shall not be a basis to deny or restrict parenting time;

(VI) The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party; except that, if the court determines that a party is acting to protect the child from witnessing domestic violence or from being a victim of child abuse or neglect or domestic violence, the party's protective actions shall not be considered with respect to this factor;

(VII) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support;

(VIII) The physical proximity of the parties to each other as this relates to the practical considerations of parenting time;

(IX) and (X) Repealed.

(XI) The ability of each party to place the needs of the child ahead of his or her own needs.

(a.5) In determining the best interests of the child for purposes of parenting time, the court shall strive not to consider as a relevant factor information or recommendations that are biased, including bias regarding religion, gender, gender identity, gender expression, sexual orientation, culture, race, ethnicity, national origin, or disability.

...

Kentucky Revised Statutes 403.270(2)

The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. Subject to KRS 403.315, there shall be a presumption, rebuttable by a preponderance of evidence, that joint custody and equally shared parenting time is in the best interest of the child. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare. The court shall consider all relevant factors including:

- (a) The wishes of the child's parent or parents, and any de facto custodian, as to his or her custody;
- (b) The wishes of the child as to his or her custodian, with due consideration given to the influence a parent or de facto custodian may have over the child's wishes;
- (c) The interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may significantly affect the child's best interests;
- (d) The motivation of the adults participating in the custody proceeding;
- (e) The child's adjustment and continuing proximity to his or her home, school, and community;

- (f) The mental and physical health of all individuals involved;
- (g) A finding by the court that domestic violence and abuse, as defined in KRS 403.720, has been committed by one (1) of the parties against a child of the parties or against another party. The court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to each party, with due consideration given to efforts made by a party toward the completion of any domestic violence treatment, counseling, or program;
- (h) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;
- (i) The intent of the parent or parents in placing the child with a de facto custodian;
- (j) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school; and
- (k) The likelihood a party will allow the child frequent, meaningful, and continuing contact with the other parent or de facto custodian...