

Good case study about legal research and writing

[Family](#), [Father](#)



CALIFORNIA CIRCUIT COURT

Civil Action No. 35 of 2014

IN THE MATTER OF; THE CUSTODY OF CHASTITY

SALLY BRIGHT. PETITIONER

VERSUS

JOHN BRIGHT .. RESPONDENT

Comes Sally Bright, by counsel and in her Memorandum she states as follows:

I. FACTS

The petitioner was married to the respondent and later separated due to marital difficulties. Later, the petitioner filed a divorce petition and the court granted her temporary custody of their daughter. However, the court granted the respondent weekly visitation a right in regard to their child . The issue is that the respondent wants custody of the child.

II. ISSUES

A. SHOULD THE PETITIONER BE GRANTED CUSTODY OF THE CHILD?

California family code 320-322 provides that the judge should consider the interests of the child in granting custody rights. In this case, the child is a minor and the mother would be the right person to stay with her since she is young. We find that the minor's father is homosexual and has a male partner. The child expressed that she is uneasy with her dad's partner during a session with Dr. Frank Edwards. This means that id chastity grows up in

this environment, the aspect that her father is gay may impact negatively on her development as a child in regard to gender preferences.

B. WILL THE MIGRATION OF THE PETITIONER AFFECT THE RIGHTS OF THE RESPONDENT AS THE CHILD'S FATHER?

The petitioner informed the respondent that she is relocating to another state because she is acquiring a new job there. The fact that she communicated this to her ex-husband means that she is not moving out of their state out of malice in order to deny him visitation rights over the child. It is my opinion that the parties can agree about how the visitation will be carried out.

C. CAN THE PETITIONER FULLY CATER FOR THE CHILD'S NEEDS?

YES. Despite the fact that the petitioner is earning a much lower amount than John, does not imply that she cannot provide for the child. John on the other hand as father can back up Sally in maintaining the child.

D. CAN THE CHILD DECIDE WHO SHE WANTS TO STAY WITH?

In this case, Chastity is a minor. It is evident from her counseling session with Dr. Samuel, Stoller that she is willing to stay with her dad the respondent. The reason behind her wish is because she would like to continue attending the school that she attends and does not want to relocate to avoid making new friends.

In this case, the child is a minor and cannot make viable decision hence her wish to stay with her dad is not well reasoned.

E. IS THE RESPONDENT A RESPONSIBLE FATHER

It is evident that the respondent contributed to taking care of the child.

However, we find that he liked drinking and he abused Sally physically as his wife without the knowledge of their daughter. This means that being a drinker; he is not fit to be awarded custody of the child.

111. CONCLUSION

Awarding the respondent custody of the child will affect her wellbeing and will not be in her best interest.

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Comes John Bright, by counsel and in her Memorandum he states as follows:

I. FACTS

The respondent was married to the petitioner and later separated due to marital difficulties. Later, the petitioner filed a divorce petition and the court granted her temporary custody of their daughter. However, the court granted the respondent weekly visitation a right in regard to their child . The issue is that the respondent wants custody of the child.

II. ISSUES

A. SHOULD THE RESPONDENT BE GRANTED CUSTODY OF THE CHILD?

California family code 320-322 provides that the judge should consider the interests of the child in granting custody rights. In this case, the respondent is financially stable and can take proper care of the child unlike the mother. The father in this case can take of the best interests of the child financially thus he should be awarded custody of the child.

B. WILL THE MIGRATION OF THE PETITIONER AFFECT THE RIGHTS OF THE RESPONDENT AS THE CHILD'S FATHER?

The petitioner informed the respondent that she is relocating to another state because she is acquiring a new job there. The fact that she communicated this to her ex-husband means that she is not moving out of their state out of malice in order to deny him visitation rights over the child. It is my opinion that the parties can agree about how the visitation will be carried out.

C. WILL THE RESPONDET'S SEXUAL STATUS AFFECT THE CHILD'S

DEVELOPMENT No. The fact that the respondent is gay does not imply that he is a bad parent. Everyone has the right to sexuality. In this case, the child wishes to stay with her dad despite stating that she feels ``weird' with her dad's companion. The aspect that she is uneasy with his companion does not mean that it will affect her development. It is common for anyone to feel unease with a person that is not well known to you and I think this the position with chastity.

D. WILL RELOCATION AFFECT THE VISITATION RIGHTS OF THE RESPONDENT

Yes. Relocation to another state implies that the respondent cannot have easy access to the child. This is because the child is used to the idea of having both parents around. This is illustrated in the case in ``Re marriage of Seagondollar (2006)139 Cal. App. 4th 116.”(Re marriage of Seagondollar , ocapps. occourts. org). The limit in access is due to increased expenses in terms of travel. The court should consider the interests of the respondent as a father to the child. The children requires the love and care of both parents an aspect that may impact negatively if the father is denied a chance to frequently visit and mentor his dad.

111. CONCLUSION

Awarding the petitioner child of the child will affect her wellbeing because she is not financially fir to cater for the wellbeing of the child . In addition, the child wishes to stay with her dad and continue attending her current school.

Reference

California Family Code. available at

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=03001-04000&file=3080-3089> retrieved on 15th June, 2014.

Re marriage of Seagondollar (2006)139 Cal. App. 4th 116 available at <https://ocapps.occourts.org/fampubNS/Home.do;jsessionid=747F9F912DAEB4EFD2D98D1327C232D4#top>

retrieved on 15th June, 2014.