

# Free essay on court cases

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## **Question one: Miles**

The Miles case is fairly straight forward. The issues put forth for determination by the court can be summed up in the following questions. One, what rights Miles has against his parents? Two, what rights the parents have? Three whether on the request by the parents, Miles can be removed from the team without his consent? And lastly, whether his parents can take part or all of his income? In the ensuing discussion, the paper shall answer all the questions. From the onset, it is imperative to note that the Court should be guided by the holdings in Tye Prince v. Kentucky High School Athletic Association and Logan Young v Indiana High School Athletics Association and Monroe County Community School. Miles indeed has a right to elect what option best serves his interest. It is often required that the court adopt the alternative that best serves the interests of the child. However, the rider to this is that the court must equally consider the fact that the child being a member of the age of minority does not have the full rights to make a decision. For that reason, the parents' concerns must be factored in and considered fully by the court. In adjudging the case, the court is guided by who has the reasonable case. From the holding in the Logan Young case, it is clear that Miles is eligible for participating in the athletics program at college. In addition, it would be discriminatory under Title VII to purport to dismiss him based only on account of his age. On that ground, the only determinant that would address all the questions posed to the court is the reasonability of the arguments by the parents. The parents allege that his joining the program would hinder his performance. For them, they wish that their son pursue medicine and for that reason has to complete high school.

In addition, they purport that the program would waste the child's time. Under Title VII, the child indeed has the rights of participation in sports. The case of eligibility decided in the Tye Prince case is illustrative. It reached the conclusion that the plaintiff was eligible to participate. Indeed, applying Logan Young case equally grants eligibility to Miles. On the first question of Miles rights, he indeed has a right. Miles can only lose his rights if the program he elects to join would injure his interests. Remember the courts are the custodians of justice and should, therefore, secure the best interests of the child. The special situation of Miles should be considered. It is not lost on the Court that Miles actually participates in sporting activities. He even runs a small training for children in the evenings and during the weekends. In addition, he spends 30-35 hours on extra curricula activities. It is essential to consider the arguments by the parents. The practice in court demands that the court considers the argument wedged by the parent against the child. It is the contention of the court that the argument lacks merit and should be dismissed. The parents are only obsessed with their wish to have their son pursue medicine. While the wish is noble and progressive, it does not necessarily equate to the child's best interests. Therefore, the court should find that Miles retains the final rights to elect whether to take up the scholarship or not.

On the second question as to the rights of the parents, the same cannot be gainsaid. The parents are prima facie assumed to be the custodians of the child's best interest. In that vein, they have a say on what the child should pursue or not. However, the court should be careful not to let mere wishful thinking prevail over good reasoning on the grounds of the best interests of

the child. In this situation, the parents have limited rights as their reasoning does not necessarily promote the child's best interests. In addition, Miles meets all the qualifications for joining the athletics program and joining the same would not as much hinder him from performing in efforts towards achieving his own dreams in the field of academia. In that respect, the parents cannot request for the school to remove him from the program. In the case the parents so request, the same does not have to be obeyed by the school. In addition, Miles has rights bestowed upon him by Title VII. He cannot be removed from the team without his consent unless under special circumstances such as indiscipline. Such circumstances have not occurred and as it stands, he cannot be removed from the team. That leaves us with the question on the income. That is whether the parents are entitled to part or the whole of the income. The question of income was partly dealt with in the Tye case. Relying on the same, the court should find that the parents are entitled to a certain amount of the income. This is because the child is still under their trust.

### **Question two: Daniel Case**

The case is fairly complex especially given the fact that it raises the issues around lesbianism which is a contemporary matter. While no universal consensus suffices on matters of sexuality, it is, at least up to date, considered not in the interests of the child to grant custody to a lesbian mother. In the case, Cheryl intends to reside with her new partner called Suzan. This relationship falls under the lesbian category. It is in the best interest of the child not to leave the child to the lesbian mother. In that context, the prima facie decision would be to confer custody to the father.

However, the situation is equally contentious on the part of the father. This is because, Sonny, the father, travels many times during the month. His presence with the child would have been useful. This, therefore, complicates the situation for both of the parties. It is indeed anticipated that either party shall put up a strong argument to lead the court into ruling in their favor.

The argument by the mother may be that the grandparents (her parents) are willing and able to raise the child. She may argue that while it still remains contentious for the child to be raised by a lesbian mother, the traditional application is that the child should be left with the mother at least before attaining the age of the majority. She may thus argue that she transfers her right to her grandparents who have been confirmed as being socially and economically competent. She might argue that that way, she would be able to maintain a presence with the child unlike the father who would be travelling away and having left the child with the grandparents. She may argue that it would be in the best interest of the child to have continuous access by one of the parents. She would argue that as for Sonny, he should be allowed visitation of the child during the times when he is available within the locality.

However, Sonny, the father, may equally put a strong case. He may argue that the child should be placed in the custody of the better placed parent. He may argue that as it stands, it is Cheryl who is moving out. In addition, she is not merely moving out, she is joining a lesbian relation which is still largely contentious. In light of those conditions, it would be appropriate to confer the custody on him. In addition, he would argue that his parents (the child's paternal grandparents) would be ready to step in during his absence.

Having canvassed both sides of the coin, the ultimate decision lies with the court which is conferred with the difficult responsibility of protecting the child's best interest. In the foregoing, the court shall stand guided by the holding in *Doe v Doe* and *Troxell v Granville*. In the latter, the court was emphatic that the parental rights were supreme and would be considered over the rights of the grandparents who were in the court's opinion merely secondary participants in the relationship. Relying on that holding, the court shall consider the circumstances of the two parents in the case, one lesbian who has elected to live with a fellow lesbian and the other, a normal father, but who is often away travelling in the course of work. It is the position of this paper that the court should find in favor of the father. This is because on considerations of the circumstances, the mother stands more at risk of injuring the best interests of the child as opposed to the father. The father's only undoing is his apparent regular absences. This can be remedied easily as opposed to the mother's undoing which involves matters in controversy. It should be appreciated that in the modern world, matters of sexuality remain as some of the most complicated issues.

In addition, the court stands guided by the holding in *Doe v Doe*. In that respect, it should be appreciated that the subsequent activities follow the event. This is to say, whoever is granted the custody retains the full rights of the child. In that context, the grandparents from the disadvantaged parent cannot purport to claim some form of custody. This, therefore, means the mother's parents have no rights on the child. This approach follows the ruling in the *Doe* case where the father was denied the right to have the child's name changed even after he had been denied custody. It should

equally be appreciated that the best interests of the child is often promoted through the meticulous consideration of all the supervening circumstances. In that respect, until lesbianism is accepted in the society as a moral practice, courts are best advised to rule against the interests of the homosexual spouse in the relationship.

### **Question three: Hans**

The case of Hans is fairly complex given the current developments in our jurisprudence. Indeed, it is essential to lay out the distinction between this case and the Wisconsin v Yoder case. In the latter, the parties in contest were the state and the parents of the children. The parents had withdrawn the children from education after the latter's successful completion of grade eight. Indeed, the ruling in the Yoder case is sound in as much as it posited that education was only compulsory up to the eighth grade. In that vein, the parents had the rights to withdraw the children from the school.

However, in this case, the parties would substantially differ at least in one respect. That is because the child wants to continue studies, while the parents and the teachers believe the child should withdraw. In that context, the jurisprudence in the Yoder case is merely persuasive and must be distinguished and applied only to some extent. Foremost, it is critical to appreciate the right to religion conferred by the Constitution to all citizens of the United States of America. In that respect, leaving school at the eighth grade is not necessarily illegal. In fact, relying on the holding in Yoder as well as the holding in Board of Education v Barnette, the paper appreciates the place of religion. In the latter case, the children defendants were granted the right not to salute the school flag as such was in violation of their rights to

religion; as the practice was against their own religious beliefs. In the former, which has been discussed substantively above, the parent defendants were allowed to withdraw their children from the school pursuant to their religious practices.

However, the holding in *Haley v Ohio* is imperative in giving a solution. In that case, the court held that children were indeed persons as envisaged in the Bill of Rights. Therefore, since children were persons, they were equally entitled to all rights granted to them under the Bill of Rights in the Constitution. It is on that premise that a solution to the Hans case can be found. First, two models have to be appreciated. This is the self-determination and the nurturance orientation models. According to the self-determination model, a child should be afforded an opportunity to determine for himself his own future. Indeed, the Hans case may fall in the anticipated situations. Hans believes continuation of school would make him better placed to dispense his roles in society. This approach should be considered in light of the observations in *Prince v. Massachusetts* where the court observed that indeed children too have rights and that it is often essential to consider their interests in arriving at decisions. In addition, the child has been rightly observed as a person and is so entitled to rights conferred on the people in the Bill of Rights. In that respect, one needs to consider the balance between the child's right to education and the right to observe the religious practices given that the child as not as of yet severed his Amish linkages. Applying the self-determination model, the court should find in favor of Hans and order that he be allowed to continue pursuing his education to the best level he may attain.



On the other hand, the nurturance orientation model places the burden on the parents as custodians of the best interests of the child. The assumption is that the decision of the parent shall be in the child's best interest.

Applying the model, the court would assume that the judgment of the parent is the best and that it would work in the best interest of the child. The court would have to overlook the evolving jurisprudence which urges for the consideration of the child's own wishes. Relying on that model, the court will find in favor of the parents.

However, given the situation as canvassed, it is this paper's contention that the child's best interest can equally be considered from the court's own viewpoint. In that respect, the court should take judicial notice of the role of education in improving the child's position in the future. It is the considered view of this paper that such an approach would reach a determination in favor of Hans. The court would thus order that Hans be allowed to proceed with his education without having to be inconvenienced by the parents' wishes. On that note, it is imperative to appreciate the precarious circumstances that often find the court in solving cases. In this case particularly, the court had to elect whether to protect the child's interests or the parents' interest. Indeed, modern jurisprudence which is in all standards the most progressive demands that the interests of the child prevail over those of the parents. In addition, it must be appreciated without prejudice on religion, that some religious undertaking often requires that the adherents stretch their rights too thin. The onus lies with the court to strike the right balance.

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