

WISCONSIN SUPREME COURT
NOVEMBER 7, 2018
9:45 a.m.

2017AP1142

Cacie M. Michels v. Keaton L. Lyons

This is an appeal, taken on certification from the Wisconsin Court of Appeals, District III (headquartered in Wausau). Cacie Michaels and Keaton Lyons, the parents of A.L., challenged an order of the Chippewa County Circuit Court (Judge James M. Isaacson, presiding) that granted visitation rights to Jill Kelsey, A.L.'s grandmother. Ms. Kelsey is Keaton Lyons's mother.

Ms. Kelsey filed a petition in circuit court to compel her son, Lyons, and Michels to provide Ms. Kelsey with additional visitation time with A.L., including a one week Florida vacation. The circuit court granted Ms. Kelsey visitation one Sunday each month and for a seven day period each summer, with no restriction on where she could take the child.

Wis. Stat. § 767.43(3) provides that a court may grant reasonable visitation rights to a grandparent if: (1) the grandparent has maintained a relationship with the child or has attempted to maintain a relationship with the child but has been prevented from doing so by a parent who has legal custody of the child; (2) the grandparent is not likely to act in a manner that is contrary to decisions that are made by a parent who has legal custody of the child and that are related to the child's physical, emotional, educational or spiritual welfare; and (3) the visitation is in the best interests of the child.

Lyons and Michels appealed, arguing that the visitation order violates the Fourteenth Amendment to the U.S. Constitution and Article I, § 1 of the Wisconsin Constitution. They argue that a court should only be able to order visitation under § 767.43(3) if there is a showing that failure to do so would harm the child. In the alternative, Lyons and Michel argue that, at an absolute minimum, the Supreme Court should find that a circuit court can order visitation only upon a showing, by clear and convincing evidence, that the parents' visitation decision was wrong.

The following issues are presented for review:

1. Did the visitation order entered by the circuit court violate the Fourteenth Amendment to the United States Constitution and Art. I, Sec. 1 of the Wisconsin Constitution?
2. If not, did the circuit court nevertheless erroneously exercise its discretion by granting Ms. Kelsey grandparent visitation rights?