

Research Memorandum #79: Child Custody

Minkon v. Ford, 260 Maj. 3d 10 (20XX-7): “The maternal grandparents requested legal custody or in the alternative, visitation of their daughter’s minor children over the objection of the father and new stepmother (the natural mother was deceased). We conclude that forcing either custody or visitation over parental objection would not be in the best interest of the children. The paramount factor in determining visitation and custody rights of minor children is the best interest of the children. In determining best interests, Major courts consider:

- (a) The wishes of the parents;
- (b) The wishes of the child;
- (c) The interaction and relationship of the child with parent or parents, siblings, friends, and any other person who may significantly affect the child’s best interests;
- (d) The child’s adjustment (or disruption) to home, school, and community;
- (e) The emotional and physical health of all individuals involved; and
- (f) Violence or potential child abuse.

“We unanimously find that since the children were with their natural father and there was no evidence of child abuse, the status quo, custody with the father and mother, should be maintained.

“We now consider the issue of visitation for the grandparents. The controlling rule of law is that if there is only one remaining parent (no adoption by stepparent), the grandparents should have visitation rights. We hold that a grandparent not granted custody is generally entitled to reasonable visitation unless this is not in the best interest of the child. In addition, visitation rights for any person may be ordered if in the best interests of the child.

“In this case, we are reluctant to force visitation against the wishes of the custodial party, the father. Disharmony is not in the best interest of the child. Ordinarily, a parent’s obligation to allow grandparent visitation is moral, not legal. Judicial enforcement might harm parental authority. Nevertheless, on balance, this case involves a natural grandparent. We are persuaded to allow the grandparents reasonable visitation.”

Crocker v. Crocker, 195 Maj. 2d 236 (20XX-28): “Parties may negotiate an agreement awarding custody of minor children unless the agreement is contrary to the best interests of the children. A court will incorporate the agreement into a decree (dissolution cases) or in the case of child custody into an order. But the court is not bound by the terms of the agreement. State of Major courts have the equitable power to intercede if the agreement is not in the best interests of the child. The power of the court to modify the agreement or decree continues throughout the minority of the child.”