

WEDNESDAY, OCTOBER 7, 2009
9:00 A.M.

NO. 1

#25086

IN RE: A.L. and S.L.-Z.,
Minor Children,

DAVID and JOYCE ZIMMER,
Petitioners and Appellees,

vs.

SCOTT and MARIA ZIMMER,
Respondents and Appellants.

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(FOR APPELLANTS)

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(FOR APPELLEES)

The Honorable Steven R. Jensen
First Circuit Court Judge
Clay County

(CIV 08-147)

STATEMENT OF ISSUES ON APPEAL

- I. Whether the trial court erred in finding that the paternal grandparents satisfied the requirements of SDCL § 25-4-52 over the objection of both fit parents when the parents had previously allowed the children to visit with the grandparents and when the evidence did not show that visitation was in the children's best interests.**

The trial court found that visitation was in the children's best interest without making specific findings as to why the visitation was in the children's best interest and without consideration of previous grants of visitation to the grandparents.

Relevant Cases and Statutes:

SDCL § 25-4-52

Currey v. Currey, 2002 SD 98, 650 N.W.2d 273

Medearis v. Whiting, 2005 SD 42, 695 N.W.2d 226

Strouse v. Olson, 397 N.W.2d 651 (S.D. 1986)

Troxel v. Granville, 530 U.S. 57 (2000)

- II. Whether the trial court violated the parent's due process rights by compelling them to submit to visitation by the grandparents when that visitation interferes with the parent and child relationship and no showing of the children's best interest has been made.**

The trial court found that the best interest of the children requires that they have continued and ongoing visitation with their grandparents without articulating why visitation is in the best interest and without consideration of the effect the strained relationships between the parties have on the children and their relationship with their parents.

Relevant Cases and Statutes:

Beagle v. Beagle, 678 So.2d 1271 (Fla. 1996)

Nelson v. Nelson, 674 N.W.2d 473 (Neb. 2004)

Roth v. Weston, 789 A.2d 431 (Conn. 2002)

Troxel v. Granville, 530 U.S. 57 (2000)