

Palmore v. Sidoti (1984)

446 U.S. 429

When the Sidotis, both Caucasians, were divorced in Florida, Linda Sidoti was awarded custody of their three year-old daughter. The following year, Anthony Sidoti sought custody of the child by filing a petition to modify the prior judgment because of changed conditions. The change was that Linda Sidoti was then cohabitating with Clarence Palmore, a Negro, whom she married later. The Florida trial court awarded custody to the father, concluding that the child's best interests would be served thereby. Acknowledging that there was no evidence that Linda Sidoti was unfit to continue the custody of her child, the court nevertheless shifted custody to the father in order to avoid the damaging impact on the child that would otherwise result from remaining in a racially mixed household. As it declared: "This Court feels that despite the strides that have been made in bettering relations between the races in this country, it is inevitable that...[the child] will, (fallowed to remain in her present situation and attain school age and thus [be] more vulnerable to peer pressures, suffer from the social stigmatization that is sure to come." The Second District Court of Appeals affirmed without opinion, thereby denying the Florida Supreme Court jurisdiction to review the case. The U.S. Supreme Court granted certiorari.

Opinion of the Court: Burger, Blackmun, Brennan, Marshall, O'Connor, Powell, Rehnquist, Stevens, White.

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to review a judgment of a state court divesting a natural mother of the custody of her infant child because of her remarriage to a person of a different race....

The judgment of a state court determining or reviewing a child custody decision is not ordinarily a likely candidate for review by this Court. However, the court's opinion, after stating that the "father's evident resentment of the mother's choice of a black partner is not sufficient" to deprive her of custody, then turns to what it regarded as the damaging impact on the child from remaining in a racially-mixed household.... This raises important federal concerns arising from the Constitution's commitment to eradicating discrimination based on race.

The Florida court did not focus directly on the parental qualifications of the natural mother or her present husband, or indeed on the father's qualifications to have custody of the child. The court found that "there is no issue as to either party's devotion to the child, adequacy of housing facilities, or respect[a]bility of the new spouse of either parent."... This, taken with the absence of any negative finding as to the quality of the care provided by the mother, constitutes a rejection of any claim of petitioner's unfitness to continue the custody of her child.

The court correctly stated that the child's welfare was the controlling factor. But that court was entirely candid and made no effort to place its holding on any ground other than race. Taking the court's findings and rationale at face value, it is clear that the outcome would have been different had petitioner married a Caucasian male of similar respectability.

A core purpose of the Fourteenth Amendment was to do away with all governmentally-imposed discrimination based on race.... Classifying persons according to their race is more likely to reflect racial prejudice than legitimate public concerns; the race, not the person, dictates the category.... Such classifications are subject to the most exacting scrutiny; to pass

constitutional muster, they must be justified by a compelling governmental interest and must be “necessary...to the accomplishment” of its legitimate purpose....

The State, of course, has a duty of the highest order to protect the interests of minor children, particularly those of tender years. In common with most states, Florida law mandates that custody determinations be made in the best interests of the children involved....The goal of granting custody based on the best interests of the child is indisputably a substantial governmental interest for purposes of the Equal Protection Clause.

It would ignore reality to suggest that racial and ethnic prejudices do not exist or that all manifestations of those prejudices have been eliminated. There is a risk that a child living with a step-parent of a different race may be subject to a variety of pressures and stresses not present if the child were living with parents of the same racial or ethnic origin.

The question, however, is whether the reality of private biases and the possible injury they might inflict are permissible considerations for removal of an infant child from the custody of its natural mother. We have little difficulty concluding that they are not. The Constitution cannot control such prejudices but neither can it tolerate them. Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect. “Public officials sworn to uphold the Constitution may not avoid a constitutional duty by bowing to the hypothetical effects of private racial prejudice that they assume to be both widely and deeply held.” ...

This is by no means the first time that acknowledged racial prejudice has been invoked to justify racial classifications. In *Buchanan v. Warley*... (1917), for example, this Court invalidated a Kentucky law forbidding Negroes from buying homes in white neighborhoods.

“It is urged that this proposed segregation will promote the public peace by preventing race conflicts. Desirable as this is, and important as is the preservation of the public peace, this aim cannot be accomplished by laws or ordinances which deny rights created or protected by the Federal Constitution.” ...

Whatever problems racially-mixed households may pose for children in 1984 can no more support a denial of constitutional rights than could the stresses that residential integration was thought to entail in 1917. The effects of racial prejudice, however real, cannot justify a racial classification removing an infant child from the custody of its natural mother found to be an appropriate person to have such custody.

The judgment of the District Court of Appeal is reversed.