Palmore v. Sidoti

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Issue
Does the Fourteenth Amendment's equal protection clause preclude consideration of a stepparent involved in miscegenation when determining custody awards? To what extent can similar standards be applied to interracial adoption issues?

Facts
Linda and Anthony Sidoti, two Caucasians, divorced in Florida in May of 1980. Linda was awarded custody of their three-year-old daughter, Melanie. In September 1981, Anthony challenged the custody award, asserting that an "extreme change" in the child's living conditions warranted awarding him custody. The "extreme change" referred to Linda cohabiting with an African-American, Clarence Palmore, Jr.¹

¹ Palmore was Linda's fiancé and they subsequently married in November 1981. Anthony also accused Linda of failing to provide adequate care for the daughter's hygiene, namely that her daughter had contracted head lice and worn a mildew-stained article of clothing to school. However, the claim of hygiene neglect was never substantiated and never addressed by the court. The only question remaining for consideration by the Supreme Court was whether the mother's interracial marriage should affect her right to custody of her daughter.
Background

Prior to Palmore v Sidoti, some courts viewed a child custody litigant's interracial cohabitation or marriage as a valid adverse factor when deciding if residing in the interracial home "served the child's best interest" (Weinstock 251). A majority of opinions fell under three categories: (1) those who regarded interracial relationships as relevant to custody determination, (2) those who regarded interracial relationships as irrelevant to custody determination, and (3) those who regarded consideration of an interracial relationship as unconstitutional (Weinstock 252).

A multitude of judgements have regarded the interracial marriage of a party as not only relevant but also influential when determining the child's custody. For example, in Niles v Niles, the custody of two children changed to the father as a result of the mother's interracial relationship. The court explained the rationale of this case in that interracial homes presented subjection to unnecessary complications and social pressures that would not otherwise exist, to be "unacceptable to the father...and to the society in which we live" (Niles).

In Niles, the best interest of the children bore the utmost importance. However, of primary consideration was the probability of community and familial hostility toward the new interracial family. Niles also illustrated the tendencies of courts to emphasize other inadequacies of the involved party in the interracial relationship. The mother's "promiscuous" conduct while the children were in the apartment was considered a basis for custody denial, although attempts made emphasized and exaggerated the inadequacy and instability of the miscegenetic parent seeking custody (Weinstock 235). These _ad hominem_ attacks believe the real basis for the anti-miscegenation award: discrimination.

Concurrently, some courts viewed interracial marriage as irrelevant to custody decisions. For example, in Commonwealth ex. rel Lucas v Kreischer, the Pennsylvania Supreme Court discussed the impropriety involved when an interracial relationship served as a determining factor in custody battles. The Pennsylvania Supreme Court reasoned that in a multiracial society prejudice was inevitable, but the matter of greatest importance was that the child was residing in a loving and stable home so they could overcome any prejudice they may be faced with (Kreischer).

Finally, a minority claimed unconstitutionality under the equal protection clause of the Fourteenth Amendment. In Delander v. Delander the California Supreme Court declared unconstitutional the alteration of a mother's custody right after she had engaged in miscegenation. If the court altered custody right, the California Supreme Court reasoned it would, "constitute a judicial determination that a black stepfather is not equal to a white stepfather." Niles, Commonwealth, and Delander illustrate the inconsistent nature of custody cases involving miscegenation prior to the Supreme Court's judgement in Palmore.

Florida Circuit Court's Decision

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Florida Circuit Court’s Decision

To modify an existing custody order, according to Florida law, proof of a “substantial change” in the child’s
living situation must exist (Blackwood 219). The father only noted two unsubstantiated claims of negligence: the child’s hygiene, and the mother’s involvement in an interracial relationship with an African-American. In response to these accusations, the Florida circuit court granted the father custody of his daughter.

The court based its decision on a limited number of premises. First, the court adversely inferred the mother’s attitude toward her child because she had a sexual relationship with Clarence without being married while maintaining custody of her daughter. The court concluded that the mother, “places gratification of her own desires ahead of her concern for the child’s welfare” (Palmore). In addition to this accusation, the court explained the following reasoning: “This Court feels that despite the strides that have been made in bettering relations between the races in this country, it is inevitable that Melanie will, if allowed to remain in her present situation and attains school age and thus more vulnerable to peer pressures, suffer from the social stigmatization that is sure to come” (Palmore).

The reasoning applied to Niles, similarly applied to the Palmore case, was the hypothetical stigmatization which may result form society’s prejudices. Mrs. Palmore then appealed the circuit court’s decision to the Second District Court of Appeals. The court of appeals affirmed the previous opinion.

Supreme Court’s Decision and Reasoning
After granting certiorari to Mrs. Palmore, the Supreme Court unanimously reversed the opinion of Florida’s Second District of Court of Appeals. Chief Justice Burger eloquently expressed the consensus of the Supreme Court.

Whatever problems racially-mixed households may pose for children in 1984 can no more support a denial of constitutional right 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 and infant child from the custody of its natural mother found to be an appropriate person to have such custody (Palmore).

The Supreme Court believed that, had Melanie’s mother cohabited with and married a Caucasian, the challenge of her custody of her daughter would have failed (Goode 329). Although the Supreme Court acknowledged the state’s admirable intentions to meet the best interests of the child, the Supreme Court precluded the state from denying custody based on the mother’s interracial marriage (Silverberg 347).

In justifying and explaining their ruling, the Supreme Court applied previously established laws created through three monumental cases: McLaughlin v. Florida, Loving v. Virginia, and Buchanan v. Warley. Charles P. Wisdom summarized the Supreme Court’s rationale behind prohibiting racial prejudice from being a controlling factor in the removal of a child form a presumably fit parent for custody explaining: (1) the Fourteenth Amendment’s purpose to “eradicate government-imposed racial discrimination” and (2) the law’s impermissibility to either directly or indirectly create or accomplish private racial biases (500).
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First and foremost, the Supreme Court ruled that the lower court failed to rule in accordance with the equal protection clause of the Fourteenth Amendment of the constitution, as interpreted in *McLaughlin v. Florida* and *Loving v. Virginia* (Silverberg 345). The sole purpose of this amendment is to eradicate any “governmentally-imposed discrimination based on race” (Palmore). In *McLaughlin*, the Supreme Court overturned a Florida statute which renounced cohabitation between Caucasians and African-Americans. The court proclaimed the classification of race as a factor subjected to most “exacting scrutiny” and it must be explained by a “compelling governmental interest” and “necessary to the accomplishment of their legislative purpose” (McLaughlin).

In *Loving*, an interracial couple married in Washington, D.C. and then moved to Virginia where they directly violated the state’s ban on interracial marriage. To the *Loving* situation the Supreme Court again applied “strict scrutiny,” and found no “legitimate state purpose for the law” (Blackwood 211). Application of this same “strict scrutiny” to *Palmore* yielded the Supreme Court’s acknowledgment that the state government had violated the equal protection clause of the Fourteenth Amendment.

Furthermore, the Supreme Court specifically addressed the issue of “suffer[ing] from the social stigmatization that is sure to come” (*Palmore*), and mentioned a previous instance, *Buchanan v. Warley*, where recognized racial prejudice had been conjured up to justify racial classifications. This Supreme Court opinion found the Kentucky law unconstitutional which forbade African-Americans from owning real estate in predominantly Caucasian neighborhoods. Similar to *Palmore*, the reasoning of this case addressed the issue of potential societal problems likely to arise due to the integration of different races (*Buchanan*). In response to this argument, in both instances, the Supreme Court acknowledged, “private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect” (*Palmore*).

**Effects**

Although relatively short and precise, the implications of Supreme Court’s ruling are broad. What are the actual effects of *Palmore*? This case should not be interpreted to mean courts forbid consideration of race in custody claims. Specifically, the courts prohibited consideration of the social stigmatizing effects of racial prejudice on a child with a miscegenetic custodian. The Supreme Court’s narrow wording failed to prohibit consideration of the implicit consequences that placing a child into an interracial home might have on the child itself. Moreover, *Palmore*’s applicability to circumstances involving removing a child from its biological parent when otherwise the parent is a fit guardian, is self-evident (Weinstock 260). However, to what extent can *Palmore* be applied to interracial adoptions?

**Applicability to Interracial Adoption**

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conclusions of Palmore should be applied directly to interracial adoption issues. The most apparent commonality of these two proceedings involves the adjudication of the custody and control of the child. In both circumstances, the child's welfare and best interests are of preeminent importance (Weinstock 262).

Marshall H. Silverberg posed the following question, "Why should the analysis be different in an adoption proceeding where the resultant racial composition is identical to the one resulting form the situation in Palmore and where the goal is also the best interests of the child?" (351-352). Justice O'Connor argued that Silverberg failed to identify the important differences between adoption and custody proceedings (Silverberg 351). Adoption cases involve some issues not present in custody cases, such as the availability of biological parents. Major differences exist between a biological relationship and a state-conferred relationship, therefore, it was argued, these cases must be treated quite differently (Wisdom 504). Courts play a more active role in adoption cases because they are faced with the burdensome task of attempting to place a child with a compatible family, while no such issue exists in custody proceedings (Blackwood 224).

In adoption cases, courts have generally attempted to place children in the custody of those individuals with similar racial features. The rationale is that children more easily integrate into families with racial characteristics similar to their own. Expert testimonies of psychiatrists, psychologists, and social workers acknowledges the advantageous aspect of racial matching and the problematic effects of placing children in the custody of racially different families (Weinstock 262). For these reasons, race has historically has been considered important in adoption proceedings when the need to determine the "best interests" of the child (Wisdom 497).

Although usually considered a factor, race must not be the only factor. Crucial to the child's development of an adequate sense of personal identity is integration of the child into the new home. Robert B. Weinstock explained the three different facets of personal identity as: (1) a sense of 'belonging' in a stable family and community, (2) a feeling of self-esteem and confidence, and (3) 'survival skills' providing the child with the ability to cope with the world outside the family (264). Failure to establish personal identity can be catastrophic to the child. Courts continue to rule that a child living in an environment of different race interferes with the child's personal identity development and can possibly result in a myriad of psychological and social problems (Weinstock 265). Because of the importance of developing a personal identity, which can be troublesome for a child residing in a household of different race, courts should continue to take race into account when determining the best interests of the child.

However, if the above reasoning was a sound conclusion, it must successfully withstand the "strict scrutiny" test of classifying races, just as in Palmore. There remains the mandate to promote a compelling government interest to overcome the Fourteenth Amendment's equal protection requirements. The Supreme Court recently ruled on the
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permissibility to consider race, if used “in a non-discriminatory fashion” and the impact is without “racially discriminatory intent” (Wisdom 508). To fulfill the requirement of the equal protection clause, the courts devised a three-step analysis applicable to racial issue circumstances. Weinstock explained the three-step process: (1) in an adoption dispute between two parties of different races, initially it must be determined how each family’s race will probably affect the child’s capacity to establish a sense of both personal and racial identity, (2) subsequently, the court must compare the multiple families in this regard, (3) finally, the court must weigh the significance of racial differences between the families in relation to the various other factors applicable to adoption determinations (Weinstock 264). Evidently, individualization of each circumstance should occur. The creation of a rigorous, three-step screening process would adequately ensure the constitutionality of including race as a factor in interracial adoption cases.

One important implication of Palmore is its applicability to interracial adoption cases. In the Supreme Court’s opinion of Palmore, hypothetical effects of societal and racial prejudices were not considered in adoption proceedings (Blackwood 224). The primary purpose of factoring race in adoption proceedings attempted to provide a natural environment for the child, conducive to the development of the child’s personal identification. Therefore, any discrimination suffered by the child from society should be considered irrelevant.

Conclusion

The precedent setting Supreme Court decision of Palmore v. Sidoti changed the role a guardian’s miscegenation constitutionally plays in child custody determination. The Supreme Court declared the equal protection clause of the Fourteenth Amendment prohibited race consideration in making custody awards. While sound reasoning yielded this conclusion in child custody cases, this reasoning should not be applied to interracial adoption issues because of the basic difference of interests involved. To each unique adoption dispute the three-step determination process should be individually applied.

Nevertheless, regardless of the societal discrimination a child may suffer as a result of determinations made in custody and adoption cases, the likelihood a child will suffer discrimination cannot be a factor in a priori determination due to the omnipresence of the equal protection clause of the Fourteenth Amendment.

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Caban v Mohammed was a significant case concerning the rights of unwed fathers. The case demonstrated the entitlement of certain rights and privileges in the adoption process to unmarried fathers who show an interest in their children, and also helped answer the question of who has a voice in the adoption of newborns. To better understand the significance of Caban, two critical, preceding cases, which dealt with the rights of unmarried fathers in adoption, will be introduced. Analysis of Caban v Mohammed will follow an examination of these two cases. Finally, an explanation of the determination process when deciding whether or not an unmarried father should have a voice in his newborn child’s adoption procedures, while still maintaining the best interests of the child, will be given.

Stanley v Illinois marked “the beginning of the contemporary development on unwed fathers’ rights” (Sturgill 988). Before Stanley, unwed fathers did not have many rights, the mother held the legal rights to the child. Stanley helped to alter this practice.

The Stanleys lived together periodically for approximately eighteen years. During this time, Stanley “actively supported”