

RIGHTS TO RELIGION-BASED EDUCATION

By K. Dean Kantaras and Roberta Blush

Few things are considered more sacred in the United States than religious freedom, and The Florida Third District Court of Appeal has recently made an important decision affecting religious freedom of parents in the context of marital and family law litigation. Ordinarily, a court may not prohibit or hinder a parent's religious practices and is precluded from preventing one parent from influencing the religious practices of a child in common when such influence is inconsistent with the religion of the other parent. Simply put, a court cannot render a decision in favor of one religion over the objection of the other parent. In *Lane v. Lane*, the court discussed how it determines the right of one parent to enroll a child in a religion-based school over the objection of the other parent.

At the heart of this decision lies the parents' struggle with shared parental responsibility, and the father's desire for the minor children to attend a private Christian school over the mother's objection. The mother objected to the private school despite the father's willingness to be solely responsible for the costs associated with the children attending the private school. Though the parties could not agree to the children's school, the father took one of the children to be tested for entrance eligibility at the school of his choice. The mother filed a motion for contempt, arguing that the father violated the principles of shared parental responsibility by taking the child for testing at the proposed private school without her knowledge or consent. In turn, the father filed a motion authorizing him to enroll the children in his proposed school, despite the objection of the mother. At trial, the mother testified that she was opposed to the private school because she did not believe a Christian education was essential. She also testified that she would not necessarily object to a school because



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the education was religion-based. When asked if the issue was whether the children study the Bible, the mother responded that the issue is the children's education. The trial court denied the mother's motion for contempt and granted the father's motion authorizing him to enroll the children in the private school. The mother was also ordered to cooperate and support the children's education at the private school.

The mother appealed on the basis that the trial court's order impermissibly interfered with her religious beliefs. The appellate court disagreed and affirmed the trial court's decision because the mother's objection was not based on the school's religious belief and did not involve a conflict with her own beliefs. Rather, her objection was centered around the children's overall education. The Third District Court of Appeal also found that the trial court's order for the mother to support

the children's applications to the private school did not serve to force the mother to enforce the father's religious beliefs, but rather to be an active participant in the children's education.

The mother also appealed the trial court's order denying her motion for contempt. In rendering its opinion, the appellate court enumerated examples of the appropriate use of a motion for contempt when one parent violates shared parental responsibility. However, the appellate court in *Lane v. Lane* held that unilaterally taking a child for academic testing does not constitute a violation of shared parental responsibility.

It is important to note that if two parents are awarded shared parental responsibility and are unable to agree on a major decision affecting a child, it is incumbent upon the parties to seek resolution through the court. Shared parental responsibility gives both parents equal say in any major decisions affecting a child, including but not limited to education, non-emergency medical, and religion training. Neither parent's decision is more significant than the other's. The court will generally decide what is in the child's best interest and is not likely to overlook the unilateral act of one parent over the other. ■■■

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