

## **SUMMARY STATEMENT**

*Nelson v. Evans*  
Docket No. 49233

This case concerns the rights of grandparents to obtain visitation rights with their grandchildren. In 2017, Dennis and Linda Nelson, the maternal grandparents of C.E., S.E., and A.E., filed a petition in Kootenai County magistrate court relying on Idaho Code section 32-719 to establish visitation rights after Stephanie and Brian Evans, the granddaughters' parents, terminated contact between the children and the grandparents. Although the magistrate court initially dismissed the petition in its entirety—a decision which was affirmed by the district court—this Court reversed the dismissal, concluding that “Idaho Code section 32-719 does not restrict when a grandparent may petition a court for visitation rights” and that “there [wa]s a genuine issue of material fact as to whether the Evanses’ decision to terminate all contact between the Nelsons and their grandchildren was in their grandchildren’s best interests.” *Nelson v. Evans*, 166 Idaho 815, 306, 308, 464 P.3d 301, 820, 822 (2020) (“*Nelson I*”).

On remand to the magistrate court, the Evanses moved for a determination that Idaho Code section 32-719 unconstitutionally interfered with their fundamental parental rights. The magistrate court denied the motion, and the matter proceeded to trial. After a three-day trial, the magistrate court found that, while the Evanses were fit parents, their decision to terminate all contact between the children and the grandparents was not in the best interests of the grandchildren. The magistrate court awarded visitation to the Nelsons. The Evanses appealed.

On appeal, the Idaho Supreme Court concluded that Idaho Code section 32-719 was facially unconstitutional because it interfered with the Evanses’ fundamental right to parent. The Court dismissed the case without remanding it and further declined to award either party attorney fees on appeal.

\*\*\*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.\*\*\*