

## **SUMMARY STATEMENT**

*Wilson v. Wilson*  
Docket No. 52131

James Wilson appealed from a custody order granting relocation of his minor child to Australia with the child's mother. James Wilson and Jillian Wilson have one minor child together. During a divorce proceeding, Jillian sought to relocate to Australia with the child to be closer to Jillian's family. Both Jillian and the child are citizens of Australia. Following a trial on the matter and review of a parenting time evaluation, the magistrate court entered a custody order permitting Jillian to relocate to Australia with the child and granting James a two-week period of visitation during school breaks. The magistrate court also awarded Jillian sole legal custody as to educational and medical decisions. James appealed directly to the Idaho Supreme Court.

On appeal, James argued that the magistrate court's decision to permit relocation and restrict his parenting time to two-weeks was in violation of the statutory presumption in favor of "frequent and continuing contact" between parent and child under Idaho Code section 32-717B. He also argued that the magistrate court's findings regarding relocation were not supported by substantial and competent evidence, and its decision to limit his legal and physical custody is not in the best interest of the child.

The Idaho Supreme Court affirmed the magistrate court's decision. The Court first emphasized that the presumption in favor of "frequent and continuing contact" between parent and child under Idaho Code section 32-717B does not create a presumption against relocation of a minor child. Rather, the decision to permit relocation of a minor child is subject to the same best interest of the child standard under Idaho Code section 32-717 that governs all custody decisions. The Court then held that substantial and competent evidence supports the magistrate court's conclusion that relocation of the minor child to Australia, and limiting James's physical and legal custody, is in the best interest of the child.

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