

Young v. Young: Religion in Family Law

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Legal Terms

1. **Custodial Parent:** Granted primary care and decision-making authority over a child.¹
2. **Access Parent:** Granted visitation rights but without primary decision-making authority.²

Case Name & Citation

Young v. Young

Legal Citation: [1993] 4 SCR 3

Facts

This case concerned a custody battle between Mr. and Mrs. Young—specifically, the impact of Mr. Young’s religious influence as a Jehovah’s Witness on their children. Mrs. Young, the *custodial parent*, wanted to raise the children in the United Church, while Mr. Young, the *access parent*, continued to share his Jehovah’s Witness faith during visits. The trial court restricted Mr. Young’s religious discussions with the children, believing it caused them stress. The prominent evidence for this was how Natalie, the middle child, expressed significant distress—she felt guilty and cried during access visits but was too afraid to tell her father, repeatedly stating that she just wanted the court proceedings to end. However, regardless of potential evidence, the Court of Appeal overturned these restrictions, arguing that access parents should be free to express their beliefs unless actual harm is proven.

The Supreme Court of Canada later weighed in, confirming that custody and access decisions must be based on the “best interests of the child.” The court agreed that parental rights—including religious expression—are important but must be balanced against a child’s emotional and psychological well-being. In the end, it ruled that restrictions on the father’s religious discussions should be lifted, as there was no clear evidence of harm.³

Procedural Posture

At trial, the judge granted Mrs. Young full custody, giving her the authority to make major decisions—including those related to religion—while limiting Mr. Young’s ability to share his religious beliefs with their children. The trial court found that Mr. Young’s religious influence caused the children distress but stopped short of declaring it harmful.

¹ Content Team. “Custodial Parent,” Legal Dictionary, 2015. <https://legaldictionary.net/custodial-parent/>.

² Legal Line. “Visitation and Parenting Time (Access),” n.d. <https://www.legalline.ca/legal-answers/visitation-and-access-rights/>.

³ Scc-csc.ca.. “Young v. Young - SCC Cases,” 1993. <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/1070/index.do>.

Mr. Young appealed the decision, arguing that the restrictions violated his section 2 Charter rights of freedom of religion and expression. The Court of Appeal sided with him, removing the restrictions and ruling that an access parent has the right to share their beliefs unless there is proven harm. Mrs. Young then appealed to the Supreme Court, leading to the final decision.⁴

Issue

The central legal question was this—can a court restrict an access parent’s religious expression to protect a child’s well-being? More broadly, does the custodial parent have the final say on religious upbringing, or does the access parent maintain some level of autonomy during visitations in this regard?⁵

Rule Applied

The Supreme Court reaffirmed that custody and access decisions must always prioritize the best interests of the child—meaning courts should consider a child’s emotional, psychological, and physical well-being, not just the presence or absence of harm. The legal principle used here was that an access parent’s religious expression can only be restricted if it poses a substantial risk of harm, rather than simply causing discomfort or stress.

The court also ruled that the Divorce Act’s provisions—prioritizing the child’s best interests in custody disputes—did not violate the Charter rights of freedom of religion or expression. When it comes to legal interpretations of the Charter, freedoms exist, but they are not absolute when a child’s welfare is at stake.⁶

Holding

The Supreme Court ultimately lifted the restrictions on Mr. Young’s religious discussions. The ruling emphasized that while the custodial parent has decision-making authority, they do not have absolute control over what happens during access visits—especially when it comes to religious expression. The court did, however, leave room for restrictions if substantial harm to the child could be demonstrated.⁷

Reasoning

The Supreme Court explained that exposure to different viewpoints like religious beliefs is generally beneficial for children. While Mr. Young’s religious teachings may have been a source of stress, the Court found no clear evidence that they caused real harm. Judges should not step in to micromanage family dynamics unless deemed absolutely necessary.

⁴ Young v. Young

⁵ Young v. Young

⁶ Young v. Young

⁷ Young v. Young

The argument that custodial parents should have total control over access periods was also rejected. If that were the case, it would undermine the value of maintaining meaningful relationships with both parents. The ruling balanced parental rights with a child-centered approach, reinforcing that only significant harm—not discomfort or parental disagreement—justifies legal restrictions.⁸

Result

The Supreme Court overturned the restrictions placed on Mr. Young’s religious discussions and ruled that both parents should bear their own legal costs. However, it upheld the principle that a child’s best interests come first, meaning that future restrictions could be imposed if real harm were demonstrated.⁹

Concurrences & Dissents

Not all justices agreed on the threshold for imposing restrictions. Some argued that harm should not be the only basis for limiting the rights of an access parent—courts should also consider the overall impact on the child’s emotional stability. Others emphasized the importance of protecting parental freedoms, except when substantial harm is proven. The split opinions among justices reflect the complex balance between parental rights and child welfare, with no simple answer that fits all custody disputes.¹⁰

⁸ Young v. Young

⁹ Young v. Young

¹⁰ Young v. Young

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