4. *Parham v. J.R58.*, 42 U4S 584, 602-606 (1979).

This case involves parent's rights to make medical decisions regarding their children's mental health. The lower Court had ruled that Georgia's statutory scheme of allowing children to be subject to treatment in the state's mental health facilities violated the Constitution because it did not adequately protect children's due process rights. The Supreme Court reversed this decision upholding the legal presumption that parents act in their children's best interest. The Court ruled: Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course; our constitutional system long ago rejected any notion that a child is "the mere creature of the State" and, on the contrary, asserted that parents generally "have the right, coupled with the high duty, to recognize and prepare [their children] for additional obligations." *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925) ... [other citations omitted] . . . **The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions.** More important, historically it has been recognized that natural bonds of affection lead parents to act in the best interests of their children. 1 W. Blackstone, Commentaries 447; 2 J. Kent, Commentaries on American Law 190.

As with so many other legal presumptions, experience and reality may rebut what the law accepts as a starting point; the incidence of child neglect and abuse cases attests to this. That some parents "may at times be acting against the interests of their children" ... creates a basis for caution, but it is hardly a reason to discard wholesale those pages of human experience that teach that parents generally do act in the child's best interest ... The statist notion that governmental power should supersede parental authority in **all** cases because **some** parents abuse and neglect children is repugnant to American tradition." [emphasis supplied]

Parental rights are clearly upheld in this decision recognizing the rights of parents to make health decisions for their children. The Court continues by explaining the balancing that must take place:

Nonetheless, we have recognized that a state is not without constitutional control over parental discretion in dealing with children when their physical or mental health is jeopardized (See *Wisconsin v. Yoder; Prince v. Massachusetts*). Moreover, the Court recently declared unconstitutional a state statute that granted parents an absolute veto over a minor child's decisions to have an abortion, *Planned Parenthood of Central Missouri v. Danforth*, 428 US 52 (1976), Appellees urged that these precedents limiting the traditional rights of parents, if viewed in the context of a liberty interest of the child and the likelihood of parental abuse, require us to hold that parent's decision to have a child admitted to a mental hospital must be subjected to an **exacting constitutional scrutiny,** including a formal, adversary, pre-admission hearing. Appellees' argument, however, sweeps too broadly. Simply because the decision of a parent is not agreeable to a child, or because it involves risks does not automatically transfer power to make that decision from the parents to some agency or officer of the state. The same characterizations can be made for a tonsillectomy, appendectomy, or other medical procedure. Most children, even in adolescence, simply are not able to make sound judgements concerning many decisions, including their need for medical care or treatment. Parents can and must make those judgements ... we cannot assume that the result in *Meyer v. Nebraska*, supra, and *Pierce*

v. Society of Sisters, supra, would have been different if the children there had announced a preference to learn only English or preference to go to a public, rather that a church school. The fact that a child may balk at hospitalization or complain about a parental refusal to provide cosmetic surgery does not diminish the parent's authority to decide what is best for the child (See generally Goldstein, *Medical Case for the Child at Risk: on State Supervention of Parental Autonomy*, 86 Yale LJ 645, 664-668 (1977); Bennett, *Allocation of Child Medical Care Decision — Making Authority: A Suggested Interest Analyses*, 62 Va LR ev 285, 308 (1976). Neither state officials nor federal Courts are equipped to review such parental decisions. [emphasis supplied] Therefore, it is clear that the Court is recognizing parents as having the right to make judgments concerning their children who are not able to make sound decisions, including their need for medical care. A parent's authority to decide what is best for the child in the areas of medical treatment cannot be diminished simply because a child disagrees. A parent's right must be protected and not simply transferred to some state agency.