



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**KENT K. and SHERRY K. v. BOBBY M., CV-04-0209-PR**

**Parties:** Kent and Sherry K. are the petitioners. Bobby M. did not file a response to the petition for review.

**Counsel:** Kent and Sherry K. are represented by Patricia A. Taylor. Bobby M. is represented by Randi E. Alexander.

**FACTS:**

Kent and Sherry K. are the maternal grandparents and legal guardians of Leeh M., born in 1995, to their 16-year-old daughter, Barbara, and to Bobby M., who had just turned 18. Leeh's parents married when she was four months old but divorced 13 months later. Kent and Sherry became Leeh's legal guardians in July 2000. Bobby was incarcerated from October 2000 to October 2002. During that time and afterwards, he did not maintain a relationship with Leeh. While in prison, however, he apparently completed parenting and substance abuses classes, and also took various educational courses. He obtained employment immediately upon being released from prison, and contributed to the care of his disabled brother.

In April 2002, Kent and Sherry brought an action to sever Bobby's parental rights to Leeh. Barbara was willing to relinquish her parental rights if Bobby's rights were terminated so that Kent and Sherry could adopt Leeh. The court found that abandonment had been proved, but that there had not been a showing by clear and convincing evidence that severing Bobby's parental rights was in Leeh's best interests. Thus, the court refused to order severance.

On appeal, Kent and Sherry contended that, although statutory grounds for severance must be established by clear and convincing evidence, the court erred by applying that standard to whether severing Bobby's rights was in Leeh's best interests. The appeals court disagreed, finding that Arizona law requires that both a statutory ground for severance and a finding that severance is in the child's best interests be established by clear and convincing evidence. Because Kent and Sherry failed to present any competent evidence that clearly established how or why Leeh's interests would be served by terminating Bobby's parental rights, the appeal court affirmed the trial court's denial of severance.

**ISSUE:**

Whether the Court of Appeals applied an erroneous standard by requiring that petitioners prove that severance was in the best interests of the child by clear and convincing evidence.

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