



DV&B Attorney Prevails in Wisconsin Supreme Court

By Daniel P. Bestul

On June 20, 2003, the Wisconsin Supreme Court issued its decision in *Tammie J.C. v. Robert T.R.*, concluding a Wisconsin court had the power to hear an action to terminate parental rights, even though the parent had no substantial relationship to the state. The 6-1 decision is of great importance to family law attorneys, declaring, for the first time, that state law allows a court to protect and promote the safety and welfare of children in Wisconsin from the effects of abuse, neglect or abandonment, no matter where the abusive or abandoning parent lives.

DV&B attorney Dan Bestul argued the case before the Supreme Court. The Supreme Court took note of the “compelling nature of this child’s situation.” The parent had been convicted of sexually assaulting another child, and was sentenced to 10 years in prison in another state. The parents divorced, and the divorce court ordered that the abusive parent not have any visitation with his child, because visitation would cause serious physical and emotional harm to the child. Following the divorce, the child and non-abusive parent moved to Wisconsin.

After several years in Wisconsin, the non-abusing parent asked a Wisconsin court to terminate the parental rights of the abusive parent. Following a trial - in which the abusive parent participated - the trial court agreed the abusive parent’s rights should be terminated. However, the Wisconsin Court of Appeals reversed the Trial Court’s holding, because the abusing parent did not have any significant contacts with Wisconsin, his rights could not be terminated here, and the child would have to go to where the abusive parent was if there was for a termination action.

The trial court had appointed Dan Bestul to serve as the child’s guardian ad litem, an attorney with specialized training who represents the best interests of the child in all legal proceedings. On behalf of the child, dan asked the Wisconsin Supreme Court to consider whether the Uniform Child Custody Jurisdiction Act, which has been adopted by all 50 states, provided the parent with the “fair play and substantial justice” required for Due Process. In written and oral arguments, Dan Bestul persuaded the Court that the law provided the parent with full legal protections while ensuring the child was protected as well.

This is the third time Attorney Bestul has argued a case before the Wisconsin Supreme Court. Links to the decision and written arguments filed in *Tammie C.*, as well as other appeals handled by DV&B attorneys, can be found on our website, www.dvblaw.com.

