

PRESS RELEASE

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Today the Court of Appeals issued its decision in *Frase v. Barnhart* (No. 6, September Term, 2003), holding that having found Deborah Frase to be a fit parent, the Circuit Court for Caroline County had no authority to place conditions on her custody.

The Public Justice Center is pleased that the Court of Appeals struck down as unconstitutional the conditions that had been placed on our client's custody of her young son. As a fit mother she deserved no less. She has had a long, and until recently, lonely battle to hold her family together, and now she can go back to doing that without interference from the court or unrelated custody seekers.

Deborah Frase raised another significant issue however. She was compelled to go to court to defend her custody against unrelated third parties who were represented by counsel in the Circuit Court. She could not afford counsel, and repeatedly requested that the court appoint counsel to assist her. Her pleas were ignored or denied. On appeal, she asked the Court of Appeals to consider whether she had a right to counsel under the Maryland Constitution.

The Public Justice Center is saddened that the Court of Appeals, by a narrow 4-3 margin, decided not to decide the important question of Ms. Frase's constitutional right to counsel. Without a decision on this issue, what Deborah Frase has gone through will be repeated in every county in Maryland, again and again, without guidance from the Court. As Judge Cathell wrote in his eloquent concurring opinion, joined by Chief Judge Bell and Judge Eldridge, " this issue will not go away...[t]he poor need a yes or no."

Furthermore, the three concurring judges would not only have addressed the issue but would have resolved it "by holding that in cases involving the fundamental right of parents to parent their children, especially when the parent is a defendant and not a plaintiff, counsel should be provided for those parents who lack independent means to retain private counsel."

Thousands of Marylanders are routinely denied access to justice because they are unable to afford counsel, and the existing legal services agencies are unable to meet their needs. The Public Justice Center will continue its efforts to urge that a right to appointed counsel, at least in cases involving basic human needs, inheres

in Maryland's Declaration of Rights. We look forward to returning to the Court of Appeals with a case that presents the issue, inescapably, for decision.