

LeDOUX v. LeDOUX was a 1990 Nebraska Supreme Court decision. Carolyn R. Wah submitted an amicus curiae brief on behalf of the Watchtower Bible & Tract Society of New York, Inc., the parent corporation of the Jehovah's Witnesses.

Edward LeDoux and Diane LeDoux were married in July 1977 at a Catholic Church. Two sons were born during the marriage; in 1981 and 1985. Both sons were baptized into the Catholic faith. By the time of trial, the older son had started attending a Catholic parochial school. In July 1985, Edward LeDoux converted to the Jehovah's Witnesses religion. Diane LeDoux and Edward LeDoux separated on April 1, 1986. In April 1987, Diane LeDoux filed a petition for legal separation, requesting custody of the two children. She moved that Edward LeDoux's visitation rights with the parties' children be restricted and structured. Following a hearing on Diane LeDoux's motion, the trial court entered a temporary order on April 29, 1987, granting Edward LeDoux reasonable rights of visitation. He was ordered not to involve the minor children in any of his WatchTower religious activities. A subsequent motion filed by Edward LeDoux requesting that his minor children be allowed to accompany him to his Kingdom Hall of Jehovah's Witnesses was denied by the trial court. Edward LeDoux in a cross-petition asked for dissolution of the marriage. In the divorce decree entered December 17, 1987, the trial court placed custody of the parties' two minor children with Diane LeDoux. After establishing a specific visitation schedule, Edward LeDoux was ordered to refrain from exposing or permitting any other person to expose his minor children to any religious practices or teachings inconsistent with the Catholic religion. The court further ordered that while visiting their father, Edward LeDoux could not prevent or preclude the minor children from engaging in activities normally permitted by the Catholic religion. On appeal, LeDoux contends that the dissolution decree is contrary to law and the evidence. The Nebraska Supreme Court affirmed, stating in part:

"At trial, the principal contested issue dealt with visitation rights and specific restrictions Diane LeDoux wished to permanently impose upon [Edward LeDoux] with regard to

his religious activities with the minor children. Evidence was adduced concerning [Edward LeDoux's] religious beliefs and their effect on the minor children. Diane LeDoux testified to various incidents in the family home brought on by the beliefs of [Edward LeDoux]. Prior to the parties' separation, Edward LeDoux asked Andrew to say grace. The boy started to recite the 'Hail Mary', a Catholic prayer. [Diane LeDoux] testified, 'Ed got so mad and told him, 'How dare you, how dare you say that.' He got up and he dumped his chair over, and he went into the living room and . . . stared into space for 45 minutes.' On Valentine's Day of 1986, Edward LeDoux refused to do anything with his family, and on Christmas of 1986, [Edward LeDoux] 'said he was going to rip up all the Christmas stuff and . . . throw it out.' [Diane LeDoux] further recounted an incident on Easter of 1987, when 'Ed wanted to come into the house and take the kids to a [WatchTower] memorial service. He came into the house and went up to Andy's room and grabbed him by the arm and wouldn't let him go. We had an argument. I finally had to call the police, and they came and talked him home.'

"Scott S. McQuin, an elder in the Jehovah's Witnesses church, agreed that there were differences between the Jehovah's Witnesses faith and other religions. McQuin stated the following differences: Jehovah's Witnesses go door to door carrying on religious conversations with people to encourage interest in the Bible. Members of the Jehovah's Witnesses religion are counseled strongly against allowing their children to participate in sports activities with people outside the congregation, and the children are discouraged from participation in organizations such as Cub Scouts or Boy Scouts. Parents would be strongly counseled about the dangers involved in being in those kinds of organizations. Jehovah's Witnesses encourage higher education for vocational purposes only, not to advance philosophical teachings. In addition, McQuin stated that Jehovah's Witnesses observe only one holiday, that being the memorial of the death of Jesus Christ, and they believe that patriotism is divisive.

"Dr. Joseph L. Rizzo, a certified clinical psychologist who had counseled [older son], was called to testify by the appellee. He indicated that conflicts in the Catholic and

Jehovah's Witnesses religions were an obvious contributing factor to the stress felt and manifested by [older son]. Dr. Rizzo testified that [older son] was quite uncomfortable and fearful about visits with his father. '[older son] spoke very strongly about the father trying to get him - trying to read him religious stories and trying to get him to pray, and things of this nature.'

"Dr. Rizzo said he became concerned when he learned that [older son] had voluntarily skipped visits with the appellant. 'Andy was angry, and Andy stated that he basically didn't want to be with Dad' Dr. Rizzo said that [older son's] specific concerns with regard to his father would come and go throughout the period of several months, 'the concerns of whether or not the father would play with [older son], whether or not the father would pray, would do religious things that [older son] felt he was not supposed to do."

... ..

"The trial court found that there were numerous beliefs and practices of Jehovah's Witnesses which were in contravention of those of the Catholic religion. In addition, the trial court noted that Edward LeDoux wants to take his children with him when he goes door to door to have Bible discussions with other people. Edward LeDoux stated that he wants his children to believe the way that he does. The trial court did not pass judgment on these or any other beliefs of the Jehovah's Witnesses, but did not ignore that these beliefs were still contrary to the way that Diane LeDoux, the custodial parent, wants to raise the children. Taking note of the stress that [older son] was already experiencing, the trial court concluded that exposing the minor children to more than one religious practice would have a deleterious effect upon the minor children. The court found that exposing the children to two religions would not only affect the relationship between Edward LeDoux and the minor children, but also would affect the well-being of the minor children themselves.

... ..

"A de novo review of the record discloses no abuse of discretion on the part of the trial court. There is ample

evidence to conclude that the stress [older son] was experiencing posed an immediate and substantial threat to his well-being. The stress that [older son] was experiencing was neither hypothetical nor tenuous. In Dr. Rizzo's words, [older son's] stress is serious. The fact that the involuntary exposure to disparate religions was but one factor in the source of [older son's] stress does not detract from the trial court's conclusion that these religious differences have and will continue to have a deleterious effect on [older son] and, likewise, the other minor child,

"The order of the trial court is narrowly tailored in that it imposes the least possible intrusion upon Edward LeDoux's right of free exercise of religion and the custodial mother's right to control the religious training of a child. The custodial parent normally has the right to control the religious training of the child. ... The dissolution decree merely forecloses the exposure of the LeDoux children to those practices and teachings which are inconsistent with the Catholic religion. The appellant is free to discuss beliefs of the Jehovah's Witnesses with his children so long as they are consistent with the Catholic religion. Because appellant has had previous exposure to the Catholic religion, he should not have difficulty in recognizing those beliefs of the Jehovah's Witnesses and Catholic religions which are conflicting."