

WILLIS v. WILLIS was a 2002 Ohio appellate court decision. Although the published decision did not specifically state that Chris Willis was a Jehovah's Witness, or studying to become a member, there are hints throughout which seem to indicate that such is a good possibility. It is becoming more and more frequent that some judges are refusing to identify Jehovah's Witnesses as Jehovah's Witnesses in published decisions. Whatever was Rhonda Willis's connection to the Jehovah's Witnesses, if any, is uncertain. Chris Willis and Rhonda Stegner Willis were divorced for the second time in March 1998. They had three minor children. Under the parties' shared parenting agreement, Rhonda was named residential parent for school purposes and Chris was granted "Schedule B" visitation, with an additional Sunday per month from 4:00 to 8:00 p.m. Except on a few occasions, Chris had not exercised his extra Sunday visitation.

Between August 2000 and January 2001, both parties filed several motions. In particular, Rhonda filed motions to find Chris in contempt for failing to pay his portion of the children's uncovered medical bills and for failing to comply with his "Schedule B" visitation. Rhonda also filed a motion to modify and/or restrict Chris' visitation and a request that he undergo psychological counseling. In turn, Chris filed motions to find Rhonda in contempt for failing to comply with his "Schedule B" visitation and for failing to keep him informed of the children's medical needs and extracurricular activities. Chris also filed a motion to increase his visitation. The parties and all three children were subsequently evaluated at the Children's Diagnostic Center, Inc. A hearing on the parties' motions and a report from the CDC revealed the following facts:

Rhonda Willis lived in Richmond, Indiana, and was engaged to Michael Simmons, since January 2001. Chris Willis lived in Middletown, Ohio, and was not involved in a relationship. In fact, Chris still considered himself biblically married to Rhonda and continued to wear his wedding band. Chris has told his children as well as Michael Simmons that he is still biblically married to Rhonda even though he is no longer married to her legally. Chris has referred to Simmons as the "imposter" and once asked the children to refer to Simmons as such. On two occasions, Chris told Simmons that he wanted to set up an appointment with Simmons, Simmons' minister, and himself so they could discuss

Simmons' relationship with Rhonda. Chris testified that Simmons' presence imposes on Chris' relationship with Rhonda, preventing any possible reconciliation.

When the children are with their father, they regularly attend church on Sundays and engage in extensive bible study. Part of the bible study concerns passages in the bible about adultery. Although he denies calling Rhonda an adulteress, Chris had on many occasions told the children that if Rhonda and Simmons were having sex, they would be committing adultery. Chris has also told Ciara, his then ten-year-old daughter, that he does not want her to be an adulteress. Chris believes it is his right to discuss such issues with the children. Chris does not believe that such discussion affects the children. Chris denied calling Rhonda a "slut" or a "whore." He admitted, however, telling the children that their mother is not appropriately dressed and asking them "what they thought about what kind of wife she [had] been to [him]" since the divorce. Chris testified that the children were very close to their mother and that Rhonda was a good mother.

Rhonda testified that Chris could accept their 1998 divorce; that he was very bitter; and that he was taking the hostility out on the children. Rhonda also testified that Chris was a good man who loved his children. Rhonda testified that the children loved their father, but that they were fearful of him and that they did not like some of the things he did and said. Rhonda testified that the children often act up, start to cry, or work themselves into physical illness, especially Ciara, at the thought of going to visit their father. Rhonda stated that she often has to stop the car when driving to Chris' house to hug the children and to reassure them that everything will be all right. Rhonda testified that upon returning from Chris' house, the children are very upset, very clingy, and in need of attention. While she believes Chris' visitation with the children should be supervised, Rhonda does not want to take Chris' parental rights away.

Chris testified that when the children are dropped off at his house, they were happy to see him and hugged him. Chris stated that the children loved him and that they did not seem to be afraid of him. Rather, Chris believes the children are brainwashed by Rhonda who is consistently

trying to drive a wedge between the children and him. Chris does not believe he has a problem with Ciara and describes their relationship as normal. Chris described his relationships with Cody and Chloe as good and very good respectively. Chris admits he is not a perfect parent, that he has shortcomings, and that he could be more patient with and more encouraging to the children. Chris testified he would refuse to participate in any court-ordered or voluntary counseling, including family counseling, because he does not need it.

Two fellow churchgoers testified on behalf of Chris. They both testified that they never saw the children afraid of their father. One churchgoer stated that he had never observed Chris hit his children, or be mean or harsh to them. The other churchgoer observed signs of affection between the children and their father such as kissing and holding hands. Beverly Willis, Chris' mother, testified that Chris is a stern but very good father who is doing an exceptional job with the children. Willis testified that Ciara has commented, at times, about being in the middle of her parents' dispute. Beverly Willis stated that neither Ciara nor Chris need counseling. Remarkably, despite the parties' animosity, visitation has continued in substantial compliance with the shared parenting agreement.

During the hearing, upon questioning by the children's guardian ad litem, Chris also testified about the following incident which took place at his house: upon receiving his copy of the CDC report, Chris became upset about some of the children's allegations about him. Chris admitted that when the children walked in the front door for their weekend visitation with him, he started videotaping them, especially Ciara, asking them to recant some of the statements that were in the CDC report. Chris testified that he was feeling falsely accused, and that videotaping the children was the only way to defend himself. Chris stated that videotaping the children and asking them to recant had no more of a negative impact on the children than someone else talking to them about it. Chris agreed, however, that the video camera could have a negative effect. Chris also testified that it was not inappropriate for him to discuss the false allegations in the CDC report with the children. Doing so did not put the children on the spot

any "more than the psychologist puts them on the spot."

During the hearing, the children's guardian ad litem testified and was cross-examined by counsel for both parties. Upon order of the magistrate, her testimony was subsequently sealed. The day after the hearing, the magistrate interviewed the children in camera. By decision filed April 13, 2001, the magistrate granted Rhonda's contempt motion regarding the children's unpaid medical expenses, granted Chris' contempt motion against Rhonda for failure to keep him informed of the children's extracurricular activities, denied both parties' contempt motion for failing to comply with the Schedule B visitation, and denied Chris' motion to increase his visitation. The magistrate also restricted Chris' visitation such that all visitation "must be supervised by his parents, with their presence in Mr. Willis' home or within their home, at all times. ... Mr. Willis is required to contact Dr. Walters [of the CDC] for a recommendation for family counseling for himself and for his children. He is to follow through with any recommendations of Dr. Walters. ... If Mr. Willis refuses to follow the recommendation of Dr. Walters and to participate in counseling, ... I recommend that his visitation rights be suspended until further order of the court."

Chris Willis filed objections to the magistrate's decision. By entry filed August 9, 2001, the trial court overruled Chris' objections and affirmed the magistrate's decision. On appeal, Chris raised four assignments of error. In part, the decision states:

**"THE TRIAL COURT ERRED IN AFFIRMING THE
MAGISTRATE'S DECISION AS THE DECISION WAS AGAINST
THE MANIFEST WEIGHT OF THE EVIDENCE.**

...

"... the parties and all three children were evaluated at CDC. All five persons were interviewed separately and each parent was observed with the children. The CDC report states in relevant part that:

'Mr. Willis believes that Rhonda Stegner is harassing him. He believes that his strengths as a parent have to do with his stability, his ability to set a good example for his children, his love for his children and his attempts to provide activities for them. His weaknesses are that he's

sometimes not as patient as he should. He believes he should be more encouraging and has "said things about their mother I shouldn't."

'While [Mr. Willis'] approach to the test suggest some defensiveness and difficulties looking within himself, this didn't invalidate the test results. Yet, such an approach indicates a tendency to attribute blame and responsibility onto others with little appreciation for the role that he might play in problematic areas in his life. Mr. Willis identifies his primary difficulties as a parent as impatience, and lack [of] encouragement. His strong belief system might not allow him to be as flexible with three different children who might need to have the expectations for them adapted according to their needs, interests, social skills, and cognitive ability. While Mr. Willis verbalizes some recognition of this, he attributes most of the difficulties in his relationships with his children to others (i.e., Ms. Stegner and her mother). His children consistently described him as critical, angry, and punishing. While attempting to communicate important family values, he also has to be able to nurture independence, and reward successes as well as make his children aware of their mistakes, and enhance feelings of self-esteem.

'Chris Willis was observed with all three of his children. For the most part, the interaction could be best described as all three children engaged in separate, parallel play with Mr. Willis engaging in conversation with each about issues in their lives. The most animated of the three and the one who sought out the greatest contact with father was Chloe. She appeared most comfortable with her father. Ciara appeared the least comfortable although it's not clear to what extent this was affected by her physical health [she was ill that day] as opposed to emotional distance from her father.

'Ms. Stegner presents as highly invested in the welfare of her children and expresses concerns about their anxiety and apparent fear of their father. Certainly, the interviews with the children as well as observed interactions at [CDC] seem to support her report. As such, she appears to be in touch with her children's feelings. For the most part, the children appeared comfortable with their mother and appeared to enjoy her attention.'

"With regard to Ciara, the CDC report noted that "Ciara also describes being placed in the middle of her parents' conflict by her father and adds that she 'don't feel good about it.' While she admits that she loves 'my mom and dad,' she doesn't like much of her father's behavior. Unfortunately, Ciara feels that it's 'all my fault my dad is mean,' and she has begun to internalize father's criticism as a sign of her defectiveness.'

"The CDC report concluded in relevant part that 'the most consistent comment by all three children is their perception of their mother as warm and nurturing and father as critical and punishing.' Mr. Willis has no insight into his social stimulus value and his relationship with his children. He has little awareness of the impact that his anger has on their feelings for him, and his criticism has (at least in the case of Ciara) begun to affect her self-esteem, resulting in internalized feelings of defectiveness (i.e., that she's been the cause of father's anger and meanness). Ciara is a bright, capable, and well-behaved youngster who does well in school. She should feel good about herself and her accomplishments, not doubting herself.

"Mr. Willis attributes his difficulties in his relationships with his children to his ex-wife and ex-mother-in-law rather than accepting responsibility for his behavior and recognizing the need to change his parenting style. Parents must tell children what behavior needs to be changed without communicating that they're inherently bad or defective. Mr. Willis would benefit from treatment that would assist him in looking within himself, separating his own anger at his ex-wife from his behavior and toward treatment of his children. He needs to achieve a better balance between setting limits and communicating his value system while not demeaning his children and damaging self-esteem. His own anger and difficulty accepting the divorce needs to be parental business, and the children don't need to be drawn into a situation in which they must choose between one parent or the other. It would appear to be in the best interest of the children to have Mr. Willis participate in parent training in order to ensure the emotional safety and welfare of [the children].

"Upon hearing the parties' testimony and the guardian ad

litem's testimony, reviewing the CDC report, and interviewing the children in camera, the magistrate found that 'Mr. Willis' own testimony confirms [part of the CDC report]; Mr. Willis expressed little or no concern about his discussion of sex in relation to bible studies and his repeatedly calling the mother of his children an adulteress. He has little or no appreciation or understanding as how this impacts his children based on their respective 'needs, interests, social skills and cognitive ability.' [With regard to the videotaping incident], once again, Mr. Willis had little or no comprehension or understanding that he had done anything that might be harmful to his children. Rather, he felt it was his right 'to set the record straight' and require the children to recant these statements. Mr. Willis refuses to participate in any counseling or evaluation, nor does he wish to participate in any family counseling. The Guardian Ad Litem strongly recommended some family counseling for Mr. Willis, with an introduction of the children into the counseling process.

"The magistrate also found that 'it was clear from the testimony and through my in camera interviews that the person who is primarily being affected by the actions of Mr. Willis and the conflict of their parents is Ciara. I ordinarily do not refer to anything said during an in camera interview. I believe, in this case, it is necessary to refer to [the fact that] all three children believe that Mr. Willis is unfairly critical of Ciara.'

"After thoroughly reviewing the CDC report and the testimony presented at the hearing, and after carefully reviewing the transcript of the children's in camera interviews and the testimony of the guardian ad litem submitted under seal, we find that the trial court did not abuse its discretion by denying Chris' motion to increase visitation and by ordering that his visitation be supervised and that he attend counseling. We further find that the trial court's foregoing decision is not against the manifest weight of the evidence.

"Chris also argues that the trial court erred by failing to appoint a third party to supervise his visitation. As previously noted, the trial court ordered that Chris' visitation be supervised by his parents at all times, either in

his home or in their home. However, Chris' parents notified his attorney that they were unwilling to be used in such a fashion and that as a result, they refused to supervise Chris' visitation. The trial court never appointed another supervisor.

"We agree with Chris that because of his parents' refusal to supervise his visitation and the trial court's failure to appoint another supervisor, Chris' visitation rights have essentially been terminated, albeit temporarily. We therefore remand the matter with instructions to the trial court to appoint another supervisor. In light of all of the foregoing, Chris' second assignment of error is overruled in part and sustained in part.

"THIS COURT SHOULD OVERTURN THE MAGISTRATE'S AND LOWER COURT'S DECISION AS THE RESTRICTION ON CHRIS WILLIS' PARENTING TIME WAS BASED ON HIS RELIGIOUS BELIEFS AND IS A CLEAR VIOLATION OF HIS CONSTITUTIONAL RIGHTS TO FREEDOM OF RELIGION UNDER THE FIRST AMENDMENT OF THE CONSTITUTION."

"Under this assignment of error, Chris argues that the trial court based its decision to restrict his visitation solely on his strongly held religious beliefs in violation of his constitutional right of freedom of religion under the First Amendment to the United States Constitution. Chris claims that the videotaping incident cannot be taken into account because he was simply trying to assert his due process rights. Chris also claims that his comments to the children about Rhonda's relationship with Simmons 'are simply a reflection of his religious views, which include the Biblical teachings on adultery,' and as such cannot be taken into account.

"The First Amendment has never been interpreted as an absolute proscription on the governmental regulation of religious practices. ... While 'in addition to their free exercise rights, parents have a fundamental right to educate their children, including the right to communicate their moral and religious values, a parent's actions are not insulated from the domestic relations court's inquiry just because they are based upon religious beliefs, especially

actions that will harm the child's mental or physical health.'
Pater ... (1992) [See case below.] Thus, a parent may not shield his actions from the court's scrutiny by claiming religious motivations for those actions.

"There is no question that the paramount and overriding interest of [Ohio state law] is the best interests of the child and that it is the court's function to see that the child's best interests are protected. As a result, 'a domestic relations court may consider the religious practices of the parents in order to protect the best interests of a child.' ... 'This obligation of the court to consider the best interests of the children serves to protect them from emotionally unstable and fanatically misguided parents, while simultaneously safeguarding the parents' fundamental constitutional freedom to raise their children as they deem proper.' ...

"This court has previously determined that a claim of violation of religious rights should be considered pursuant to a three-part test adopted by the Ohio Supreme Court ... 'The test is first, whether a defendant's religious beliefs are sincerely held; second, whether the regulation at issue infringes upon a defendant's constitutional right to freely engage in the religious practices; and third, whether the state has demonstrated a compelling interest for enforcement of the regulation and that the regulation is written in the least restrictive means.' ...

"Chris describes himself as a devout Christian who firmly believes in a literal reading of the Bible. [This wording is often used of JWs in court decisions.] We can concede that Chris' religious beliefs are sincere, but upon thoroughly reviewing the magistrate's decision, we find that Chris' argument that the restriction on his visitation rights violated his constitutional rights does not meet the second part of the test.

"Chris fails to satisfy the second part of the three-part test because he has not demonstrated that the restricted visitation infringes upon his constitutional right to freely engage in the Christian faith or that it interferes with his freedom to direct the upbringing and religious education of the children. We acknowledge that the magistrate's decision refers to Chris' extensive bible study with the

children which involves discussions about adultery and persons who are adulterers. The magistrate's decision also contains a statement, supported by the record, that Chris 'expressed little or no concern about his discussion of sex in relation to bible studies and his repeatedly calling [Rhonda] an adulteress.'

"Upon reviewing the magistrate's decision as affirmed by the trial court, we find that it addressed the visitation issue in the context of the children's best interests, and not based upon Chris' religious beliefs. Unlike in Pater where the noncustodial parent was prohibited from teaching or exposing the child to the Jehovah's Witnesses' beliefs during the parent's visitation, Chris is still free to instruct the children on his religious beliefs and to teach them as he sees fit. Certainly, the mere fact that visitation must be supervised and that he must attend counseling absolutely does not prevent him from 'providing a moral upbringing for his children by sharing his religious beliefs.' Nor is Chris prohibited or otherwise hindered from practicing his religious beliefs.

"Having found that Chris failed to satisfy the second part of the tripartite test, we need not determine whether he satisfied the third part. We therefore reject Chris' argument that the trial court violated his constitutional rights under the First Amendment by restricting his visitation. Chris' third assignment of error is overruled.