



Written by [Steve Byas](#) on May 7, 2021

N.Y. Woman Threatened With Loss of Custody Over Rock Painted With the Confederate Battle Flag

A rock in a garden could cost a woman her child in a custody battle.

Thursday's decision by the Fourth Judicial District of the New York Supreme Court (an appellate court) has ruled that a woman in Tompkins County, in upstate New York, risks having her seven-year-old daughter taken from her, euphemistically termed a "change of circumstances," in a custody battle with the child's father, if she does not remove a rock from her garden — a rock painted with the Confederate battle flag.

Neither the mother nor the father were fully identified in the court's ruling, but apparently the mother is white and the father is black, as the child is identified as "multiracial."

The ruling was issued by Justice Stanley Pritzker, who wrote, "Given that the child is of mixed race, it would seem apparent that the presence of the flag is not in the child's best interests, as the mother *must* encourage and teach the child to embrace her mixed-race identity, rather than thrust her into a world that only makes sense through the tortured lens of cognitive dissonance." (Emphasis added.)

"Further, and viewed pragmatically, the presence of the Confederate flag," Pritzker continued, "is a symbol inflaming the already strained relationship between the parties. As such, while recognizing the First Amendment protects the mother's right to display the flag, if it is not removed by June 1, 2021, its continued presence shall constitute a change in circumstances and Family Court *shall* factor this into any future best interests analysis." (Emphasis added.)

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The ruling was 5-0.

Under questioning, the mother said at a fact-finding hearing in 2018 that she had never used any racial slurs in front of the child at all. The rock was apparently already present when she moved into the residence. No evidence was discovered that the woman had any racist history.

Importantly, the Tompkins County judge, Joseph Cassidy, who presided over the custody hearing in 2019, did not address the possession of a "small Confederate flag painted on a rock near her driveway." *Neither did the child's law guardian, yet the appellate court judges raised the issues themselves.*

This case raises several issues. First, the five New York appellate court judges have decided that the Confederate battle flag painted on a small rock in a woman's private garden constitutes some sort of a racist statement. The truth of the matter is, the battle flag had nothing to do with slavery or racism during the Civil War. It was simply a flag used on the battlefields of that war, a war that was fought



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over the issue of whether a state could secede the Union. Arguing that slavery was legal in each of the Confederate states does not make the war fought over the continued existence of slavery. Under that reasoning, considering that slavery existed among all cultures and continents worldwide would mean that all government flags were about slavery — which is a ridiculous argument.

Regardless of what one thinks about the Confederate battle flag, its mere presence, painted on a small rock in a woman's private garden, is hardly a reason to strip a woman of her daughter.

If political statements are now a reason to take away a mother's child, that is frightening indeed. If the father, who in this case is apparently an African-American, raised the issue of racism in a child custody dispute to win custody of his child, who is apparently half-white, does this mean that he would teach her that white people are genetically racist against blacks? Who knows, as we cannot read his mind, any more than the court can read the mind of the mother.

But if mere political viewpoints are to be taken into consideration in child-custody battles, who is going to decide which political viewpoints — or religious viewpoints, for that matter — could result in a mother, or a father, losing custody of his or her child. It was rather condescending of Judge Pritzker to allow that the mother had "First Amendment" protection to display the flag, if he is going to allow the rock to be used as a basis for a change in custody.

In today's cancel culture, one can lose one's job by expressing a "politically incorrect" viewpoint. Now, the Left is targeting our children.

The child's law guardian, a lawyer from Ithaca, New York, Jason Leifer, told the *Albany Times Union*, "I think parties will now raise objections to many symbols and opinions held by the other party, including some that the majority of society does not find offensive. What's going to happen is this — if the issue is raised, the court will need to hear evidence of how the child's well-being is negatively affected by a parent's views and opinions. In some cases, this will be easy, such as if a child is being indoctrinated into a hate group, but in many cases, it won't be so easy."

Considering that merely being a Republican, or a Trump supporter, or even a member of a Baptist church is viewed as being part of a "hate group" by many on the Left, this decision sets a chilling precedent. It is an assertion already of many on the Left that traditional Christian views on marriage and sexuality are considered "hate speech," and that "white" Christian evangelicals and conservative Catholics are inherently bigots.

It is not far-fetched that a non-religious person will contend that his or her ex-spouse's mere attendance at a church that teaches the biblical view of marriage will be a reason to strip the person of his or her child in court. One could see a progressive arguing that an ex's attendance at a Trump rally, or membership in a Tea Party group, constitutes a valid reason to remove that child from a supposed "hate" environment.

If you want to keep your child, you better watch what bumper stickers you put on your car, or what candidate's signs you put in your yard. Or even the rocks in your flower garden.



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