

**Summary of SC89118, *Susan M. Cannon (Randall) v. James R. Cannon***  
Appeal from the Cole County circuit court, Judge Robert Schollmeyer

**Attorneys:** Randall was represented by William P. Nacy and Georgia A. Mathers of Hanrahan Trapp P.C. in Jefferson City, (573) 635-0282; Cannon was represented by Clifford W. Cornell of Brown Cornell Farrow LLC in Jefferson City, (573) 556-6606, and Sara C. Michael of Hendren & Andrae LLC in Jefferson City, (573) 636-8135; and the children's guardian ad litem was Thomas B. Snider of Bandre Hunt Snider LLC in Jefferson City, (573) 635-2424.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** This appeal involves a man's challenge to the constitutional validity of section 452.375, RSMo Supp. 2006. That section prohibits a person, such as the man here, who has been convicted of a sexual felony offense against a child under chapter 566, RSMo, from being awarded custody of a child. Finding the statute interfered with the man's fundamental right to associate and maintain a relationship with his children, the trial court held the statute violates the constitutional prohibition against retrospective laws and due process. In a unanimous opinion written by Chief Justice Laura Denvir Stith, the Supreme Court of Missouri reverses the trial court's judgment and remands (sends back) the case for further determination, holding the trial court erred in finding the statute unconstitutional and in awarding the man unsupervised parenting time and joint legal and physical custody of his children.

**Facts:** In 1999, James Randall Cannon was arrested for raping and sodomizing his 12-year-old stepdaughter. In December 2000, his marriage was dissolved, and the court determined that it was in the best interest of the couple's natural children that his wife be awarded sole legal and physical custody, with Cannon having only supervised parenting time. The next month, Cannon pleaded guilty to first-degree statutory rape and first-degree statutory sodomy and was sentenced to seven years in prison. After he was paroled in February 2004, he continued to have supervised parenting time with his children pursuant to the dissolution decree until September 2006, when he filed a motion to modify the decree, asking that he gradually be allowed unsupervised parenting time with his children.

Between the time Cannon's marriage was dissolved and he pleaded guilty and the time he sought to modify the decree, the legislature amended section 452.375 to prohibit convicted child sex offenders from having custody or unsupervised parenting time. The trial court held that application of this prohibition to Cannon violated the prohibition in article I, section 13 of the Missouri Constitution against laws that operate retrospectively because the amended statute was enacted after his marriage was dissolved. It also held

that section 452.375.3 deprived him of his fundamental right to associate and maintain a relationship with his children in violation of the due process provisions of article I, section 10 of the Missouri Constitution and the Fifth and Fourteenth amendments of the United States Constitution. The mother appeals.

**REVERSED AND REMANDED.**

**Court en banc holds:** (1) Application of section 452.375 to Cannon's request for unsupervised parenting time is not retrospective in its operation merely because its prohibition against granting unsupervised parenting time to those convicted of certain sexual offenses against children was enacted after Cannon's marriage was dissolved. At the time of the dissolution, Cannon was awarded only supervised parenting time. He had no right to assume that the laws regarding parenting time would remain the same between the time of his dissolution decree and the time he later sought to modify the decree to allow unsupervised parenting time.

(2) Section 452.375 does not deprive Cannon of his fundamental right to associate with his children. He still is permitted to associate with them so long as his visits with them are supervised. In light of his felony conviction for statutory rape and sodomy of a child, the legislature's restriction provides a reasonable balance between his right to associate with his children and the state's *parens patriae* obligation (in the place of the parent) to protect children and to act in their best interests.