

# Supreme Court of Florida

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No. 92,685

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**ANTHONY PERSICO, et al.,**  
Petitioners,

vs.

**ROBERT RUSSO,**  
Respondent.  
[November 25, 1998]

PARIENTE, J.

We have for review a decision certifying the following question to be of great public importance:

MAY THE STATE CONSTITUTIONALLY REQUIRE REASONABLE GRAND PARENT VISITATION WHERE ONE OF THE PARENTS OF A CHILD IS DECEASED AND VISITATION IS DETERMINED TO BE IN THE BEST INTEREST OF THE CHILD?

(Fla. 4th DCA 1998). We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

We resolved this issue in Von Eiff v. Azicri, 23 Fla. L. Weekly S583 (Fla. Nov. 12, 1998). We rephrase the certified question here, as we did in Von Eiff:

IS SECTION 752.01(1)(a), FLORIDA STATUTES (1993), FACIALLY UNCONSTITUTIONAL BECAUSE IT IMPERMISSIBLY INFRINGES ON PRIVACY RIGHTS PROTECTED BY ARTICLE I, SECTION 23 OF THE FLORIDA CONSTITUTION?

For the reasons stated in our decision in Von Eiff, we answer the rephrased question in the affirmative, and approve the decision below.

It is so ordered.

Russo v. Persico, 706 So. 2d 933, 934

HARDING, C.J., and OVERTON,

SHAW, KOGAN, WELLS and  
ANSTEAD, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION,  
AND IF FILED, DETERMINED.

Application for Review of the Decision  
of the District Court of Appeal -  
Certified Great Public Importance

Fourth District - Case No. 97-4216  
(Broward County)

Leigh Katzman of Katzman & Korr,  
P.A., Margate, Florida,

for Petitioners

Stephan P. Lange of Lange and Lange,  
P.A., Fort Lauderdale, Florida,

for Respondent