No. 124863

IN THE SUPREME COURT OF ILLINOIS

MATT SHARPE,	)	
	)	On Appeal from the
Petitioner,	)	Appellate Court of Illinois,
	)	Fifth Judicial District,
vs.	)	No. 5-17-0321
	)	
CRYSTAL WESTMORELAND,	)	
	)	Appeal from the Circuit Court of the
Respondent-Appellee.	)	Third Judicial Circuit,
	)	Madison County, Illinois,
GREGG SHARPE,	)	No. 11-D-1210
	)	
Intervenor,	)	
	)	The Honorable
and	)	MARTIN MENGARELLI,
	)	Judge Presiding.
KRIS FULKERSON,	)	
	)	
Intervenor-Appellant.	)	

BRIEF OF RESPONDENT-APPELLEE-CRYSTAL WESTMORELAND

ORAL ARGUMENT REQUESTED

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SUPREME COURT CLERK

POINTS AND AUTHORITIES

STATEMENT OF FACTS

The Respondent, Crystal Westmoreland (hereinafter "Mother") agrees with Intervenor, Kris Fulkerson's (hereinafter Kris) representation of the certified questions addressed on interlocutory appeal by the appellate court, and that both questions were addressed as a unified issue. The issue addressed by the Illinois Court of Appeals Fifth District was whether the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/10 (hereinafter the "CUA") gave Kris any rights with respect to Mother's natural child and if she was able to overcome Mother's rights as a natural parent under the Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/602.9(a)(3) and 5/601.2(b)(4) (hereinafter the "IMDMA").

The appellate court agreed with Mother that while Kris has attempted to frame this case as one about her rights as a partner in a civil union and the rights afforded to her as a civil union partner under the CUA, that the CUA focuses only on the rights of partners in a civil union to one another. The legislative intent and plain reading of the IMDMA do not give partners to a civil union the same rights with respect *to their partner's children* as are given to spouses under the IMDMA. *Sharpe v. Westmoreland*, 2019 IL. App. (4th) 170321 ¶ 4. Kris attempts to avail herself of litigation under the IMDMA, yet cries foul when presented with the legislative intent and plain reading of the IMDMA. *Id.* at ¶ 7.

Kris' statement of facts, to the extent such relies on allegations in her pleadings, are not facts and are misleading. The minimal transcript from the April 3, 2017 hearing confirms that no testimony or evidence was presented on substantive issues which Kris now cites as fact. (A-25-36).

Kris alleges in her brief before this court that Mother denied Kris the ability to visit with Mother's child and that the minor child (hereinafter "A.S." or "the minor child) expressed

a desire to live with Kris. These are not facts found by the trial court, but are based solely on Kris' pleadings. No evidence or testimony was ever presented to support these allegations and the record is devoid of any suggestions of this, outside of those made in Kris' pleadings. Kris' allegations that A.S., "expressed a desire to live with [her] and her three children" are both highly prejudicial and improper, as they have not been established as facts.

The record does support that a Judgement of Dissolution of Marriage was entered on January 31, 2013 between Mother and Petitioner Matthew Sharpe (hereinafter "Father"), and that Mother and Father agreed it was in the best interests of the minor child, A.S. born September 7, 2006, that Father and Mother be awarded joint decision-making responsibilities and equal parenting time. *Sharpe,* 2019 IL. App (4th) 170321 ¶2. Mother does not dispute that Father, now deceased, later entered a civil union with Kris.

Kris' allegations that A.S. "spent more than half of her time" with Kris and her children is not found in the record and is actually contradicted by the finding that Mother and Father were awarded equal parenting time with A.S. (A-4). Kris' Brief is also inherently contradictory on this point as she claims both that A.S. spent the majority of time with her Father and that A.S. spent equal time with Mother. (A-4) Kris attempts to misguide the court further, claiming Mother has "unreasonabl[y] deni[ed]" her access to the child, a baseless claim not supported by evidence outside of Kris' pleadings. The lack of candor and contradictions by Kris in her attempt to represent mere allegations to the Illinois Supreme Court as if such were facts or had even been introduced into the record in the lower appellate court is concerning.

The Court is being asked only to interpret the disputed statute and decide if Kris has the right to intervene, not to determine Kris' affections for the minor child, how much

time the minor child may have previously spent with Kris, or whether the minor child wants to spend time with Kris. Kris' allegations are irrelevant to the central issue of this matter and are distracting. Furthermore, it is unnecessary for this Court to decide such facts in order to address the certified questions at hand; therefore, Kris' factual allegations should be disregarded. (A-4)

The appellate court's March 29, 2019, Rule 23 Order and later published opinion is accurate in its holding that Kris lacks standing to petition for the allocation of parenting time and parenting responsibilities and visitation. The appellate court determined that considering "the interest the State has in protecting the rights of the natural parent and the stringent requirements for a party to seek nonparent visitation … the legislature intended these provisions to be narrowly defined and applied (referencing the intent of the IMDMA)." *Sharpe,* 2019 IL. App. (4th) 170321 ¶ 6. Kris subsequently appealed the appellate court's order, and such request was granted by this Court.

QUESTIONS PRESENTED

This case presents the issue of whether nonparent individuals have superior rights of a natural parent to the care, custody, and control of his or her child. The answer to both of these questions is no. *Id.* at ¶ 9. As the appellate court held, "the omission of any reference to partners joined by civil unions in the definition of stepparents reflects the legislators' intent not to include civil union partners in the category of nonparents who have standing to seek visitation." *Id.* at ¶ 8. Moreover, Illinois law clearly recognizes the superior rights of a natural parent, "and that it is in the best interest of the child to be raised by natural parents." *Id.* at ¶ 5.

STANDARD OF REVIEW

Questions of law are to be reviewed *de novo. Sharpe,* 2019 IL. App. (4th) 170321 ¶ 4. Certified questions, such as those at issue here, are questions of law subject to *de novo* review. *Rozsavolgyi v. City of Aurora,* 2017 IL 121048, 102 N.E.3d ¶ 21. Review of a certified question by the court must be limited to the question presented. *Id.* Certified questions must not seek an application of the law to the facts of a specific case. *Id*

ARGUMENT

This Court should affirm the appellate court's ruling that Kris lacks standing under the IMDMA to seek non-parent parental allocation and decision-making rights. Nothing in the CUA indicates any "express promise" that partners in a civil union would be afforded rights to their civil union partner's children, as alleged by Kris. The Illinois Court of Appeals accurately interpreted the case law and legislative intent of both the IMDMA and the CUA in deciding that partners to a civil union are not afforded rights to their civil union partner's children. Kris' argument that the Illinois Court of Appeals had some misunderstanding of the legislative intent behind both statutes is inaccurate. Because there are no discrepancies in the law or its interpretation, Kris has resorted to distraction techniques as she attempts to make this a case about equal rights of partners to a civil union.

Despite these attempts to distract from the issue at hand, nothing in the opinion of the appellate court reduces Kris to a "second-class citizen," as she complains. Surely Kris cannot be suggesting that the refusal to give her parental rights over a child, not her own, makes her a second-class citizen. Kris is attempting to make this case about equal rights regarding partners to a marriage and a civil union, but that is not the issue here. Illinois provided two avenues for partners to formalize a relationship – marriage and civil union.

Both avenues were open to the same exact group of people in Illinois at the time Kris and Father entered into a civil union. This is not a case about equal protection. Rather, it is a case about the constitutional and superior rights of natural parents to control the upbringing of their natural children.

Kris is requesting this Court open the floodgates of litigation for non-parents who have developed a relationship with a child to request to be part of such child's upbringing. Had the Illinois legislature wanted such, revisions to the IMDMA, which have been a constant since at least 2015, would have included such rights for Civil Union Partners and perhaps other intimate partners of one parent – but they do not. Kris now says she relied on such when entering into a civil union partnership with Father; if true, this constitutes a mistake on her part, for which there is no remedy at this juncture. An inaccurate interpretation of the law does not entitle one to relief not afforded by the law.

That Kris and Father could have provided Kris with potential rights to a continuing relationship with A.S., but made a conscious choice not to, does not mean that Kris gets another bite at the apple. To allow such would open this Court to numerous litigations by any person who has allegedly developed what they may view as a parental relationship with a child.

I. The Dispositive Question of Law at Issue in This Case is Limited in Scope To Which Non-Parents May Seek Visitation Rights and Allocation of Parental Responsibilities For a Child Who is Not Their Own.

Kris maintains that this case will have a far-reaching impact for Illinois citizens. The disposition of law in this matter, however, was a very limited scope opinion. The appellate court explicitly stated that there was "no case law that completely addresses the

issue of whether or not a party to a civil union is to be considered a stepparent for standing to seek visitation or allocation of parental responsibilities." *Sharpe v. Westmoreland,* 2019 IL. App. (4th)170321 ¶ 9. The IMDMA's exhaustive list of the requirements of certain non-parent individuals' standing to seek visitation and parental allocation of responsibilities is based on the best interests of the child. 750 ILCS 5/600(1); 750 ILCS 5/601.2(b)(4); 750 ILCS 5/602.9(a)(3); 750 ILCS 5/602.9(b)(4). These limited and narrow exceptions were considered by the appellate court when properly determining that Kris lacked standing in this matter. *Sharpe,* 2019 IL. App. (4th) 170321 ¶ 3.

II. The Rights of Civil Union Partners to One Another are Not at Issue in This Case.

Kris frames the appellate court's decision as an attack on all members of a civil union and a detriment to the promise of equal benefits by the legislature. While civil unions and marriages provide many of the same rights, the specific benefits afforded to each form of commitment are not entirely the same. The appellate court correctly concluded that "the equation of partners' rights and obligations in relation to each other does not necessarily equate civil union partners to married spouses in relation to children." *Sharpe,* 2019 IL. App. (4th) 170321 ¶ 2. The statutory language of the CUA equating civil union partners to spouses reflects legislative intent only that spouses and parties to civil unions be deemed equivalent for purposes of their own relationships, i.e., partners *qua* partners are entitled to the same rights and obligations as spouses *qua* spouses. This is materially distinct from equating parties of a civil union and married spouses in relation to children of only partner to the civil union. 750 ILCS 5/505(a) A review of statutory references to civil unions in certain provisions in the IMDMA, and the absence of such reference in other provisions, emphasizes such distinction. All provisions of the IMDMA where civil unions are included

address the partners rights in relation to one another and concerning children born of the parties to the civil union, i.e. child support. 750 ILCS 5/505. At no point does the IMDMA provide rights to a civil union partner regarding the other partner's children with another individual.

Kris and the support briefs filed on her behalf request this Court to hold that marriages and civil unions are *exactly* the same in every respect – that any reference to a marriage or a civil union in any portion of the law must be read to include both. This is simply untrue. If marriages and civil unions are found to be *exactly* the same, as Kris urges, there would be no reason for the State of Illinois to provide for both and, in fact, it would be redundant and confusing for both to exist under the laws of this State.

Kris' allegation that the inclusion of the phrase" spousal relationship" in the CUA inherently awards partners to a civil union all protections under the IMDMA ignores the fact that the statutes governing marriage and civil unions are separate. "Separate acts with separate purposes need not, after all, define similar terms in the same way." *Rosenbach v. Six Flags Entm't Corp.*, 2019 IL 123186, ¶ 28, 129 N.E.3d 1197, 1205. Thus, although the CUA and the IMDMA address many of the same issues and although the IMDMA references the CUA at points, they remain separate acts with separate purposes. Kris and the entities who have filed *amicus* curiae briefs on her behalf claim it would be arbitrary to declare a distinction between a civil union and a marriage. They willfully piecemeal both the CUA and IMDMA to put forth this argument. Such reconstruction of the statutes is misguided and unnecessary as the intent of the legislature is clear in the statutes' plain language.

III. Civil Union Partners Are Not Provided with Rights Regarding Separate Children of Their Civil Union Partner.

The legislature's intent that partners joined in a civil union and married spouses share the same benefits and rights in relation to their respective mates – but not when it comes to rights and duties as to children – is apparent in the legislative history. In 2010, during the Illinois General Assembly's debate regarding the CUA, the bill's sponsor in the Illinois House of Representatives, Representative Greg Harris, introduced the bill on the floor of the House of Representatives. In doing so, he stated that "[t]he major benefits include hospital visitation, health care decision making, disposition of a loved one's remains, and probate rights.... It would be dissolved in the same manner as a divorce .... It does not change the definition of marriage." 96th Ill. Gen. Assem., House Proceedings, November 30, 2010, at 165-72. Any reference to affording civil union partners rights or benefits regarding the children of only one party to the civil union is notably absent.

At the same debate, Representative Harry Osternman stated the intent of this bill was that partners of a civil union, "be granted the same civil benefits that my wife and I have, benefits related to property, pension, taxes, health insurance, and healthcare decisions." *Id.* at 175. Again, any reference to affording civil union partners rights or benefits regarding the children of only one party to the civil union is notably absent. The representatives discussed only rights that would commonly be considered spousal rights – those rights and benefits that arise from one spouse to another – and specifically declined to include mention of rights associated with children who are not the product of the partners to the civil union. The legislative history indicates that none of the commentary offered during the debate suggested that parties of a civil union would have *identical* rights under the Illinois law as partners to a marriage. Furthermore, although civil unions were at one time the only avenue for same-sex couples to formalize their relationships under the laws

of this State, that is not the case now and was not the case at the time Kris and Father entered into a civil union. Looking at the current state of the law, and considering amendments that have been made to the IMDMA since civil unions and marriages have been available to the identical group of people, it is improper to address this case as one of equal protection for same-sex and opposite-sex couples.

IV. Correctly Interpreting the IMDMA and Giving Effect to the Legislative Intent Mandates Strictly Construing and Applying the Restrictive Language Contained Therein.

Kris continues to assert that this matter requires interpretation of the CUA and her rights thereunder, but this is a case only about the interpretation of the IMDMA. The initial pleadings that Kris filed shortly after Father's death only raise issues to be decided under the IMDMA. (A-37-42). Kris is expressly requesting relief under the IMDMA, not the CUA and would have no relief under the CUA as the relief she requests is not provided for in the CUA. As noted by the appellate court, although Kris is seeking relief under the IMDMA, Kris "and her former civil union partner, Father, made a conscious choice to enter into a civil union as opposed to a marriage under the Marriage Act." *Sharpe,* 2019 IL. App. (4th) 170321 ¶7. Kris was at no time prohibited from obtaining a marriage, nor was anyone else who could enter into a civil union. Kris and Father had the continuing opportunity to avail their relationship of the benefits afforded by the Marriage Act. However, as the appellate court noted, Kris "specifically chose not to do so." *Id.* Because Kris has requested rights that are absent from the CUA and only provided to a specific and limited group of people under the IMDMA, the IMDMA is the proper applicable authority considering the facts of this case. Further review and application of the CUA is not necessary.

The legislative intent of both the IMDMA and the CUA were appropriately considered by the appellate court in reaching their decision. *Id* at ¶ 8. The appellate court determined that "step parentage requires a legal marriage as opposed to a civil union." *Id.* at ¶ 6.

A stepparent is "a person *married to a child's parent,* including a person *married to the child's parent* immediately prior to the parent's death." IMDMA 750 ILCS 5/600(1) (emphasis added). This identical definition appears in section 602.9(a)(3) of the IMDMA, which addresses the limited rights of "certain non-parents" to seek visitation. 750 ILCS 5/602.9 (a)(3). Both of these sections were adopted in 2016, significantly after Illinois began recognizing civil unions in 2011 with the enactment of the CUA and after same sex partners were given the same rights to enter into marriage. 750 ILCS 5/600(1); 750 ILCS 5/602.9(a)(3). Despite the existence of civil union partnerships, and despite references to civil union partnerships at other points in the IMDMA, neither of the sections references or includes partners to a civil union in the definition of stepparent.

V. Because the IMDMA References Partners to a Civil Union and Partners to a Marriage Separately, the Legislative Intent is Clear and Civil Union Partners Should Only Be Afforded Rights Specifically Granted to Them Under the Plain Meaning of the Statute.

The IMDMA has experienced significant revisions since the enactment of the CUA. For example, the IMDMA modifications in January of 2015 altered the way maintenance is awarded to spouses in need of support for themselves at the termination of a marriage. 750 ILCS 5/504. Maintenance provisions were subsequently modified by Public Act 100-520 to become effective in June of 2018, and Public Act 100-565 revised IMDMA maintenance provisions effective January 1, 2018. Pub. Act 100-520 (eff. June 1, 2018)

(amending 750 ILCS 5/504); Pub. Act 100-565 (eff. Jan. 1, 2018) (amending 750 ILCS 5/504). The 2017 IMDMA Trailer Bill amended particular subsections of the IMDMA, such as the child support subsection, to include civil union language. The child support sections were amended to contain language regarding civil unions relative to child support obligations effective July 1, 2017. 750 ILCS5/505.

Despite the continuing modifications and inclusion of civil unions in specific sections, IMDMA subsections 5/600(1) and 5/602, pertaining to non-parent standing to seek visitation and rights over children, have remain unchanged, and were *not* amended to grant protections and rights to partners to a civil union. *See* 750 ILCS 5/600(1), 750 ILCS 5/602.9(a)(3). Had the legislature wanted to afford civil union partners identical rights as parties to a marriage, it could have done so, as it chose to do with some provisions under the IMDMA. However, instead of doing this, the legislature has amended only specific portions of the IMDMA to include civil union partners. This shows both that the rights and obligations of partners to a civil union were considered, that these rights are not inherently identical to those of partners to a marriage, and that the legislature made a specific choice to include civil union partners in some – but not all – of the provisions of the IMDMA.

The General Assembly indicated a legal distinction between civil unions and marriages when enacting a legal procedure for partners to a civil union to change their form of commitment. When amending the Civil Union Act in 2014 – once all persons who could enter into a civil union could also enter into a marriage – to permit conversion of a civil union into a marriage, the legislature contemporaneously amended the IMDMA, allowing parties of a civil union to apply for and receive a marriage license. 750 ILCS 75/65 (2018). The bill's intent was to permit individuals previously precluded from obtaining a marriage

license to alter the legal form of their commitment and receive the full benefits of the Marital Act. In fact, to encourage those who sought to alter the form of their legal commitment, the Illinois legislature instituted a one-year grace period for partners of a civil union to convert their license to a marriage license.

If the legal rights bestowed under the IMDMA and the CUA were intended to be identical, as Kris asserts, this law would serve no purpose and there would be no reason for affording two identical forms of legal commitment. But, because there are distinct benefits pertaining to matters beyond just those of a couple under the Marriage Act, this legislation was necessary. The form of commitment a couple chooses to pursue is more than just a mere title – it is the couple's legal definition of their rights. The Marriage Act inherently affords differing benefits and responsibilities than the CUA and the enactment of this additional provision is the legislature's attempt to give those in a civil union the freedom to choose.

Despite the amendments of 2017 and 2018, the IMDMA in its current form is devoid of any references to partners joined in civil unions when defining parties that qualify as "stepparents" for purposes of determining non-parent standing under the IMDMA. The appellate court accurately found this omission to be reflective of the legislative intent not to grant Kris, as a civil union partner, standing as a non-parent who may seek visitation. 750 ILCS 5/600(1); 750 ILCS 5/602.9(a)(3); Pub. Act 100-520 (eff. June 1, 2018) (amending 750 ILCS 5/504); Pub. Act 100-565 (eff. Jan. 1, 2018) (amending 750 ILCS 5/504); *Sharpe,* 2019 IL. App. (4th) 170321 ¶ 8.

VI. Disturbing the Appellate Court's Decision Would Expand Kris' Rights Beyond Those Afforded by the Law and, in Doing So, Violate Mother's Constitutional Rights.

The IMDMA designates specific instances which allow grandparents, great-grandparents, siblings, half-siblings, stepsiblings, and stepparents to seek visitation and/or parental rights with children who are not their own. 750 ILCS 5/601.2;750 ILCS 5/602.9. Specifically delineated by statute, these provisions grant certain individuals non-parent standing to seek visitation and allocation of parental responsibilities. *Id.* These exceptions wherein a non-parent party may seek visitation or allocation of parental responsibilities are limited, "given the interest the state has in protecting the rights of the natural parent and the stringent requirements for a party to seek visitation." *Sharpe,* 2019 IL. App. (4th) 170321 ¶ 6. Thus, the appellate court correctly concluded that the legislature intended the IMDMA provisions for non-parent standing to be "narrowly defined and applied." *Id.*

This Court previously explained that the standing requirement restricting non-parents from seeking to assert custodial rights over children "safeguards the superior rights of parents to care and custody of their children." *James R. D. v Maria Z. (In re Scarlett Z.-D.),* 2015 IL 117904, ¶ 35 (addressing the IMDMA's standing requirements in connection with a non-parent custody proceeding initiated pursuant to section (601)(b)2); *accord, In re Custody of M.C.C.,* 383 Ill. App.3d 913, 917 (2008), *In re Marriage of Carey,* 188 Ill.App.3d 1040, 1046 (1989). Kris asserts it is somehow an infringement on her constitutional rights not to be considered a stepparent for purposes of standing, but she has no constitutional rights to be considered here. Even parties who are given the right to request non-parent visitation and allocation of parental rights do not do so based on a constitutional right, but rather under a narrowly construed right provided by statute.

The *only* constitutional rights being challenged here are Mother's constitutional right to guide the upbringing of her natural child. This matter has the potential to diminish natural parents' constitutional rights in lasting ways. It is a fundamental policy to defer to a parent's decision making, as required by the constitution. In fact, this Court has previously held that "the superior right doctrine is of constitutional magnitude." *Id.* Protected under the due process clause of the Fourteenth Amendment, natural parents retain "the fundamental right of parents to make decisions regarding the care, custody, and control of their children without unwarranted state intrusion." *Id.* (citing *Troxel v. Granville,* 539 U.S. 57, 65-66 (2000). The importance of this constitutional right is in part why it is necessary to construe any statute providing rights to non-parents narrowly.

Kris attempts to overcome Mother's constitutional right with her claim that merely being granted standing to seek visitation rights does not infringe upon Mother's constitutional rights. This negates the purpose of the superior rights doctrine. The presumption "that fit parents act in the best interests of their children" to make decisions concerning the care, custody, and control of their children is a fundamental, constitutionally protected liberty. *Troxel,* 520 U.S. at 65, 68. Were this not the case, then presumably anyone could petition a court for non-parent visitation without infringing on the natural parents' rights. This would be an absurd result, and yet it is what Kris advocates by arguing that granting her visitation rights would not infringe on Mother's constitutional rights.

The Illinois Supreme Court has further held that:

> Encompassed within the well-established fundamental right of parents to raise their children is the right to determine with whom their children should associate. *See Hoff v. Berg*, 1999 ND 115, 595 N.W.2d 285, 291 (N.D. 1999) (stating that "deciding when, under what conditions, and with whom

> their children may associate is among the most important rights and responsibilities of parents," in holding that its most recent grandparent visitation statute was unconstitutional). It is the role of parents to nurture their children and to influence and shape their children's character. As the United States Supreme Court has recognized, "[i]t is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Prince v. Massachusetts*, 321 U.S. 158, 166, 88 L. Ed. 645, 652, 64 S. Ct. 438, 442 (1944). This "preparation for obligation" includes the parents' determination of who will be instrumental in the development of their child's personality and character.

Lulay v. Lulay, 193 Ill.2d 455, 473-74 (2000).

The appellate court correctly concluded that "strictly construing and applying the restrictive language of the Marriage Act…is required by the constitutionally mandated deference given to parents to determine who shall associate with, and exercise control over, their children." *Sharpe,* 2019 IL. App. (4th) 170321 ¶ 9. This substantial deference would be undermined by expanding the narrow categories of non-parents entitled to seek visitation and parental responsibilities beyond the plain language of the statutory definition of "step of parent" set forth by the IMDMA. Moreover, to allow Kris standing under these circumstances essentially indicates that Kris' rights under a liberally construed CUA trump Mother's constitutional rights to make decisions for her own child, contrary to the express language and protections of the Marriage Act. *Sharpe,* 2019 IL. App. (4th) 170321 ¶ 7.

CONCLUSION

This is a case about the strict interpretation of the IMDMA and a natural parent's constitutional rights to guide the upbringing of her natural child. A plain reading of the IMDMA reveals that Kris, a partner to a civil union with the minor child's Father, does not have standing to seek non-parent visitation or allocation of parental responsibilities.

Importantly, this case is *not* about the equal rights provided to partners of a civil union or marriage vis a vis one another. The CUA addresses these rights. Kris attempts to distract from the clear statutory language of the IMDNA and make this case about equal rights of civil union partners. While this may garner her sympathy from some outside organizations, the equal rights of civil union partners to one another are not at issue here and the Court should not be concerned that it's ruling will impact the equal rights that parties to a civil union have to one another.

The IMDMA is the only place we find an ability for non-parents to request visitation or allocation of parental responsibilities. The IMDMA has been carefully crafted and revised – including in the time since civil unions and marriages have been open to the same group of people – to include specific references to civil unions. The absence of any reference to civil union partners in the definition of stepparent or in the definition of who may petition for non-parent visitation or allocation of parental responsibilities is dispositive of the issues presented here. The plain meaning of the statute is clear, and a plain reading of the statute does not provide Kris, as a partner to a civil union, with the ability to petition for non-parent visitation or allocation of parental responsibilities.

For all these reasons, Mother respectfully requests that the Court AFFIRM the finding of the Court of Appeals and hold that partners to a civil union do not have the right to petition for non-parent visitation or allocation of parental responsibilities for the children of their civil union partner and that natural parents have paramount constitutional rights to guide the upbringing of their natural children.

DATED: February 12, 2020.

Respectfully submitted,

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Supreme Court Rule 341(c) Certificate of Compliance

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, and those matters appended to the brief under Rule 342(a) is 17 pages.

/s/Barbara L. Sherer
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No. 124863

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	)	The Honorable
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	)	
Intervenor-Appellant.	)	

NOTICE OF FILING OF BRIEF OF RESPONDENT-APPELLEE, CRYSTAL WESTMORELAND

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Please take notice that on February 12, 2020, the undersigned electronically filed the Brief of Respondent-Appellee, Crystal Westmoreland, in the above-captioned case with the Clerk of the Supreme Court of Illinois using Odyssey eFileIL system. A copy is hereby served upon you.

Respectfully Submitted,

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Carolyn Taft Grosboll
SUPREME COURT CLERK

CERTIFICATE OF FILING AND SERVICE

I, Barbara L. Sherer, an attorney, hereby certify that on February 12, 2020, I caused a **Notice of Filing** and **Brief of Respondent-Appellee, Crystal Westmoreland,** to be electronically filed with the Clerk of the Supreme Court of Illinois by using the Odyssey eFileIL system. I further certify that I will cause one copy of the above-named filings to be served upon counsel listed below via electronic mail on February 12, 2020.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Barbara L. Sherer

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2/13/2020 7:17 AM
Carolyn Taft Grosboll
SUPREME COURT CLERK