

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
17-2279**

Anmarie Calgaro,

Plaintiff/Appellant,

vs.

St. Louis County; Linnea Mirsch, individually and in her official capacity as Interim Director of St. Louis County Public Health and Human Services; Fairview Health Services, a Minnesota nonprofit corporation; Park Nicollet Health Services, a nonprofit corporation; St. Louis County School District; Michael Johnson, individually and in his official capacity as Principal of the Cherry School, St. Louis County School District; and E.J.K.,

Defendants/Respondents.

APPELLANT'S STATEMENT OF ISSUES

I.

Generally in Minnesota, a minor child is not emancipated until a court decides the minor child is emancipated, a determination made upon the facts and circumstances of each case and ordinarily one for a jury to decide. However, with a letter from a legal-aid clinic determining a minor child was “emancipated,” the minor was able to assert to other state and county agents “emancipation” and receive aid, including medical gender-transition treatments, without notice to the parent or an opportunity for a hearing to contest agency’s determination of “emancipation.” A minor child could not receive aid without an agency’s determination of “emancipation.”

When agencies act under the color of state law determine that a minor child is “emancipated” for purposes of receiving aid to receive aide, including major medical procedures such as gender-transition treatments, whether those agencies violated the parents right to due process under the U.S. Constitution by failing to give the parent notice or an opportunity to be heard to contest the minor child’s “emancipation.”

II.

Minnesota has not adopted the “mature minor doctrine.” Moreover, Minnesota statutes do not codify or define a process by which a minor child is found “emancipated.” However, statutes allow, for instance, private medical facilities to provide non-emergency medical treatment, including gender transition treatments, if the minor shows he is living apart from his parents and managing his own financial affairs, then, he “may give effective consent to personal medical ... services, and the consent of no other person is required.” Minn. Stat. § 144.341. Here, the medical provider determined the child’s capacity and competency. Parental notice and opportunity to be heard were not provided to allow challenges to the capacity or competency determination, thereby excluding parental rights to challenge the determination effectively granting the child emancipation without any judicial adjudication of emancipation or termination of parental rights.

Whether the private medical provider is a “state actor” and violates the due process clause of the U.S. Constitution when it fails to give notice or opportunity to be heard to parents when the medical provider grants non-emergency medical services, such as gender transition treatments, to a minor child based upon a determination of capacity and competency, a conclusion that effectively emancipates the minor child and terminates constitutionally protected rights of parents who are unable to challenge the medical provider’s conclusions of capacity or competency.

III.

A school district recognizes a parent’s right to make educational determinations and review school records of their minor child unless state law, court order, or a legally binding document provides to the contrary. Likewise, county entities, by state law can give general assistance to a minor child “only if: the child is legally emancipated.” Minn. Stat. § 256D.05, subd. 1(a)(10). The minor child obtained a letter of emancipation from a legal-aid clinic. Without notice or an opportunity to be heard, the school district refused to allow parental access to records or to make educational determinations of her minor child, and the county gave assistance to the minor, effectively making an emancipation determination thus, terminating parental rights.

Whether by policy or statute a governmental entity violates the due process rights of a parent under the U.S. Constitution, when the entity makes a determination of a minor child's emancipation without notice or opportunity to be heard, and thereby, effectively terminates parental rights protected under the Constitution.

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/s/Erick G. Kaardal
Erick G. Kaardal, 229647
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, Minnesota 55402
Telephone: 612-341-1074
Facsimile: 612-341-1076
Email: kaardal@mklaw.com
Attorneys for Appellant