

MARK PREVOST

VS.

NO. 98-CC- 3002

TRICIA BONIAL PREVOST

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IN RE: Prevost, Mark; - Plaintiff(s); Applying for Supervisory and/or Remedial Writs; to the Court of Appeal, Third Circuit, Number CW98-1667; Parish of Avoyelles 12th Judicial District Court Div."B" Number 96-3366

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December 9, 1998

Granted. Pretermitted the question of whether the June 1997 judgment was a permanent award of custody subject to *Bergeron v. Bergeron*, 493 So.2d 1193 (La. 1986), the trial court made a finding of fact that a change in custody was warranted under *Bergeron*, since relator proved by clear and convincing evidence that the harm likely to be caused by a change of environment is substantially outweighed by its advantages to the child. This finding is not clearly wrong. Accordingly, the judgment of the court of appeal is vacated and set aside, and the judgment of the trial court is reinstated.

CDT

WFM

CDK

BJJ

CALOGERO, C.J. would grant and docket.

LEMMON, J. would grant and docket.

VICTORY, J. would grant and docket.

KNOLL, J. not on panel; recused.

Supreme Court of Louisiana  
December 9, 1998