



NY court says inmates can keep child visit rights

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ALBANY, N.Y. (AP) - Parents don't lose child visitation rights when they're sent to prison, New York's highest court ruled Tuesday.

The Court of Appeals concluded that Shawn Granger is entitled to periodic four-hour prison visits with his 4-year-old son. Granger's attorney sued after the child's mother refused to bring the boy to the prison.

A Family Court judge, in awarding visitation, had found that Granger, now imprisoned at Clinton Correctional Facility on drug sales convictions, was previously involved in the child's life "in a meaningful way."

"A person who is in prison does not forfeit his or her visitation rights by being incarcerated," Judge Eugene Pigott Jr. wrote for the unanimous top court. "Visitation should be denied where it is demonstrated that under all circumstances visitation would be harmful to the child's welfare, or that the right to visitation has been forfeited."

According to the court, New York law presumes parental visits are in the child's best interest. The Family Court judge had properly weighed that presumption and rebuttal arguments by lawyers for the child and his mother without finding "a preponderance of evidence" that visits would be harmful.

The judges said Granger's transfer to the prison in the northeastern Adirondacks, farther from his son's Jefferson County home than his last prison, could be addressed in a petition to Family Court to reconsider the monthly visitation schedule.

Attorneys said the ruling by the Court of Appeals on the visitation rights of noncustodial parents in prison could have a broader effect since many of New York's nearly 55,000 inmates have children.

Melissa Koffs, who represented Granger's son, had argued that the boy should not have to make the difficult and disruptive visits. "I'm not happy about it. I'm not going to say it's not good case law," she said.

Attorneys for Granger's ex-girlfriend, the boy's custodial parent, argued that the child's best interests should be the courts' first consideration - not the presumption in favor of visitation. Calls to her attorneys were not immediately returned Thursday.

Granger's attorney, Charles Greenberg, said he was sure his client would be happy with the decision.

"The Court of Appeals is not saying that visitation is required, but there's a presumption for visitation," Greenberg said. "The Family Court can certainly take into consideration the circumstances of the incarceration."

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