2017 IL App (1st) 171105-U
No. 1-17-1105

SECOND DIVISION
December 26, 2017

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re: The Interest of N.D., A.D., and M.D., minors,	)	Appeal from the Circuit Court of Cook County.
C.G.,	)	
Petitioner-Appellant,	)	No. 16 D 9785
v.	)	The Honorable Carole Kamin Bellows, Judge Presiding.
N.K. and I.D., M.D.,	)	
Respondents-Appellants.	)	

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Neville and Justice Mason concurred in the judgment.

ORDER

¶ 1 *Held:* circuit court's dismissal of grandmother's petition for visitation with her three minor grandchildren filed pursuant to section 602.9(c) of the Illinois Marriage and Dissolution of Marriage Act affirmed where the grandmother lacked standing to file the petition and where the statute's standing requirements were not unconstitutional "as applied" to her.

¶ 2 Petitioner C.G.,[1] the maternal grandmother of minor children N.D., A.D., and M.D., appeals the circuit court's dismissal of her petition for grandparent visitation filed pursuant to section 602.9(c) of the Illinois Marriage and Dissolution of Marriage Act (Act or Marriage Act) (750 ILCS 5/602.9(c) (West 2014)) for lack of standing. On appeal, petitioner challenges the constitutionality of the statute's standing requirements "as applied" to her. For the reasons set forth herein, we affirm the judgment of the circuit court.

¶ 3 BACKGROUND

¶ 4 Respondents N.K. and I.D. are the biological parents of three minor children: N.D., born December 17, 2007, A.D., born September 3, 2010, and M.D., born February 8, 2013. Respondents N.K. and I.D. are married and reside together with their three daughters in Chicago, Illinois. Both parents are gainfully employed. N.K. is a practicing attorney and I.D. is a physician. Petitioner C.G. is N.K.'s mother and the maternal grandmother of N.D., A.D., and M.D. C.G. resides in Mount Pleasant, Wisconsin.

¶ 5 On October 21, 2016, C.G. filed a petition for grandparent visitation pursuant to section 602.9(c) of the Act. An amended petition was subsequently filed on February 23, 2017. In C.G.'s amended petition, she alleged that her daughter has prevented her "from having any contact with the three minor children since May 2015" and has not provided her with "any reason for completely cutting off all visitation."[2] Prior to that time, C.G. alleged that she "had a

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[1] To better preserve the privacy of the minor children and the family involved in this appeal, this court has elected not to refer by any of the adult parties involved in this appeal by their full names and instead will use their initials or their party designations, *i.e.*, petitioner or respondent. This court has also changed the caption of this case to reflect this decision.

[2] The record reveals that the relationship between C.G. and her daughter, N.K., is particularly contentious in nature and has resulted in both parties taking various actions against the other. For example, after petitioner filed her initial petition for grandparent visitation, N.K. sought an order of protection against her mother. C.G., in turn, filed a complaint against her daughter with the Illinois Attorney Registration and Disciplinary Commission (ARDC). In her complaint, C.G. suggested that her daughter had an "impaired mental capacity" and was afflicted with mental health issues, including undiagnosed bipolar disorder. After reviewing C.G.'s complaint, the ARDC advised both women that it had "determined that no action [wa]s warranted." C.G. has also initiated legal action against her

close, loving relationship with all three minor grandchildren" and had "visited with all three minor grandchildren on a weekly basis" and cared for the children whenever respondents asked her to do so. In addition, the "children visited [C.G.'s] home in Wisconsin on a regular basis, many times overnight." C.G. would also vacation with the children and one or both of their parents and would regularly attend the children's school and sporting events. Since C.G.'s estrangement with her daughter, which is purportedly due to N.K.'s "personal dislike of C.G." and her "jealousy of [C.G.'s] relationship with the children," C.G. "has tried for over one and a half years to seek counseling and try to continue a dialogue with [respondents];" however, N.K. "has refused all forms of communication and/or reconciliation, which would permit [C.G.] to resume and continue visitation with the grandchildren." C.G. further alleged that given the "caring and loving relationship that exists between [her] and the grandchildren," "undue emotional and mental harm has occurred and is likely to occur to the grandchildren if [N.K.]'s refusal of grandparent visitation is allowed to continue." In her amended filing, C.G. acknowledged that section 602.9(c) of the Marriage Act "currently controls grandparent visitation in Illinois" and further acknowledged that she did not meet the standing requirements under the Act to seek visitation because respondent parents are presently married and residing together; however, C.G. argued that the Act "denies [her] and others who would have valid requests for visitation rights their constitutional rights based upon an overly broad requirement that causes an extreme burden to be placed upon grandparents and grandchildren and deprives both grandparents and grandchildren equal rights and due process."

¶ 6 Respondent parents, in turn, filed a motion to dismiss C.G.'s amended petition seeking grandparent visitation. In their motion, respondents argued that C.G. "fail[ed] to meet the

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daughter and I.D. in her home state of Wisconsin advancing various tort claims relating to their decision to eliminate grandparent visitation.

statutory requirements of standing to petition for visitation." Respondents observed that the Marriage Act's standing requirements only permit grandparents to seek visitation when there has been an unreasonable denial of visitation and where there has been some breakdown in the traditional nuclear family. Because respondents were both living, present, competent, and married, and jointly decided to terminate C.G.'s visitation with their children, they argued that C.G. necessarily lacked standing to file a petition for grandparent visitation pursuant to the Act. Given C.G.'s lack of standing to seek grandparent visitation under the Act, respondents urged the circuit court to dismiss her amended petition with prejudice.

¶ 7 After reviewing the parties' filings and hearing oral arguments on the matter, the circuit court granted respondents' motion to dismiss. The court explained its rationale as follows:

> "I think the statute is very clear that there have to be one of five conditions that exist. The other parent being deceased or been missing for at least 90 days. The parent of the child is incompetent as a matter of law. The parent has been in prison in excess of 90 days. The parents have been divorced or legally separated, and at least one parent does not object to the grandparents having visitation. And then, the third one is the parentage exception, and none of these exist in this case.
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> So based on the facts of this case, the Court will hold that there is no standing by these grandparents and will grant the motion to dismiss [with prejudice] the amended petition for grandparent visitation."

¶ 8 This appeal followed.

¶ 9 ANALYSIS

¶ 10 On appeal, C.G. acknowledges that the Illinois grandparent visitation statute delineates the specific set of the circumstances pursuant to which a grandparent may file a petition and

obtain visitation with his or her grandchildren. C.G. further acknowledges that none of the circumstances set forth in the statute apply and that she does not have standing under the statute, as written, to file a petition to seek visitation with her granddaughters. She argues, however, that the statute's standing requirements are unconstitutional "as applied" to her given the close relationship that she shares with her granddaughters and the undue harm that would result from the termination of her visitation.[3]

¶ 11 Respondent parents submit that the circuit court properly dismissed C.G.'s amended petition seeking visitation for lack of standing. They argue that "[p]arents alone have fundamental rights to determine their children's well-being and best interests, and the Illinois Supreme Court has repeatedly held that the standing requirements of the Act exist to protect these rights by limiting visitation challenges to specifically-listed circumstances, none of which are present here."

¶ 12 The purpose of a motion to dismiss pursuant to section 2-619 of the Civil Code (735 ILCS 5/2-619 (West 2014)) is to provide litigants with the means to dispose of issues of law and easily proven issues of fact. *Zedella v. Gibson*, 165 Ill. 2d 181, 185 (1995); *Caywood v. Gossett*, 382 Ill. App. 3d 124, 128-29 (2008). The proponent of a 2-619 motion to dismiss admits the legal sufficiency of the factual allegations contained in the complaint, but asserts that the complaint is barred by an affirmative matter that defeats the claim. *Kedzie and 103rd Currency Exchange, Inc. v. Hodge*, 156 Ill. 2d 112, 115 (1993); *Caywood*, 382 Ill. App. 3d at 129. Section 2-619(a)(9) of the Code specifically provides for the dismissal of a claim that is "barred by other affirmative matter avoiding the legal effect of or defeating the claim." 735 ILCS 5/2-619(a)(9)

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[3] Respondents suggest that the substance of C.G.'s challenge to the Illinois grandparent visitation statute is really a facial challenge as opposed to an as applied challenge. We acknowledge that petitioner's argument is perhaps inartful; however, it appears clear that she is arguing that the statute's standing requirements are unconstitutional as applied to her specifically because she has enjoyed a particularly close relationship with her granddaughters and believes that the cessation of visitation with them would cause them harm.

(West 2014). "The phrase 'affirmative matter' refers to something in the nature of a defense that negates the cause of action completely or refutes crucial conclusions of law or conclusions of material fact contained in or inferred from the complaint." *Glisson v. City of Marion*, 188 Ill. 2d 211, 220 (1999). Lack of standing is an affirmative matter that is properly raised under section 2-619(a)(9) of the Code. *In re Scarlett Z.D.*, 2015 IL 11704, ¶ 20; *Glisson*, 188 Ill. 2d at 220. The circuit court's dismissal of a complaint pursuant to section 2-619 of the Civil Code is subject to *de novo* review. *Smith v. Waukegan Park District*, 231 Ill. 2d 111, 115 (2008); *Owens v. VHS Acquisition Subsidiary Number 3, Inc.*, 2017 IL App (1st) 161709, ¶ 19; *Amalgated Transit Union, Local 308 v. Chicago Transit Authority*, 2012 IL App (1st) 112517, ¶ 12.

¶ 13 The Illinois general assembly enacted the state's first grandparent visitation statute in 1981. *Lulay v. Lulay*, 193 Ill. 2d 455, 465 (2000) (citing Ill. Rev. Stat. 1981, ch. 40, par. 607(b) (as amended by Public Act. 82-344, eff. January 1, 1982)). Its purpose was to ensure that " 'close grandparent-child ties w[ould] not be severed because of divorce.' " *Id.* at 476 (quoting 82d Ill. Gen. Assem., House Proceedings, May 6, 1981, at 146 (statements of Representative Matijevich)). Prior to that time, Illinois common law did not recognize grandparent visitation rights absent a showing of unusual or special circumstances. *Id.* at 464 (citing *Chodzko v. Chodzko*, 66 Ill. 2d 28, 24-25 (1976)). Since its enactment, the statute has been amended multiple times over the years. *Id.* at 464-66 (detailing the history of the Illinois grandparent visitation statute). The current grandparent visitation statute is contained in section 602.9 of the Marriage Act, and provides, in pertinent part, as follows:

> "§602.9. Visitation by certain non-parents
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> ***
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> (c) Visitation by grandparents, great-grandparents, step-parents, and siblings.

(1) Grandparents, great-grandparents, step-parents, and siblings of a minor child who is one year old or older may bring a petition for visitation and electronic communication under this Section if there is an unreasonable denial of visitation by a parent that causes undue mental, physical, or emotional harm to the child *and if at least one of the following conditions exist*:

(A) the child's other parent is deceased or has been missing for at least 90 days. For the purpose of this subsection a parent is considered to be missing if the parent's location has not been determined and the parent has been reported as missing to a law enforcement agency; or

(B) a parent of a child is incompetent as a matter of law; or

(C) a parent has been incarcerated in jail or prison for a period in excess of 90 days immediately prior to the filing of the petition; or

(D) the child's parents have been granted a dissolution of marriage or have been legally separated from each other or there is pending a dissolution proceeding involving a parent of the child or another court proceeding involving parental responsibilities or visitation of the child (other than an adoption proceeding of an unrelated child, a proceeding under Article II of the Juvenile Court Act of 1987, or an action for an order of protection under the Illinois Domestic Violence Act of 1986 or Article 112A of the Code of Criminal Procedure of 1963) and at least one parent does not object to the grandparent, great-grandparent, step-parent or sibling having visitation with the child. The visitation of the grandparent, great-grandparent, step-parent, or sibling must not diminish the parenting time of the

> parent who is not related to the grandparent, great-grandparent, step-parent, or sibling seeking visitation; or
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> (E) the child is born to parents who are not married to each other, the parents are not living together, and the petitioner is a grandparent, great-grandparent, step-parent, or sibling of the child, and parentage has been established by a court of competent jurisdiction." (Emphasis added.) 750 ILCS 5/602.9(c)(1) (West 2014).

¶ 14 The plain language of the Act thus limits petitions for visitation to situations in which undue harm results to the minor child as a result of an unreasonable denial of visitation and where there is some breakdown of the traditional nuclear family, including divorce, or the death, incompetency, or incarceration of one of the child's parents. 750 ILCS 5/602.9(c)(1) (West 2014). The standing requirements in section 602.9(c) and in other provisions in the Marriage Act are designed to "safeguard[] the superior right of parents to the care and custody of their children." *Scarlett Z-D.,* 2015 IL 117904, ¶ 35 (discussing the purpose of the Marriage Act's standing requirements in connection with a nonparent custody proceeding initiated pursuant to section 601(b)(2) of the Act). As such, the Act's standing requirements with respect to visitation petitions are strictly construed. See, e.g., *In re Visitation of J.T.H.*, 2015 IL App (1st) 142384, ¶¶ 19, 24 (concluding that the circuit court properly dismissed a visitation petition brought by the biological mother's former long-term same-sex partner for lack of standing because the petitioner was not a grandparent, great-grandparent, sibling, or stepparent of the minor child and thus did not meet the Act's stringent standing requirements).

¶ 15 Here, there is no dispute that none of the five circumstances delineated in section 602.9(c)(1) of the statute exist. That is, the minor children's parents are not missing, deceased,

incompetent, incarcerated, divorced or legally separated. Rather, respondent parents are married and residing together and have jointly decided to eliminate C.G.'s visitation with their three minor daughters.[4] There is no dispute that the statute does not contemplate a grandparent being permitted to file a petition to obtain visitation under these circumstances. C.G., however, argues that the statute's standing requirements are unconstitutional "as applied" to her.

¶ 16 The constitutionality of a statute is subject to *de novo* review. *Wickham v. Byrne*, 199 Ill. 2d 309, 316 (2002); *Lulay*, 193 Ill. 2d at 469-70; *Illinois Collaboration on Youth v. Dimas*, 2017 IL App (1st) 162471, ¶ 25. Under Illinois law, statutes carry a strong presumption of constitutionality. *Wickham*, 199 Ill. 2d at 316; *Lulay*, 193 Ill. 2d at 455. As a result, when a reviewing court is tasked with determining the constitutionality of a statute, it has a duty to construe the statute in a manner that upholds its constitutional validity whenever it is reasonable to do so. *Wickham*, 199 Ill. 2d at 316. Ultimately, it is the burden of the party challenging a statute to clearly establish its constitutional infirmity. *People v. Botruff*, 212 Ill. 2d 166, 178 (2004); *Arangold Corp. v. Zehnder*, 204 Ill. 2d 142, 157 (2003). Unlike a facial challenge to the constitutionality of a legislative enactment, which requires a showing that the statute is unconstitutional under any set of facts, an as applied constitutional challenge requires a showing that the challenged statute is unconstitutional as it applies to the unique facts and circumstances of the challenging party. *City of Chicago v. Alexander*, 2017 120350, ¶ 27; *Gatz v. Brown*, 2017 IL App (1st) 160579, ¶ 13.

¶ 17 The fourteenth amendment of the United States Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const., amend. XIV, §1. The due process clause also contains a substantive component, which

[4] In her amended petition, C.G. suggests that her daughter is solely behind the decision to prevent her from visiting her grandchildren; however, the children's father has participated in the trial court proceedings and has been included on all filings opposing C.G.'s petition seeking grandparent visitation.

" 'provides heightened protection against government interference with certain fundamental rights and liberty interests.' " *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (quoting *Washington v. Glucksberg*, 521 U.S. 792, 720 (1997)); see also *Wickham*, 199 Ill. 2d at 316. One of the fundamental rights protected by the due process clause is the right of parents to make decisions concerning the care, custody, and control of their children absent unwarranted state intrusion. *Troxel*, 530 U.S. at 65; *In re Scarlett Z.-D.*, 2015 IL 117904, ¶ 35; *In re M.M.D.*, 213 Ill. 2d 105, 113 (2004); see also *Wickham*, 199 Ill. 2d at 316 (explaining that "state interference with fundamental parental childrearing rights" is only justified in "limited instances to protect the health, safety, and welfare of children"). Indeed, this right " 'is perhaps the oldest of the fundamental liberty interests recognized by' " courts. *Lulay*, 193 Ill. 2d at 470-71 (quoting *Troxel*, 530 U.S. at 65). "Encompassed within the well-established fundamental right of parents to raise their children is the right to determine with whom their children should associate." *Id.* at 473-74. Indeed, the ability of parents to decide when, under what conditions, and with whom their children may associate "lies at the core of parents' liberty interest in the care, custody, and control of their children." *Id*. at 474.

¶ 18 Because visitation statues impact the fundamental constitutional rights of parents to raise their children and determine with whom their children may associate, they are subject to strict scrutiny. *Id.* at 476; *Langman v. Langman*, 325 Ill. App. 3d 101, 105 (2001). Pursuant to strict scrutiny analysis, a statute must serve a compelling state interest and must be narrowly tailored to fulfill that interest to withstand a constitutional challenge. *Lulay*, 193 Ill. 2d at 470. That is, the statute must employ the least restrictive means to serve the compelling state interest. *Id*. Although states have a compelling interest in the welfare of minor children, visitation statutes

that are not sufficiently narrowly tailored and unduly infringe on parents' rights to determine the persons with whom their children may associate will not withstand constitutional scrutiny.

¶ 19 For example, in *Lulay*, our supreme court was called upon to consider a prior version of the Illinois visitation statute that permitted grandparents to seek visitation over the joint objection of two divorced parents, and concluded that the statute was unconstitutional as applied to the parents. 193 Ill. 2d at 479-80. In doing so, the court observed that the very procedure contemplated by the statute constituted a "significant" infringement on the fundamental constitutional right of parents to make decisions concerning the upbringing of their children. *Id.* at 476. The court explained:

> "The significant interference that [the statute] has on parents' fundamental right [to raise their children] is evidenced by the procedure contemplated by the statute. The grandparents may file a petition for visitation under certain circumstances: in this case, where the parents are divorced. The parent or parents are then haled into court. The parents must presumably hire attorneys, and then present evidence and defend their decision regarding the visitation before the trial court. The parents' authority over their children is necessarily diminished by this procedure. This can only be characterized as a significant interference with parents' fundamental right to make decisions regarding the upbringing of children. Indeed, the 'burden of litigating a domestic relations proceeding can itself be "so disruptive of the parent-child relationship that the constitutional right of a custodial parent to make certain basic determinations for the child's welfare becomes implicated." ' " *Id.* at 474-75 (quoting *Troxel*, 530 U.S. at 75 (Kennedy, J., dissenting)).

¶ 20 In light of the significant interference that the statute had on parents' fundamental rights, the court observed that the statute could only be justified if there was a compelling state interest

in allowing grandparent visitation over the objection of two fit parents. *Id*. at 475. The court, however, found that no such compelling state interest existed, concluding:

> "[W]e cannot allow the state to use its power to impose its judgment that visitation may be better for the grandchildren over the joint decision of two fit parents who have determined that the visitation should not occur. The facts of this case do not warrant the state's interference with the parents' joint decision regarding who may have visitation privileges with their children. To allow such interference would unconstitutionally infringe on the parents' well-established fundamental liberty interest in making decisions regarding the upbringing of their children.
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> We hold that [the statute], as interpreted and applied to this case, does not serve a compelling state interest and therefore does not satisfy the strict scrutiny test. We therefore hold that [the statute] as applied to this case, is an unconstitutional infringement on [the parents'] fundamental liberty interest in raising their children." *Id*. at 479.[5]

¶ 21 The state's interest in this case is even less compelling than the one at issue in *Lulay* given that the nuclear family is intact. Unlike the parents in *Lulay*, respondents are currently married, reside together, and have jointly decided to cease C.G.'s visitation with their three minor children. As parents, respondents have a fundamental constitutionally protected liberty interest to make decisions concerning the care, custody, and control of their children. *Troxel*, 530 U.S. at 65; *In re M.M.D.*, 213 Ill. 2d at 113. No such right, however, has been extended to grandparents like C.G., especially where as here, the nuclear family unit is intact and the parents

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[5] The supreme court subsequently found the statute facially unconstitutional in a later decision. See *Wickham*, 199 Ill. 2d at 320-22. Notably, the current version of the statute no longer permits grandparents to file petitions for visitation in the event of a divorce where both parents object to visitation. Rather, section (c)(1)(D) provides that grandparents may only file a petition for visitation where the "child's parents have been granted a dissolution of marriage *** *and at least one parent does not object* to the grandparent *** having visitation with the child." (Emphasis added.) 750 ILCS 5/602.9(c)(1)(D) (West 2014).

have jointly decided not to permit grandparent visitation. Indeed, courts in other jurisdictions have struck down grandparent visitation statutes that permitted courts to award visitation over the joint objection of fit, married parents. See, e.g., *Santi v. Santi*, 633 N.W. 2d 312, 320 (2001) (finding the Iowa grandparent visitation statute, which authorized courts to order visitation over the joint objection of married, fit parents, unconstitutional on its face because it impermissibly "exalt[ed] the socially desirable goal of grandparent-grandchild bonding over the constitutionally recognized right of parents to decide with whom their children will associate"); *In re Herbst*, 971 P. 2d 395, 399 (1998) (finding that the Oklahoma statute authorizing courts to impose grandparent visitation over the objection of both parents in an intact nuclear family was unconstitutional as applied to the parents, reasoning that "a vague generalization about the positive influence many grandparents have upon their grandchildren falls far short of the necessary showing of harm which would warrant the state's interference with this parental decision regarding who may see a child."); *Beagle v. Beagle*, 678 So. 2d 1271, 1276 (1996) (concluding that the Florida grandparent visitation statute that allowed visitation over the parents' objection in intact families was unconstitutional where the state did not have a compelling interest in imposing visitation in such circumstances); *Hawk v. Hawk*, 855 S.W. 2d 573, 582 (1993) (rejecting the grandparents' argument that imposing visitation over the objection of married fit parents was a compelling state interest and finding that the Tennessee statute, which authorized visitation in such circumstances, was unconstitutional as applied to "married parents who have maintained continuous custody of their children and have acted as fit parents" because it "constitute[d] an unconstitutional invasion of privacy rights under the Tennessee constitution").

¶ 22 Here, we are unable to find that the statute, as written, which is narrowly tailored to protect the fundamental rights of fit married parents who jointly decide to terminate grandparent visitation, is unconstitutional as applied to C.G. Although it is clear that she loves her granddaughters, C.G.'s relationship with her daughter is evidently fraught with difficulties. Despite these difficulties, C.G. does not allege that either respondent parent is unfit. Importantly, both the Illinois grandparent visitation statute and relevant case law presume that fit parents, such as respondents, make decisions that are in the best interest of their children. See 750 ILCS 5/609.9(b)(4) ("There is a rebuttable presumption that a fit parent's actions and decisions regarding grandparent *** visitation are not harmful to the child's mental, physical, or emotional health"); *Troxel*, 530 U.S. at 68 ("[T]here is a presumption that fit parents act in the best interests of their children"). Although C.G. alleges that her granddaughters will be unduly harmed by the termination of visitation with her given her prior involvement in their lives, our supreme court has held that the mere denial of an opportunity for loving grandparent to visit his or her grandchildren does not constitute *per se* "harm" and is not sufficient to rebut the presumption set forth in the statute that a fit parent's denial of a grandparent's visitation is not harmful to the child's mental, physical, or emotional health. *Flynn v. Henkel*, 227 Ill. 2d 176, 184 (2007); see also *In re Anya R.*, 2012 IL App (1st) 121101, ¶ 57 (concluding that the mere fact that the grandmother was "heavily involved" in her grandchild's life before the mother terminated visitation did not constitute "harm" under the statute sufficient to rebut the presumption that the mother's decision to preclude visitation was in the best interest of her child). We therefore reject C.G.'s constitutional challenge to the Illinois grandparent statute.

¶ 23 In so holding, we are not unsympathetic to C.G. and her desire to engage in a meaningful relationship with her granddaughters. Moreover, we do not disregard the value of a nurturing

relationship between grandparents and grandchildren. However, as the Supreme Court has aptly noted: "In an ideal world, parents might always seek to cultivate the bonds between grandparents and their children. Needless to say, however, our world is far from perfect, and in it the decision whether such an intergenerational relationship would be beneficial in any specific case is for the parent to make in the first instance." *Troxel*, 530 U.S. at 70; see also *In re M.M.D.*, 213 Ill. 2d at 113 (recognizing that the issue of whether a child should have visitation with his or her grandparents is "a matter for the child's parents, not a judge" and that the decision of fit parents regarding grandparent visitation with their children "cannot be overridden by the courts, even if that decision appears arbitrary or is motivated by reasons that seem wrong"). Ultimately, the law is clear that conflicts between the fundamental constitutional right of fit parents to care for and raise their children in the manner of their choosing and the statutorily created right of grandparent visitation must be reconciled in favor of the preservation of parents' constitutional rights. Therefore, we affirm the judgment of the circuit court.

¶ 24 CONCLUSION

¶ 25 Affirmed.