
Index No. 2058-5147

IN THE
State of Sunnydale Court of Appeals

MARCH TERM 2024

ANGEL AND WILLOW ROSENBERG,
Appellants,

V.

SUNNYDALE DEPARTMENT OF CHILD PROTECTIVE SERVICES
Appellee.

ON APPEAL FROM THE SUNNYDALE FAMILY COURT
THIRD APPELLATE DIVISION

BRIEF FOR THE APPELLANTS

TEAM 53
COUNSEL FOR APPELLANTS

QUESTIONS PRESENTED

- I. Whether the State of Sunnydale, Third Appellate Division, erred in determining that the mother's failure to supervise her child constituted child neglect when abuse was inflicted by a trusted caretaker, concealed from the mother, and the mother was compliant with all efforts to protect her child once the risk of harm was revealed to her.
- II. Whether the State of Sunnydale, Third Appellate Division, erred in determining that the uncle was a person legally responsible for the child when the uncle despises having to care for the child, keeps interactions with the child at a bare minimum, and refuses to engage in traditional parental functions.

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STATEMENT OF THE CASE

I. Summary of the Facts

Change in Childcare Situation. Appellant Willow Rosenberg (the “mother”) is a single mother who has one daughter named Buffy. R. at 7. Willow works long and laborious hours, often leaving early in the morning and arriving home late at night. R. at 7. She is driven by her love for her daughter Buffy and the hope of providing her daughter with a better life than she had. R. at 16. Willow came from a household faced with financial struggles and where excessive corporal punishment was commonplace, and she would never want her daughter to suffer through the same experiences. R. at 14, 16.

Initially, Willow’s sister Kendra primarily handled childcare while Willow worked. R. at 7. Because the mother had childcare for her daughter, she was always open to taking additional shifts. R. at 13. Kendra passed away in 2022. R. at 7. Both Willow and Buffy had a close relationship with Kendra and were deeply affected by her death. R. at 10,12. After her death, Willow sought out her brother, Angel Rosenberg (the “uncle”), to take over the childcare responsibilities for the child. R. at 7. Angel took on the primary childcare role, more so due to his wanting to help his sister rather than any desire to help raise the child. R. at 14. Angel has a close relationship with Willow and was willing to take on this role for her, despite struggling with anger issues that have been exacerbated by the death of his sister Kendra and feeling like the responsibilities of parenthood were thrust upon him. *Id.* Angel despises the fact that he must care for Buffy as his own child; rather, he preferred the more distant relationship they had as uncle and niece, where he is not expected to act in a parental role or be a parental figure. *Id.*

Instances Occurring Between Angel and Buffy. At the time when Angel took on the primary childcare role, Buffy was grieving the loss of her aunt and had been diagnosed with Intermittent Explosive Disorder. R. at 13-4. As a result of Buffy’s disorder, she was prone to angry

outbursts and would not listen to any authority figure during the outbursts. R. at 14. In order to deal with the number of Buffy's outbursts that Angel had to endure, he felt that he needed to take action to correct her behavior so that she would become less of a nuisance to him. *Id.* At the start of his childcare role, Angel did not want his relationship with Buffy to resemble what he had to endure in his childhood. R. at 15. He would only use harsh words to discipline Buffy, specifically when she had her outbursts. *Id.* When words were not effective, Angel resorted to putting Buffy in the closet for timeouts, where he would lock the door to prevent her from leaving. *Id.*

On two specific occasions, Buffy was unresponsive to other methods and Angel resorted to excessive corporal punishment. *Id.* The first instance was when Buffy told Angel that she hated him, and he responded by hitting her in the face. R. at 11. She had a bruise on her face as a result, but Angel told her to inform people that the bruise was the result of a basketball hitting her after a missed shot. *Id.* Buffy told her mother and teacher the story to explain the bruises. R. at 12. The following incident was about three weeks later and much more severe than the first. *Id.* In this instance, Buffy was upset when Angel said she could not have dinner at a friend's house, and she mumbled under her breath that she wished he was dead instead of Kendra. *Id.* Angel became enraged, and in his outburst, he pushed Buffy to the ground and kicked her once on her side. *Id.*

Report to Child Protective Services. On May 21, 2023, Buffy went to school, and her teacher noticed that she was having trouble walking. R. at 8, 12. The teacher sent her to the school nurse, who examined the injury. R. at 8. Once the nurse saw the bruising on her side and asked what happened, Buffy revealed that her uncle was the one who inflicted the abuse. *Id.* The nurse immediately notified Child Protective Services, and an investigation began within 24 hours of the call. *Id.* After determining that Buffy would not be safe remaining in Angel's care, Child Protective Services notified Willow about what had occurred. *Id.* Once alerted to the abuse, Willow was

extremely shocked and concerned. *Id.* She and her siblings were raised in an abusive household, and she could not fathom that her own brother would inflict the same abuse they endured. R. at 13. Once the situation was explained, Willow cooperated with CPS and allowed the Agency to remove Buffy from Angel's care. R. at 8-9.

II. Nature of Proceedings

State Family Court. The Sunnydale Family Court determined that the mother, Willow Rosenberg, did not commit child neglect because she did provide her child with supervision, and the mother was not aware that her brother was inflicting abuse upon her child. The uncle, Angel Rosenberg, was determined not to be a person legally responsible for the child; following, the court dismissed the Order of Protection for Lack of Jurisdiction over Angel Rosenberg. The court granted the Defendants' Motion to Dismiss.

Appellate Court. The State of Sunnydale Third Appellate Division found the Sunnydale Family Court's decision was not supported by an accurate analysis of the case law provided by the court. As such, the Court reversed the decision of the Sunnydale Family Court, determining that Willow Rosenberg neglected her child by failing to supervise and Angel Rosenberg is a person legally responsible for the child, making him subject to the jurisdiction of the Family Courts and their appellate levels.

SUMMARY OF THE ARGUMENT

The Third Appellate Division's decision that Appellant Willow Rosenberg neglected her child by failing to provide Buffy Rosenberg with proper supervision should be reversed because there was no opportunity for the mother to have known or reasonably should have known of the risk of harm to her child. Under the Sunnydale Statutes, a parent may neglect their child by failing to provide proper supervision for their child. Willow purposefully sought out her brother, someone whom she trusted and had a close bond with, to take on the primary childcare role for her daughter. In regard to the derogatory language Angel Rosenberg used towards Buffy, she did suffer emotional harm, but there is no way for Willow to perceive that harm unless Buffy reveals the events that occurred; this reasoning is also extended to the instances where Angel locked Buffy in the closet for time out. Buffy did not have any bruises or physical injuries from these instances, only emotional harm, and she did not tell anyone of the events that occurred.

Regarding the first instance of excessive corporal punishment, once again, there was no opportunity for the mother, or any reasonably prudent parent, to know or be put on notice of the risk of harm to her child. The first instance of excessive corporal punishment resulted in Buffy having a bruise on her cheek. Under threat from her uncle, she told both her teacher and mother that the bruise was a result of getting hit with a basketball after a missed shot. The teacher, a mandated reporter, did not believe that the bruise alone was definitive enough to determine whether abuse was occurring. It was not improbable that Buffy was hurt in the manner she said, and the adults in her life, specifically her teacher, who is trained to look for signs of abuse, believed Buffy's story to be true. Further, Willow did not have a reason to believe that Angel would cause harm to her child. She had explicitly chosen Angel to watch her child because she trusted him. She

did not and could not have reasonably anticipated that he would break this trust by causing harm to her child.

The second and more severe instance of excessive corporal punishment involved Angel pushing Buffy to the ground and kicking her once in the side after she asked to have dinner at a friend's house. Buffy sustained bruising to her side after the incident but did not tell her mother about what had occurred that night. The following morning, after Willow had already left for work, Buffy went to school and was sent to the nurse after her teacher noticed that Buffy was struggling to walk. Once the school nurse saw the bruises, she made a report to Child Protective Services, and an investigation was started. After the investigation, CPS determined that Buffy was unsafe in Angel's care and alerted Willow to the abuse that had occurred. It was at this point that Willow was finally put on notice of the risk of harm to her child, and once put on notice, she complied with the efforts of CPS to place her child in a safer environment, as any reasonably prudent parent would do.

In conclusion, Willow Rosenberg did not neglect her child because there was no opportunity for her to have known or be put on notice of a risk of harm to her child, and she acted as a reasonably prudent parent would in the situation.

The Third Appellate Division's decision that Appellant Angel Rosenberg was a Person Legally Responsible (hereinafter PLR) for the care of the minor child should be reversed because Angel does not meet the requirements of a PLR. Because he cannot rise to the status of a PLR, this court should not have jurisdiction over the claim against Angel. In the case of *Yolanda*, courts established that in order for an individual to be deemed a PLR, a fact-intensive inquiry must be conducted. *Yolanda* provides four initial factors that courts may look to as guidelines for the determination of PLR. Recently, case law has reflected that even after analyzing these factors, the

courts should look further to ensure that a PLR can serve as a replacement for a traditional parental figure. Being a functional equivalent to a parent requires the individual to engage in the functions of a traditional parent, such as providing shelter, food, or loving the child.

In examining the first factor, the frequency and nature of the contact between the respondent and the child, it is revealed that although Angel would be in the same home as Buffy most days, he very seldom interacted with her. The record reflects Buffy's intense feelings of isolation, stating she felt "very lonely." R. at 10. Her loneliness became far more substantial due to her emotional detachment from Angel, which manifested in Buffy going so far as to wish death upon the uncle, showing how little she cared for him. and how little he meant to her. Their relationship contradicts the very nature of what *Yolanda* establishes a PLR to be, a parental equivalent, and Angel cannot be deemed to fit into the first factor.

The second factor concerns the nature and extent of the control exercised over Buffy's environment. Angel was a fleeting visitor in his sister's home; it was not his property, nor does the record reflect how he interacted with said property. Further, the record does not show nor imply that Angel provided any food or shelter. On the contrary, if Buffy ever received food, Willow had purchased it. Due to Angel's limited interaction with Buffy's environment, as provided by the record, a fact-intensive inquiry cannot be achieved to properly determine whether this factor is met.

Moving to the third factor, the duration of Angel's contact with Buffy was minuscule in nature. He would only spend time around the child after she arrived home from school, and once home, the two would only interact when Buffy attempted to approach Angel. R. at 7. One such example is when Buffy reached out to him for help on homework and was resolutely denied. R. at 10-11. Another is when she asked for permission to go to a friend's house and was harshly

reprimanded for even asking. R. at 12. Beyond these two instances, very little contact occurred between the two of them. Angel was emotionally absent from Buffy's life, causing her to feel isolated and struggle with school. R. at 10. Angel refused to engage in the traditional parental functions of helping Buffy with her homework and transporting her to extracurricular activities. *Id.* Because there is an absence of meaningful contact between the two, Angel's contact with Buffy cannot rise to the standard for this third factor to be satisfied.

The last guiding factor set out in *Yolanda* is the respondent's relationship to the child's parent(s). The record reflects that Angel is Willow's brother. R. at 7. If examined through the strict lens of the four-factor analysis, this factor would traditionally be met. However, in recent times, case law has begun to interpret the *Yolanda* factors with additional considerations. This shift in treatment is attributed to a PLR being considered to enter the role of and serve as an equivalent to a traditional parent. A traditional parental figure is expected to not only care for a child but also to serve traditional parental functions such as providing shelter, caring for the child, and involving himself in her life. When taking this into account, even if Angel is a close blood relative to Buffy, he cannot be considered a PLR due to his failure to serve as an equivalent to a traditional parental figure. He resents the fact that he must care for Buffy and takes every opportunity to make that fact known to her by berating her. R. at 11-12. Additionally, Angel refuses to take part in any traditional parental functions. He does not provide shelter to Buffy nor help her with homework, and his involvement in her life is so far removed that Buffy had to quit her extracurricular activities. R. at 8, 19-20. Most importantly, Angel shows no love or affection towards Buffy, which is the core of what a traditional parental figure is supposed to emulate. Angel's actions and feelings towards Buffy take him squarely outside of what a traditional parental figure is, and as such, he cannot meet the fourth factor.

The argument for Angel not rising to the standard of a PLR is further supported by public policy concerns. Setting the precedent that the Sunnydale statute be leniently interpreted to allow any individual who watches a child that is not their own to become a person legally responsible for that child could wreak havoc on judicial efficiency. Further, those who care for children would be much more reluctant to do so out of fear of legal penalties,

In conclusion, Angel cannot rise to the standard of a PLR. If analyzed under *Yolanda* alone, he does not meet the standard to be a PLR. If viewed past the four-factor analysis, he fails to rise to the functional equivalent of a traditional parental figure. Because Angel cannot be considered a PLR under the four-factor analysis and beyond, this Court should not have jurisdiction over him.

ARGUMENT

Standard of Review. The State of Sunnydale Third Appellate Division certified both questions to be appealed. R. at 5. This court reviews this case de novo, as the questions presented pertain to matters of law.

- I. THE THIRD APPELLATE DIVISION ERRED WHEN DETERMINING THAT WILLOW ROSENBERG’S FAILURE TO SUPERVISE HER CHILD CONSTITUTED CHILD NEGLECT BECAUSE SHE COULD NOT HAVE REASONABLY KNOWN THAT THE ABUSE WAS OCCURRING; THEREFORE, HER ACTIONS DID NOT AMOUNT TO CHILD NEGLECT AS A MATTER OF LAW.

Appellant Willow Rosenberg’s lack of action to remove Buffy from Angel’s care does not amount to child neglect.

The Supreme Court has long recognized the constitutionally protected liberty interest parents have in the care, custody, and upbringing of their child. *See Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *see also Stanley v. Illinois*, 405 U.S. 645, 651 (1972). The Court has held steadfast in this view, with more recent cases reaffirming prior precedent. *Washington v. Glucksburg*, 521 U.S. 702, 720 (1997) (declaring that a parent’s fundamental right to control the care, custody, and upbringing of their child is a liberty interest protected by the Due Process Clause). The Court later reaffirmed this holding and further established that the Court has no space in the private matters of the family as long as the parent adequately cares for the child. *Troxel v. Granville*, 530 U.S. 57, 68-9 (2000). In matters when the child is not adequately cared for, the parents’ fundamental rights are not absolute, and the state may stand in as *parens patriae*. *See id.*

Under the laws of the State of Sunnydale, a child is “neglected” when a parent or other person legally responsible for the child fails to exercise a minimum degree of care over the child, resulting in impairment or imminent risk of impairment to the child’s physical, mental, and emotional state. Sunnydale Fam. Ct. Act § 3523. Failure to exercise a minimum degree of care

over the child extends to when harm is unreasonably inflicted or allowed to be inflicted or there is a substantial risk of harm to the child when the child is in the care of someone other than the parent. *Id.* The laws of the State of Sunnydale and the State of New York are substantially similar. *Compare* Sunnydale Fam. Ct. Act § 3523 *with* N.Y. Fam. Ct. Act § 1012 (McKinney 2021) (the statutes mirror one another). Because of the substantial similarities between the statutes of the states, New York case precedent is an immensely persuasive authority to examine for guidance on this issue. *Id.* The Appellate Division of the New York Supreme Court determined that “a finding of abuse or neglect may only be made if it can be determined, on the basis of objective evidence, that a reasonably prudent parent would have acted differently and, in so doing, prevented the injury” *Matter of Robert YY.*, 605 N.Y.S.2d 418, 420 (1993). The reasonably prudent parent standard permeates New York case law regarding abuse and neglect of a child at the hands of someone the parent entrusted to care for the child. *See Id.*; *see also Matter of Evelyn X.*, 736 N.Y.S.2d 549, 552 (2002). The court further elaborated on the standard for abuse and neglect cases when the harm was from someone supervising the child, stating that a “[p]arent or other responsible party may only be held accountable for abusive or neglectful acts of another party if he or she knew or should reasonably have known child was in danger.” *Matter of Joseph DD.*, 624 N.Y.S.2d 476, 477 (1994). A reasonably prudent parent standard, on the basis of objective evidence, is used in the determination of whether the parent or other responsible party knew or reasonably should have known the child was in danger. *See id.* The courts have typically ruled that there is insufficient evidence that a parent knew or should have known of the risk of harm to the child when there were no prior instances of physical abuse or behavior that would have put the parent on notice. *In re Robert YY.*, 605 N.Y.S.2d at 420; *see also In re Evelyn X.*, 736 N.Y.S.2d 549 at 552.

Willow Rosenberg did not “neglect” Buffy by failing to remove her from Angel’s care because there were no signs for Willow to reasonably know or suspect that her child was in danger. Following New York case precedent, a determination must be made as to whether a reasonably prudent parent knew or should have known of the risk of harm to the child and whether a reasonably prudent parent would have acted differently in the circumstances. *In re Robert YY.*, 605 N.Y.S.2d at 420. The Appellate Division of the New York Supreme Court has found that when there are no prior instances of abuse or behavior that would indicate abuse, there is insufficient evidence to establish that a parent knew or reasonably should have known of the risk of harm to the child. *See In re Evelyn X.*, 736 N.Y.S.2d 549 at 552 (finding that the mother did not place her child at risk of harm when allowing the child to remain in a parked car with the father because there was no prior instance of abuse or abusive behavior to put the mother on notice). In this case, Willow Rosenberg is a mother who deeply cares for her daughter and works herself to the bone to provide her child with a better life and future than what the mother expected for herself. In working long hours, like many single mothers in the United States, Willow needs childcare for her daughter while she works. Willow had just lost her sister, who had taken the primary childcare responsibilities, and while grieving this loss, she still managed to make sure her daughter’s childcare was situated. Willow had her brother, whom she trusted, to care for her daughter. Though Willow and her brother Angel were raised in an abusive household, Willow could not fathom that Angel would inflict the same punishments later on her own child, just as she and her late sister would not. It is also worth acknowledging that Willow did notice a change in her daughter’s behavior once Angel began taking care of her but attributed her daughter’s behavior to a myriad of factors, including the loss of her aunt, the daughter’s diagnosis of intermittent explosive disorder, and the change in the daughter’s regular routine. R. at 13-4.

Regarding Angel's use of derogatory language towards Buffy, there is no possibility Willow knew or reasonably should have known that her child was at risk of harm. Though the words caused emotional harm to Buffy, there was no way for the mother to know what had occurred because neither Buffy nor Angel brought it to her attention. In reference to the instance where Angel locked Buffy in a dark closet, again, there is no way Willow knew or reasonably should have known that her child was at risk of harm. Willow could not reasonably perceive the emotional damage unless Buffy told her about the experience. Because neither Buffy nor Angel told anyone, specifically Willow, about the instances that occurred, she could not have known what happened or had reason to suspect a risk of harm to her child. Regarding Buffy's behavior under Angel's care, Willow noted that her daughter's behavior improved, and her outbursts, resulting from her intermittent explosive disorder, had become less frequent. R. at 14. It is understandable that Buffy's improved behavior would not lead Willow to suspect that there was a risk of harm to her daughter by leaving her in Angel's care, an assumption any reasonably prudent parent would make in the situation. If there was no outward manifestation of the emotional harm suffered by Buffy, there is no way Willow could have known or reasonably should have known that her child was at risk of harm.

Regarding the first instance of excessive corporal punishment against Buffy, she sustained a bruise on her cheek. R. at 11. Though she had done so under threat of her uncle, Buffy told her teacher and mother that she received the bruise due to accidentally getting hit with a basketball after a missed basket. *Id.* It is worth noting that teachers are mandated reporters and must report any instance where they suspect abuse is occurring. If Buffy's teacher, a mandated reporter who is most likely trained in identifying signs of abuse, did not find a reason to report the instance, it is reasonable to assume that Willow would not see a reason to find her child was at risk of harm.

Alone, the bruise was not serious enough to definitively determine abuse. Further, people often perceive situations how they want them to be and approach the situation with an unconscious bias. Willow entrusted Angel, her brother, with caring for her daughter. This is not a stranger that Willow found to watch her child, unlike a New York case where the mother found a random poor and uneducated woman to care for her child. *In re Joseph DD.*, 624 N.Y.S.2d 476 at 477 (finding that the mother's lack of investigating the sitter before placing her child with them was neglect, as she should have known her child was at risk of harm by staying with the sitter). Angel had not given Willow a reason to suspect that he would become violent with her child, so she acted as any reasonably prudent parent would and let Buffy remain in Angel's care. However, if he had shown signs of abusive tendencies, Willow would not have allowed her child to remain in his care and would have sought other childcare alternatives. When her daughter lied and said the bruise was a result of a basketball accident, the first thought in Willow's mind was not that Angel must be abusing her daughter but rather that her child was hurt in the manner she said. It is not improbable that Buffy received a bruise as a result of playing a sport. Willow could not comprehend that her brother Angel would inflict the same abuse they had endured on her own child years later. It was not until after the second instance that Willow was forced to perceive the situation for what it truly was.

Regarding the second and more serious instance of excessive corporal punishment against Buffy, she sustained severe bruising on the left side of her ribs and torso. R. at 8. The record is unclear as to the time the second instance of physical abuse occurred, but it is reasonable to assume it happened the night before the child went to school because her bruises were still forming when the nurse examined her. Willow works very long hours, often coming home late at night and leaving early in the morning. R. at 7. It is reasonable to assume that if Buffy sustained the injury

in the evening or even early morning, Willow did not have a reasonable opportunity to see the injury because she came home after Buffy was in bed and left before she was awake. Buffy was sent to the school nurse after her teacher noticed that she was having trouble walking. R. at 12. In contrast to the prior instance, the school nurse, a mandated reporter, reported the abuse upon examining the bruises. These bruises were distinct enough for the school nurse to suspect abuse and the Agency stepped in to investigate the matter. R. at 8. The Agency determined, based on the evidence of this instance, that Buffy was unsafe in Angel's care. *Id.* When alerted to the abuse, Willow was in shock that her brother would do such a thing, and she complied with the efforts of the Agency to place her child somewhere safe for the time being. R. at 8-9. Willow, just as a reasonably prudent parent, would not have kept her child in his care if she thought that her daughter would be at risk of serious harm. Once she was made aware, she complied with the removal of her daughter to a safer environment, as any reasonably prudent parent would.

In conclusion, Appellant Willow Rosenberg did not neglect her child, as detailed under Sunnydale statute §3523, when she left her child in the care of her brother Angel Rosenberg because there was no opportunity for her to have known or be put on notice of a risk of harm towards her child and she acted as a reasonably prudent parent would in this situation by agreeing with the Agency to place her child in a safer environment once she made aware of the risk to her child.

II. THE STATE OF SUNNYDALE’S THIRD APPELLATE DIVISION SEVERELY ERRED IN DETERMINING THAT ANGEL ROSENBERG IS A PERSONAL LEGALLY RESPONSIBLE BECAUSE ANGEL ROSENBERG DOES NOT MEET THE REQUIREMENTS OF A PERSON LEGALLY RESPONSIBLE AS A MATTER OF LAW, AND AS A RESULT, THIS COURT CANNOT HAVE JURISDICTION OVER HIM.

Appellant Angel Rosenberg does not rise to the level of a PLR, and in turn, cannot be charged under Sunnydale statute §3526. The Sunnydale legislature determined that a claim under §3526 should only be brought against parents, legal guardians, and persons legally responsible for the child (hereinafter PLR). Sunnydale Fam. Ct. Act § 3526.

Thus, because this claim has a prerequisite requiring the petitioner to be a PLR, it is imperative to discuss the merits of the petitioner as a PLR before any argument of excessive corporal punishment may be discussed due to the claim’s jurisdictional nature. As set forth by the Sunnydale statute, a PLR is a “[p]erson legally responsible includ[ing] the child’s custodian, guardian, or any other person responsible for the child’s care at the relevant time.” Sunnydale Fam. Ct. Act § 3523. In simpler terms, Sunnydale recognizes that a PLR is any person who interacts with the child often and is responsible for said child's care at the time of the incident. *Id.*

When interpreting this statute, things become less cut and dry. Sunnydale's lack of case law regarding PLR, it is imperative that we look to other states that have weighed in on this matter; one such state is New York, which has a PLR statute that is synonymous with Sunnydale’s statute. *Compare* Sunnydale Fam. Ct. Act § 3523 *with* N.Y. Fam. Ct. Act § 1012 (McKinney 2021). In this jurisdiction, the courts examine each case’s facts and attribute weight to all factors present in the determination of whether someone is a PLR. *See Matter of Yolanda D.*, 88 N.Y.2d 790, 796 (1996). (determining that a finding of PLR requires a fact-intensive inquiry that the courts must engage in); *see also Matter of Trenasia J.*, 25 N.Y.3d 1001, 1002 (2015). The court in *Trenasia* further expounds on what factors can be looked towards in order to establish PLR based on

Yolanda: “(1) the frequency and nature of the contact, (2) the nature and extent of the control exercised by the respondent over the child's environment, (3) the duration of the respondent’s contact with the child, and (4) the respondent’s relationship to the child's parent(s).” *In re Trenasia J.*, 25 N.Y.3d at 1001. These factors are viewed as the first line of analysis that courts examine to determine PLR, but these factors alone serve as mere guidelines and should not be held as exhaustive or dispositive. *Id.* One struggle that often occurs with these factors is judges attributing too much weight or concluding on insufficient facts to meet a fact-intensive inquiry, decisions like these often lead to harsh dissenting opinions by judges who wish to uphold the decision of the court in *Yolanda*. See *Matter of Erica H.-J.*, 188 N.Y.S.3d 700, 704 (2023) (Zayas, J., dissenting) (disagreeing with majority that girlfriend is a PLR, stating the court attributed far too much weight to the relationship between girlfriend and the father); see also *In re Trenasia J.*, 25 N.Y.3d at 1001 (Rivera, J., dissenting) (disagreeing with courts determination of PLR due to lack of facts necessary for an intensive inquiry).

The variable nature of factor interpretation has caused the courts to establish a metric to supplement the factor analysis and aid in a uniform application of the factors. See *In re Erica H.-J.*, 188 N.Y.S.3d at 705 (holding that a girlfriend was a PLR due to her treating the child as if she was her own daughter in conjunction with controlling the child's environment thus making her the functional equivalent to a parental figure). Put differently, the courts have added the standard of being a functional equivalent to a traditional parental figure in the PLR analysis. *Id.* To be a functional equivalent to a parental figure, a person must act as if they were a parent to the child in question. *Id.* One such example that courts agree on is that the PLR should treat and regard the child as if they were their own. See *Matter of Isaac C.*, 42 N.Y.S.3d 585, 598 (N.Y. Fam. Ct. 2016) (holding that even though a grandparent would be in the best position to be a PLR, the grandparents

here did not treat the niece as their child and thus could not be PLR); *see also Matter of Marjorie P.*, 198 N.Y.S.3d 215, 217 (2023) (holding that respondent was legally responsible due to a myriad of factors including treating their niece part of their close family).

As case law developed further, courts further enhanced the functional equivalent analysis by also determining if the respondent participated in traditional parental functions. *See Matter of Erica H.-J.*, 188 N.Y.S.3d at 705; *see also In Re Yolanda D.*, 88 N.Y.2d. at 797 (finding that providing shelter, including overnights, to a child is seen as a traditional parental function and is grounds to establish an equivalency to parental figure). Based on the interpretations of case law in this jurisdiction, a traditional parental function can vary wildly in its nature, but there is a general consensus that it is a job or function that one would expect a parent to partake in. *See In Re Yolanda D.*, 88 N.Y.2d. at 797; *see also In re Isaac C.*, 42 N.Y.S.3d at 599.

For a court to determine if the respondent is a PLR, they must examine all factors relating to the relationship between the child and respondent and then decide whether the respondent acts in the same manner as a parent and can serve as a functional equivalent. *Matter of Kavon A.*, 145 N.Y.S.3d 115, 117-8 (2021).

Angel Rosenberg is not a PLR under Sunnydale law for the following two reasons: first, the *Yolanda* four-factor analysis is not dispositive of a PLR outcome due to either a lack of facts presented or Angel not meeting the necessary criteria. Second, the analysis of interactions between Angel and the child shows he is not a functional equivalent to a parent and finding him as a parent is not in favor of good public policy. Beginning with the first of the four factors established in *Yolanda*, the frequency and nature of the contact, the facts provided by the record are insufficient to determine the length of care that Angel spent with Buffy. Based on the facts of the case, the length of time spent with Buffy could vary from four months to over a year. This is a crucial factor

because Angel only began watching over Buffy after Kendra's passing in 2022, but no specified date is given in the record. Without more information, this court does not have the necessary information to conduct a reliable fact-intensive inquiry, as shown to be of integral importance in the determination of a PLR.

Even if the court determined that there was enough information to discuss the frequency and nature of contact, Angel would still not qualify as someone who is present for Buffy. Angel did not spend quality time with Buffy, even though he would bring her to and from the bus stop every day, and then stay in his sister's home until she returned from work. Though he was physically present, he was mentally and emotionally absent, causing Buffy to regard her uncle as a stranger. In her own words, she said she felt lonely, something she had not felt when Kendra had been taking care of her. R. at 10. Her sense of loneliness contextualizes what Angel did with Buffy when they were together. Angel despised the fact that he had to take care of Buffy, even admitting to that fact himself. R. at 14. The two were most likely separate when they were together in the same house, only coming together when Buffy chose to interact with Angel. Three instances in the record reflect this sentiment. The first was when Buffy approached Angel to receive help for her homework and was subsequently yelled at, being told that she was a "baby that no one wants around." R. at 11. The second was when Buffy informed Angel of her grades, and he struck her in the face. *Id.* The final occurrence happened when Buffy approached her uncle to get permission to go to her friend's house, and he responded with an excessive physical punishment. R. at 12. In all instances shown, Buffy is seen approaching Angel, but not a single time does Angel approach Buffy. His contact with Buffy cannot rise to the standard necessary for the Court to establish him as a PLR; instead, he serves as another entity that fleetingly appears in the same house as Buffy, never going past the bare minimum and solely with the purpose of helping his sister.

The second factor, the nature and extent of control over Buffy's environment, cannot be satisfied by Angel's interactions with Buffy. This factor shares a similar issue to that of the first, the issue being that the record has very few instances showing Angel's control over said environment. In turn, this would require the Court to make assumptions that would run contrary to the precedent established by the Second and Third Divisions of the New York Court of Appeals and unchallenged in application since 1976. Looking at the facts provided in this case, the extent of the record displaying Angel's control over Buffy's environment is that he could access a closet within the home; this alone is not enough to establish that Angel had significant control Buffy's environment. Other connections purporting Angel's control of Buffy's environment rely on pure conjecture. Because a true determination of the control Angel had over Buffy's environment cannot be drawn from the record, the fact-intensive inquiry that precedent requires cannot be completed to the expected standard.

When examining the third factor, the duration of the respondent's contact with the child, the record has ample evidence of Angel's contact with Buffy. Angel would drop off and pick up Buffy from the school bus stop every day, but his contact with her would resume after he picked her up. R. at 8. Angel would then remain in the same home as Buffy until Willow returned from work. R. at 7-8. While this may initially seem like a significant amount of time spent together, the reality is that they rarely interacted with one another due to Angel despising the fact that he had to take care of Buffy and Buffy's hatred for her uncle. When taken into consideration with Buffy's recorded feelings of loneliness, this argument is further enhanced. R. at 10. Angel did not spend time with Buffy, and he took every opportunity to avoid Buffy because he never wanted to raise a child. R. at 14. Angel tried to minimize his contact with Buffy and would never reach out to her, rather all of their interactions detailed in the record show that Buffy was the one who initiated

contact. When she did attempt to interact with Angel, he would shut down any attempt at conversation and reject any of her requests. Angel avoided contact with Buffy to ensure that he could evade the thing he despised the most: caring for a child. Because Angel was physically present for the child but refused to engage in meaningful contact with the child, the third factor of this analysis cannot be satisfied.

The last factor examines the relationship between the parent and the respondent. Angel and Willow are related by blood, as they are brother and sister. If analyzed traditionally, this factor would be met, but this factor on its own is not dispositive of Angel being a PLR. In recent interpretations of the *Yolanda* factors, courts have begun to analyze them in relation to whether the parent could serve as an equivalent to a traditional parental figure. Under this reformation, if the individual is not acting in a manner that is equivalent to a traditional parental figure, they cannot be established as a PLR. The New York case *In Re Isaac*, where two grandparents were not deemed to be PLR due to their separate housing and lack of participation in traditional parental functions, demonstrates this concept. 42 N.Y.S.3d at 599-600. This case is shockingly similar to Angel's situation; Angel lives in a separate home, only visiting to watch over Buffy for short periods of time. R. at 7. Also, Angel does not engage in traditional parental functions, such as assisting Buffy with her homework, driving her to extracurricular activities, providing shelter, or providing her with food. R. at 8, 10-11. Angel's consistent and adamant refusal to participate in any traditional parental functions shows that even though he is related to Willow by blood, he should not be considered a PLR due to his inability to serve as a substitute for a traditional parental figure and his consistent and adamant refusal to participate in any traditional parental function.

Through the in-depth analysis of the *Yolanda* factors, it is clear that Angel is not a PLR. If the court were to disagree with this assertion, Angel would still not meet the criteria to be

considered a PLR due to him not being a functional equivalent to a parental figure. The record reflects a myriad of instances in which Angel mistreats Buffy. He demeaned Buffy by telling her that he and her mother would be happier if she were never in their lives. R. at 11. He admitted that he despises having to take on the primary childcare role for Buffy. R. at 14. He does not provide shelter to Buffy. R. at 8. Further, he fails to help transport her to extracurricular activities, making her unable to be with friends and participate in a sport she loves. *Id.* He adamantly refuses to help Buffy in any way that does not directly benefit him; this is shown by Angel refusing to help Buffy with her homework and instead being willing to discipline her for her behavior. R. at 14-15, 19. Angel only chose to discipline Buffy because her bad behavior was a nuisance to him, in order to relieve this nuisance, he began to discipline Buffy. But Buffy's homework or extracurricular activities were something that affected her, not Angel, so he chose not to help her. The thought of improving Buffy's life never once crossed Angel's mind. He is solely concerned with himself and making his situation less difficult. The most condemning fact is that Angel himself admits that he does not view his relationship with Buffy as anything resembling that of a parent and a child. R. at 20. A PLR must be able to serve as a functional equivalent to a parental figure. *Matter of Kavon A.*, 145 N.Y.S.3d at 117. Angel Rosenberg is the furthest thing from a parental figure. He provides nothing to Buffy that would help her grow or mature, and he only attempts to discipline her when he considers that it would be to his benefit. Based on Angel's actions, it would be a disservice to determine him a PLR and place him on the same level as individuals who unconditionally love their child and take an active role in their child's life.

If this Court allows for a lenient reading of the PLR statute and appoints Angel as a PLR, it will set a precedent that anyone who even remotely cares for any child could be deemed to be a PLR. In turn, judicial efficiency would be affected by a massive influx of cases admitted to this

court. Suddenly, if someone finds themselves caring for a child with access to a single part of the house, they will become vulnerable to all the penalties that may be inflicted through the Sunnydale Family Courts. Setting this precedent would also have a chilling effect on caretakers for children by making it far easier for someone to be deemed a PLR, opening up many more individuals to liability and resulting in people avoiding even scantily looking after a child for fear of any legal consequences should anything go wrong. The consequences would result in an already difficult situation becoming much more challenging for single parents in financially tricky situations, such as Willow Rosenberg, to find anyone to care for their children when they need it most. Considering Angel Rosenberg to be a PLR would have the utmost consequences of placing a person who does not actively take a parental role in a child's life nor cares for the child on the same level as those who genuinely love and care for their children.

In conclusion, Angel cannot be considered a PLR under the *Yolanda* four-factor analysis because in examining the factors, Angel's actions do not meet the criteria that would lead to a finding of PLR and there is a lack of information to make a fact-intensive inquiry. Further, even if the Court were to find that Angel fit the *Yolanda* factors, he would still not qualify due to his actions being so far removed from that of a traditional parental figure that he cannot be considered a parental equivalent. Angel Rosenberg despises the fact that he must watch Buffy, he never assists with her daily life, and he does not view his relationship with Buffy as that of a parent and child. Angel's actions run contrary to the established statutory interpretations and require an extremely lenient reading to justify him being considered a PLR. Under the presented circumstances, Angel cannot qualify as an equivalent to a parental figure and thus cannot qualify as a PLR. As such, this Court cannot maintain jurisdiction over Angel Rosenberg, and this claim must be dismissed.

CONCLUSION

For the foregoing reasons, Appellants Willow and Angel Rosenberg respectfully request this Court to reverse the decision of the Sunnydale Third Appellate Division and find that Willow Rosenberg did not neglect her daughter Buffy by leaving her in Angel's care and that Angel Rosenberg was not a PLR for Buffy.

Respectfully submitted,

Team 53

Attorneys for Appellants Willow
and Angel Rosenberg