

SUPREME COURT OF LOUISIANA

No. 97-C- 3085

ROBERT J. CARBON,
INDIVIDUALLY AND ON BEHALF OF HIS MINOR DAUGHTER
JENNIFER CARBON

Versus

ALLSTATE INSURANCE COMPANY

JOHNSON, J., Dissenting

Robert Carbon and Linda Franz were divorced in 1988. The Seventeenth Judicial District Court (Parish of Lafourche) awarded joint custody of the minor, Jennifer. In my view, Louisiana has recognized that the child of divorced parents is entitled during her minority to "residence" with both parents. See Mobley v. State Farm Mut. Auto. Ins. Co., 28,357 (La. App. 2 Cir. 5/8/96); 674 So. 2d 1117. Routinely, district judges order one or the other parent to maintain policies of insurance which cover these minor children, without concern as to which parent's residence is the "primary" residence. Since the legislature has expressed a clear intent with regard to joint custody and dual residency, it would be contrary to that public policy to allow insurers to inquire as to an unemancipated minor's intent with regard to her residence.

For the foregoing reasons, I would affirm the judgments of the trial court and the court of appeal.