SUPREME COURT OF THE UNITED STATES

No. 91–367

CAROL ANKENBRANDT, AS NEXT FRIEND AND MOTHER OF L. R. AND S. R., PETITIONER *v.* JON A. RICHARDS AND DEBRA KESLER

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[June 15, 1992]

JUSTICE STEVENS, with whom JUSTICE THOMAS joins, concurring in the judgment.

This should be an exceedingly easy case.[1] As demonstrated by each of the opinions, whatever belief one holds as to the existence, origin, or scope of a "domestic relations exception," the exception does not apply here. However one understands 18th-century English chancery practice and however one construes the Judiciary Act of 1789, the result is the same. The judgment of the Court of Appeals must be reversed. For that reason, I would leave for another day consideration of whether any domestic relations cases necessarily fall outside of the jurisdiction of the federal

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[1]The first Justice Harlan cautioned long ago that "`it is the duty of all courts of justice to take care, for the general good of the community, that hard cases do not make bad law.'" *United States* v. *Clark*, 96 U. S. 37, 49 (1878) (Harlan, J., dissenting) (quoting *East India Co.* v. *Paul*, 7 Moo. 85, 111, 13 Eng. Rep. 811, 821) (P.C. 1849). Courts should observe similar caution with regard to easy cases. Cf. *O'Bannon* v. *Town Court Nursing Center*, 447 U. S. 773, 804 (1980) (BLACKMUN, J., concurring in judgment) ("easy cases make bad law"); *Burnham* v. *Superior Court of Cal., Marin Cty.,* 495 U. S. 604, 640 (1990) (STEVENS, J., concurring in judgment). An easy case is especially likely to make bad law when it is unnecessarily transformed into a hard case.

courts and of what, if any, principle would justify such an exception to federal jurisdiction.

As I agree that this case does not come within any domestic relations exception that might exist, I concur in the judgment.