

Essay Prompt 2

“Please answer the following questions:

1: Can the court order different parenting time schedules for Jose and Juanita?

2: Which facts provided in this fact pattern will apply to each of the factors the court must consider pursuant to C.R.S. § 14-10-124 when deciding what parenting time schedule or schedules is in the best interests of each of these children?”

This short essay evaluated the applicant’s overall understanding of the parenting time statute, C.R.S. section 14-10-124(1.5)(a). Points were allocated based on a correct answer to question 1 and the number of relevant facts that the applicant identified under question 2. No points were rewarded for merely listing the statutory “best interests of the child” factors. However, applicants who connected a statutory factor with pertinent facts would receive points. For example, applicants would not receive credit for writing, “the court can consider the child’s wishes if he or she is sufficiently mature to express reasoned and independent preferences as to the parenting time schedule.” However, applicants would receive points if they wrote, “neither Juan, at 6 years old, nor Juanita, at 6 months old, is likely sufficiently mature to express a reasoned and independent preference as to parenting time.” Applicants did not have to write their answer in any particular format, but a high-scoring essay would have included all of the information listed below.

Question 1

Yes, the court can enter different parenting schedules for Jose and Juanita. In doing so, the court must consider the best interests of each child as it pertains to that child’s parenting time with both parents.

Question 2

Facts relevant to § 14-10-124(1.5)(a)(I) (“The wishes of the child’s parents as to parenting time.”)

- Both parents wish to have parenting time. Esmeralda wants a regular, predictable parenting time plan, while Javier wants a flexible parenting time plan to accommodate his work schedule.

Facts relevant to § 14-10-124(1.5)(a)(II) (“The wishes of the child if he or she is sufficiently mature to express reasoned and independent preferences as to the parenting time schedule.”)

- Neither child is likely sufficiently mature to express a reasoned and independent preference as to a parenting time schedule. Juan is only 6 years old, and Juanita is only 6 months old.

Facts relevant to § 14-10-124(1.5)(a)(III) (“The interaction and interrelationship of the child with his or her parents, his or her siblings, and any other person who may significantly affect the child’s best interests.”)

- As to Jose:
 - Jose has a good relationship with both parents and with his sister Juanita.

- Both parents have participated in Jose’s upbringing. Esmeralda was Jose’s primary caregiver and historically took him to the doctor, but Javier would help by feeding Jose breakfast, packing his lunch, and remaining informed about his medical care. Javier has also taken Jose to urgent care a few times.
- As to Juanita:
 - Esmeralda is still breastfeeding Juanita.
 - Juanita likes her brother, who helps bathe her and makes her laugh.
 - Juanita spends time with Javier when he picks up or drops off Jose, but she has not had any parenting time alone with him.

Facts relevant to § 14-10-124(1.5)(a)(III.5) (“Any report related to domestic violence . . .”)

- There is no history of domestic violence, and the parties are on relatively good terms.

Facts relevant to § 14-10-124(1.5)(a)(IV) (“The child’s adjustment to his or her home, school, and community.”)

- Jose lives with Esmeralda in the house where he grew up. He has gone to the same school since preschool and has friends in Esmeralda’s neighborhood who go to school with him.

Facts relevant to § 14-10-124(1.5)(a)(V) (“The mental and physical health of all individuals . . .”)

- Juanita is a healthy baby, but she does not sleep well and refuses to drink from a bottle.
- There are no other reported health concerns for any party.

Facts relevant to § 14-10-124(1.5)(a)(VI) (“The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party. . .”)

- The parties have successfully worked out an interim parenting time arrangement for Jose.

Facts relevant to § 14-10-124(1.5)(a)(VII) (“Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support.”)

- The parties both participated in raising Jose.
- Esmeralda can work from home 100% of the time, while Javier has an unpredictable work schedule.

Facts relevant to § 14-10-124(1.5)(a)(VIII) (“The physical proximity of the parties to each other as this relates to the practical considerations of parenting time.”)

- The parties live close to each other and close to Jose’s school.

Facts relevant to § 14-10-124(1.5)(a)(XI) (“The ability of each party to place the needs of the child ahead of his or her own needs.”)

- Javier’s desire for a flexible parenting time plan for the children that revolves around his schedule suggests that he cannot place the children’s needs first. Jose has trouble transitioning between homes. Juanita is still breastfeeding and gets fussy at night.