

Case	Parent(s) seeking custody	Third parties involved	Factor 1: The parent must prove that he is a fit parent, able to properly care for the child and provide a good home	Factor 2: The amount of contact, in the form of visits, financial support or both, which the parent had with the child while it was in the care of a third party	Factor 3: The circumstances under which temporary relinquishment occurred	Factor 4: The degree of attachment between the child and the temporary custodian	Family Court awards custody to:	Appellate Court Awards Custody to
<i>Moore v. Moore</i> , 300 S.C. 75, 386 S.E.2d 456 (1989)	Father: Michael Moore	Foster Parents: Mr. and Mrs. Jessie Sanders	"[T]here is no dispute as to Michael's fitness, his ability to provide proper care and a good home for Shawn nor as to the circumstances surrounding his temporary relinquishment of custody."	"Michael was in frequent personal contact with Shawn until the Air Force transferred him to Alabama, and he contributed to Shawn's financial support during 1984 to the extent allowed by the Sanderses. He also attempted to carry Shawn to Alabama. After moving to Alabama with three of his children, Michael maintained contact with Shawn whenever he made the trip back to Georgetown during the summer and on holidays."	"Michael and the Sanderses initially reached an agreement as to the temporary nature of the child-care arrangement. Shawn was placed in the Sanderses' home with the understanding that Michael would resume custody when he was able to do so. If a party relinquishes custody in good faith because of some temporary inability to provide for the child, such parent should be able to regain custody upon a showing that the condition which required relinquishment has been resolved. Child custody should not be subject to change because of adverse possession."	"Even though there may exist a psychological parent-child relationship, the mere existence of such a bond is inadequate ground to justify awarding permanent custody to the Sanderses; particularly in an instance where such a relationship was built on the foster parents' overt acts which inhibited the development of a normal relationship between the natural parent and his child. We conclude that bonding is only one of the major factors to be considered in deciding a custody dispute involving third parties seeking to deprive a natural parent of custody of his child."	Foster parents with visitation to father	Father
<i>Malpass v. Hodson</i> , 309 S.C. 397, 424 S.E.2d 470 (1992)	Mother: Sherri Malpass	Maternal grandparents: James A. Hodson, Jr., and Lynda S. Hodson,	Fit. "She has been married to Billy Malpass for five years and stays at home to raise their four year old daughter. Mr. Malpass, employed full-time and also a member of the National Guard, is willing and able to support Brandon. The couple recently purchased a three bedroom house."	"Mother has maintained contact in the form of visits and financial support."	"Mother transferred custody of Brandon at a time when she was the victim of an abusive spouse. This situation has changed: Mother is now in a stable marriage and capable of providing a good home for Brandon."	"In addressing the fourth <i>Moore</i> factor, the degree of attachment between Brandon and his Grandparents, the Family Court noted that the relationship is very close. However, the court, relying upon the testimony of witnesses as well as the reports of a psychologist and the Guardian ad Litem (GAL), found that Brandon has a strong attachment to his Mother. Specifically, the GAL testified that Brandon has bonded with Mother despite his having lived with Grandparents."	Mother	Mother

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<p><i>Shake v. Darlington County Dep't of Soc. Servs.</i>, 306 S.C. 216, 410 S.E.2d 923 (Ct.App. 1991)</p>	<p>Mother: Anita L. Beasley</p>	<p>Foster mother: Jean T. Shake</p>	<p>"[T]here is a legitimate dispute over Mrs. Beasley's fitness and ability to provide proper care and a good home for Michael. First, the record shows Mrs. Beasley has an unstable history with men. She was in a relationship with the father of her oldest child who was born out of wedlock. She later married Michael Clifton Weatherford, the father of the child in question, but divorced him sometime after Michael's birth and married Randy Beasley in March 1988. She separated from Beasley in November 1988 and divorced him in the spring of 1990. Further, during her separation from Beasley, she admitted committing adultery with Donald Kazmark. She began seeing her purported fiancée, Randy Bush in February, 1990. Therefore, it is apparent that Mrs. Beasley has been in a serious relationship with at least four different men over a period of four years since Michael's birth in December, 1985.</p>	<p>"[T]he record indicates that, when exercising her weekend visitation, Mrs. Beasley would meet the D.S.S. worker at an apartment she was purportedly living in to pick up Michael and drop him off. However, she was, in fact, taking the child over to Randy Bush's trailer for the weekend. While Mrs. Beasley denied that she lived with Mr. Bush, she stated she had stayed with him frequently over a three month period prior to this hearing. A neighbor of Mr. Bush testified he had seen Mrs. Beasley at the trailer every day for the last four months, including evenings and mornings. The treatment plan devised by D.S.S. called for Mrs. Beasley to establish not only a suitable home, but one with a stable environment. Clearly Mrs. Beasley places greater priority on her desires than on her son's need for stability.</p> <p>Mrs. Beasley's treatment plan also required that she complete mental health counseling. Again, the evidence is not clear on whether Mrs. Beasley did, in fact, complete counseling. During her testimony, Mrs. Beasley stated she had completed her treatment plan and had been discharged from counseling. Yet, she also admitted that she had terminated counseling on her own because she felt that she did not need it and that she could deal with her anger on her own by performing housework or fixing up the car. The D.S.S. caseworker, Betty Parrott, testified, and her records likewise indicate, Mrs. Beasley terminated counseling on her own and, although Mrs. Beasley signed another treatment plan on January 19, 1990 referring her back to mental health counseling, to the best of her knowledge, Mrs. Beasley had not returned. Her apparent cavalier attitude toward counseling brings into question her fitness as a parent.</p> <p>Further, the record indicates that in April, 1989, while on visitation with Mrs. Beasley, Michael received severe bruises on his buttocks from a spanking administered by Mrs. Beasley's boyfriend at the time, Donald Kazmark. As a result, Mrs. Beasley's weekend visitation was temporarily terminated and she was ordered not to exercise visitation in the presence of Kazmark. However, the record shows Mrs. Beasley continued to expose the child to this man. While this incident is inadequate to terminate Mrs. Beasley's parental rights under the statute, we find her actions and attitude of indifference reflect poorly on her fitness as a parent.</p>	<p>"Michael was removed from Mrs. Beasley by means of an emergency protective order due to threat of harm."</p>	<p>[T]he evidence of attachment between Michael and the foster mother is overwhelming. Karen Zimmerman, a therapist and counselor who met with Michael and Mrs. Shake, testified that Mrs. Shake has provided stability, consistency, structure, discipline and trust for Michael, that Michael has bonded with Mrs. Shake and removal from Mrs. Shake's care would be very traumatic for Michael. The caseworker, Betty Parrott, testified there was no question Michael has bonded with Mrs. Shake and Mrs. Shake is an exemplary mother. Even Mrs. Beasley herself admits it would [306 S.C. 224] have a "devastating effect" on Michael if Mrs. Shake is not given custody.</p>	<p>Mother</p>	<p>Foster mother</p>

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Hogan v. Platts , 312 S.C. 1, 430 S.E.2d 510 (1993)	Father: Owen Platts	Aunt & Uncle: Marviette Hogan and Mike Hogan	Father and Mary Alice Platts had a troubled marital relationship with several periods of separation. There was testimony of a history of physical abuse on the part of Father toward his wife and mental abuse of Angela, his stepdaughter. No finding on father's fitness. Remanded	On June 20, 1989, the Family Court had ordered that Father be granted weekly visitation rights with Jessica in the home of the Aunt & Uncle. Father testified at the final hearing that he had never exercised the visitation rights because he did not have the time.	Father was married to Jessica's mother, Mary Alice Platts. Jessica was born October 28, 1988, and seriously injured in an automobile accident on November 5, 1988, in which Mary Alice Platts was killed. When Jessica was released from the hospital on November 11, 1988, Father consented for her to be placed in the custody of Aunt & Uncle, who also have custody of Jessica's sister, Angela Murray, who is Mary Alice Platts' teen-age daughter from a previous marriage. Father and Mother were living apart when Jessica was born and still separated at the time of the accident. The Father testified that he was not aware of Jessica's birth until he was informed of the accident. On February 17, 1989, Aunt and Uncle instituted this action seeking custody of Jessica. Father answered by general denial and counterclaimed for custody		Aunt & Uncle	The family court judge failed to consider each of the factors in reaching the decision to award custody to Aunt & Uncle. Likewise, there is no finding of fact with regard to the fitness or unfitness of Father to maintain custody of his natural child. Remanded
Hopkins v. South Carolina Dep't of Soc. Servs. , 313 S.C. 322, 437 S.E.2d 542 (1993)	Father: Randy Meyers	Foster parents: Sollie Floyd and Mary Y. Floyd	Father is fit	Upon being notified that his son was in DSS custody, Father attempted to intervene and obtain custody. Court would not allow Father visitation until paternity established. Once paternity was established, DSS delayed providing Father test results. Father then traveled twice from Missouri to South Carolina for visitation and began paying regular child support.	Parents never married and mother lived a nomadic lifestyle. Mother often lied to father about child's paternity and hid from father. Father did not know about child's horrible living conditions. Child finally taken into DSS custody in South Carolina due to Mother's unfitness but DSS did not notify Father because Mother refused to identify Father	Strong bond between child and foster parents. DSS placed child with foster parents with foster parents who believed they would be allowed to adopt.	Foster parents with order establishment of a plan for reunion of father and son. If the plan is successful, son shall be placed with Father permanently.	Foster parents with order establishment of a plan for reunion of father and son. If the plan is successful, son shall be placed with Father permanently.

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<p><i>Sanders v. Emery</i>, 317 S.C. 230, 452 S.E.2d 636 (Ct.App. 1994)</p>	<p>Parents: Carlos and Lisa Marie Sanders</p>	<p>Great-grandparents: Elmer Lee Rice and Harley Bond Rice</p>	<p>The family court specifically declined to find the parents unfit. While the court made reference to Lisa Marie's "mental limitations," such are not borne out by the record. There is no scientifically based evidence of limitation, and her testimony belies such a finding. Both parents have attended parenting classes, Lisa Marie attending for four years. This dedication to learning appropriate parenting skills is evident not only from the four-year history of consistent attendance, but also through the previous court orders citing the testimony of social workers who have worked with Lisa Marie.</p> <p>Since the early difficulties which led to the loss of custody, Carlos and Lisa Marie have taken positive steps to rehabilitate themselves. Carlos has worked steadily for over three years at the same job, supporting himself, Lisa Marie, and their two other children. They have purchased a home, and the testimony established it was maintained as a clean and healthy environment. The supervising DSS authorities have determined Carlos and Lisa Marie pose no threat of abuse or neglect, and they have closed their file on this home. We agree with the family court that the parents are not unfit.</p>	<p>Visitation was restricted by the family court in the initial proceedings. Thereafter, Carlos and Lisa Marie brought a second action in the family court to dispense with the restriction of supervision. Even then, the order provided set visitation. Interestingly, in the June 23, 1992 order in which the court found that supervision of visitation was unnecessary, the court noted the parents had been "voluntarily contributing child support to Grace Emery although no Order requires them to do so."</p> <p>Carlos and Lisa Marie have exercised the court ordered visitation on a regular basis. Any negative connotation derived from a failure to expand visitation does not, in our opinion, take into account the realities of their circumstances. Lisa Marie does not drive. She must rely upon Carlos or others for transportation. Carlos works a full week, including shift work. Also, the parents have an infant and a toddler to care for on a daily basis. Under these circumstances, compliance with the visitation provided by the family court in its prior order is a positive factor to be considered.</p>	<p>Custody relinquished to neighbor and DSS ultimately placed with paternal grandparents because father was incarcerated for three months after pleading guilty to criminal sexual conduct with a 14 year old neighbor, and mother, who was borderline mentally retarded, felt unable to care for child on her own.</p>	<p>The family court concluding that a close relationship had developed between the child and great-grandparents. The court noted the observations of the guardian ad litem that Diana was openly affectionate to others in the waiting room of family court, but withdrawn with her mother. However, the evidence supports a finding that Diana shares a happy relationship with her biological parents. It is commendable that the Rices have nurtured a bond of trust and love with Diana. It is, however, to be expected where they have had the daily care of the child for two years.</p> <p>Custody should not be subject to change because of adverse possession.</p>	<p>Great-grandparents</p>	<p>Parents</p>

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<p><i>Kramer v. Kramer</i>, 323 S.C. 212, 473 S.E.2d 846 (Cl.App. 1996)</p>	<p>Mother: Sharon Marcel Marsett Kramer</p>	<p>Paternal aunt and uncle: Frank Charles and Susan G. Kramer</p>	<p>Under our view of the preponderance of the evidence, we do not believe that Mother is a fit parent able to provide a good home for Daniel. Mother's first child, Robert, was fathered by a man to whom she was not married. Her second child, Daniel, the subject of this action, was fathered by Ray Kramer with whom she had a common law relationship. Mother left both Ray and Daniel on Daniel's first birthday. She lived with her mother in Texas for approximately five months and then moved to Atlanta, Georgia, where she lived with the father of her older son. After leaving him she resided in several other places until she moved in with her boyfriend, Lee Wooster. She and Mr. Wooster had two children together. Only after the Kramers brought this action did Mother marry Mr. Wooster.</p> <p>At the time of trial Mother was financially dependant on Lee Wooster. He testified to his commitment to her and the children, both emotionally and financially. The family court judge found him to be a "positive influence" on Mother and the family unit. This finding, however, is questionable in light of the proffered testimony of Wooster's ex-wife.</p> <p>We do not believe that either Mother's past conduct nor her present situation with Mr. Wooster establishes her as a fit parent, able to properly care for the child and provide a good home for him. Given Lee Wooster's child support arrearage of over \$16,000, he is not in a position to provide financial support to Daniel. The mother has a history of instability and financial dependence on others. Considering Mr. Wooster's situation, we do not believe her marriage to him carries with it the positive connotations found by the trial judge, who ruled without the benefit of hearing the reply testimony.</p>	<p>Mother's contact with Daniel during the four years following her departure was minimal. She defaulted in the custody action brought by Father shortly after her departure. The order which emanated from that action provided she was not to remove Daniel from the State of South Carolina until she had applied to the family court to establish visitation. Despite this language in the order, Mother never petitioned the family court for visitation rights. She saw the minor child only once or twice per year. She also failed to send Christmas presents to Daniel or to provide financial support for him. When Father died, the Kramers went to considerable trouble to find Mother, finally locating her through social security records. Quite obviously, Mother had not kept the Kramers apprised of her whereabouts or made any attempt to contact Daniel during the previous Christmas holidays. Only when the Kramers initiated this action for custody did Mother request custody of Daniel.</p> <p>Although Mother testified she was unable to visit Daniel because of her fear of Father, this was not corroborated. Moreover, there is no indication in the record that Mother ever sought protection from the family court or law enforcement. If indeed Mother was fearful of Father because of his physical abuse of her or his drug use, this is inconsistent with her conduct in leaving Daniel in his care and making no effort to regain custody of him for over three years.</p> <p>The guardian ad litem in this case testified that Mother's actions evinced a "lack of interest" in Daniel for the last several years. Regardless of whether her conduct was precipitated by her fear of Father or her own lack of interest, Mother's contact with Daniel and her contribution toward his support was minimal, at best, for a period of 3 ½ years.</p>	<p>Mother left Daniel with his father on Daniel's first birthday, moving to Texas where she failed to contact him for many months. She also failed to answer the custody proceedings commenced by Father. Quite simply, she pursued a life of her own, showing little or no regard for the well-being of her young son.</p>	<p>All the evidence presented on the Kramers behalf, as well as the testimony of the guardian ad litem, supports the strong emotional bond between Daniel and the Kramers. Even during the time Father had legal custody, the Kramers were acting as Daniel's parents. The guardian ad litem described the Kramers as the only mother and father Daniel had known since his mother left on his first birthday.</p>	<p>Mother</p>	<p>Paternal aunt and uncle</p>

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<p><u>Harrison v. Ballington</u>, 330 S.C. 298, 498 S.E.2d 680 (Ct.App. 1998).</p>	<p>Father: Forest Todd Harrison, Sr.</p>	<p>Paternal grandmother and step-grandfather:</p>	<p>At no time was there a finding by the court that Todd was an unfit parent. The record contains limited evidence on the issue of Todd's fitness at the time of the order granting custody to the Ballingtons. However, there is an abundance of evidence as to numerous positive changes in Todd's life over the years since the Ballingtons took custody. The trial judge found, and the record supports, that since the prior order, Todd has remarried, moved into a home, secured steady employment, and improved his financial situation. The trial judge found Todd's current wife is a stabilizing influence in his life, that Todd has achieved a degree of stability in his personal life, and that he has developed a close relationship with the minor child, Forest. Indeed, the record shows Todd has done an exceptional job as a stepfather to his wife's daughter, Melinda, to the extent that Melinda's natural father testified that he could not "have asked for somebody to be a better stepfather" for his child. Accordingly, we find there is substantial evidence as to Todd's fitness as a parent.</p>	<p>Todd regularly and continuously maintained contact with Forest. Todd sought and obtained, through court order, extended visitation with the child, through which father and son developed a close relationship. It is equally clear that Todd was ordered to pay child support and there appears to be no complaint from the Ballingtons that he failed to comply with that order.</p>	<p>The trial judge found that upon the death of Kathy [the child's mother], the Ballingtons and Kathy's mother decided it would be best for Forest not to visit with Todd so close to Kathy's death. When Todd arrived at the Ballington's to pick up his child, the Ballingtons refused his request. Mrs. Ballington subsequently removed the child from the state without the knowledge or consent of Todd, further precluding visitation. Thereafter, Mr. Ballington negotiated the return of visitation with Todd in exchange for Todd giving up custody. Three days after Kathy's death, the Ballingtons brought a custody action against Todd. Todd testified that his mother had taken his son out of the state and Mr. Ballington informed him "that they weren't here and that they wouldn't be coming back until I signed the agreement."</p>	<p>The record clearly shows a strong bond has developed between Forest and the Ballingtons. However, the mere existence of such a bond is an inadequate ground to award custody to a third party. Further, the record clearly establishes a close bond has developed between Forest and Todd, as well. An expert witness called by the guardian ad litem testified the bond between Forest and Todd was no less than that between Forest and the Ballingtons.</p>	<p>Paternal grandmother and step-grandfather</p>	<p>Father</p>

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<p><i>Dodge v. Dodge</i>, 332 S.C. 401, 505 S.E.2d 344 (Ct.App. 1998)</p>	<p>Father: Charles O. Dodge</p>	<p>Stepfather: C. Franklin Rizer and maternal grandparents, George and Virginia Morrow</p>	<p>Undisputed that father is fit. Currently, the father rents a three bedroom home on Sullivan's Island where he lives alone. The father testified the home is furnished and clean, and each child has his own room. The guardian ad litem testified the home is a suitable place for the children to live. In addition, the father has made arrangements for the children to attend Sullivan's Island Elementary School, which is located only two blocks from the home. The school offers an award-winning after-school program.</p> <p>At the time of trial, the father had been employed for three years at Dunes Properties as a property manager. According to the president of Dunes Properties, the father is an excellent employee and his employment with the company is secure.</p> <p>The court ordered psychologist determined that the father had overcome the problems regarding his criminal involvement, was working to be a good citizen and suffered from no psychological problems which would prevent his ability to parent. The psychologist testified he did not see any reason that the father could not serve as the custodial parent of his sons. The father's probation officer was deposed. The probation officer testified the father was "one of the most compliant, cooperative and stable individuals I supervise." The probation officer also testified that the father showed remorse for his past criminal action and was focused on maintaining a stable environment. Several other witnesses testified on the father's behalf. The testimony of these witnesses, including that of the father's family, friends, and co-workers, establish that the father has, since the time of his arrest, made great strides in rehabilitating himself both financially and psychologically..</p>	<p>The father has regularly exercised visitation with the children. In fact, he failed to exercise his visitation privileges only while he was in prison. Even while in prison though, the father wrote and telephoned his sons and made arrangements for them to receive their birthday presents. The father has also, with the exception of an arrearage accrued while he was imprisoned, regularly made child support payments.</p>	<p>The circumstances under which the father no longer had custody are different because he did not "relinquish" custody to a third party. At the time of the divorce, the mother and father agreed that the mother would have custody and the father would have reasonable visitation. When the mother died, the father was prevented from obtaining physical custody of his sons and so he filed the motion in family court seeking an order confirming his custodial rights.</p>	<p>While there is evidence that the children have a close and loving relationship with their stepfather and grandparents, there is also evidence that a "psychological parent-child" relationship does not exist between the children and their stepfather or grandparents. The children have lived in Bamberg since their birth. They are honor roll students and have attended Bamberg's public school system exclusively. They are also involved in extracurricular school and community activities, including honors programs, music programs, sports, scouting, and religious training.</p> <p>The grandparents have assisted in the care of the children since before the mother's death. Prior to the mother's death, the grandparents babysat the children when necessary and had bi-weekly "play days" on a regular basis. The grandparents also regularly picked the children up from school and assisted them with homework assignments. Following the mother's death, the grandparents increased their involvement with the children. The grandparents also helped the stepfather care for the children's brother Kirkland, particularly at night. The children, however, spend the majority of their nights in the stepfather's home.</p> <p>The stepfather is forty-nine years old and is employed as an agency manager at Orangeburg County Farm Bureau. Also, the stepfather owns a four-bedroom home in Bamberg where the children have resided since shortly after the mother and stepfather married. The grandparents live in a home only a short distance away from the stepfather's home. The children have lived with the stepfather since he married their mother in May 1994.</p> <p>The stepfather and grandparents testified the children are happy in their Bamberg home and have developed a close bond with their infant brother. The grandparents also testified regarding the bond between the children and the stepfather. The guardian ad litem testified that in his opinion the children's best interests required an order granting custody to the stepfather and grandparents, with visitation for the father. In making this recommendation, the guardian considered the children's bond with the father, stepfather, grandparents and their half-brother Kirkland. Further, the guardian placed great emphasis on the fact that the children have always resided in Bamberg and have an established support system in the community. At oral argument, however, the guardian conceded that he may have recommended giving custody to the father if the father lived in Bamberg.</p>	<p>Joint with stepfather and grandparents having primary custody during school year and father having primary custody during summer</p>	<p>Father</p>

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<p>Baker v. Wolf, 333 S.C. 605, 510 S.E.2d 726 (Cl.App. 1998)</p>	<p>Mother and stepfather: Jenny and Jerry Baker</p>	<p>Paternal grandparents: Barbara and Charles Miller</p>	<p>Mother is unfit to parent the children. First and foremost, there is evidence in the record that the Mother and Stepfather are drug users and dealers, which clearly supports the family court's determination that the Mother is unfit. In addition, there is evidence that both the Mother and the children have suffered physical abuse at the hands of the Stepfather. That the Mother has allowed her children to be physically abused by the Stepfather indicates that the Mother is either unable to or uninterested in properly protecting the children, and again supports the conclusion that the Mother is not fit to parent her children.</p>	<p>Because we have concluded that the Mother is not fit to be a parent, our inquiry is effectively over.</p>			<p>Paternal grandparents</p>	<p>Paternal grandparents</p>