

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

D. K., by and through his
Guardian ad Litem Andrea
Kumetz-Coleman; ANDREA
KUMETZ-COLEMAN; STEVEN KUMETZ,
Plaintiffs-Appellees,

v.

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT,
Defendant-Appellant.

No. 06-55988
D.C. No.
CV-05-00341-CJC
ORDER

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Argued and Submitted
January 14, 2009—Pasadena, California

Filed January 30, 2009

Before: Alex Kozinski, Chief Judge, Stephen S. Trott and
Andrew J. Kleinfeld, Circuit Judges.

COUNSEL

William Lee Buus, Buus Kim Kuo & Tran APC, Newport
Beach, California, for plaintiff-appellee Andrea Kumetz-
Coleman, as Guardian ad Litem.

Andrea Kumetz-Coleman, Westminster, California, pro se.

Steven Kumetz, Los Angeles, California, pro se.

Andrew V. Arczynski, Fullerton, California, and Caroline Zuk, Long Beach, California, for the defendant-appellant.

ORDER

After we granted permission for this interlocutory appeal under 28 U.S.C. § 1292(b), the Supreme Court held in *Winkelman v. Parma City Sch. Dist.*, 127 S. Ct. 1994 (2007), that the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., gives parents substantive rights that they may vindicate pro se. Because the IDEA rights of parents and children are generally coterminous, *see Blanchard v. Morton Sch. Dist.*, 509 F.3d 934, 936-37 (9th Cir. 2007), the issue certified in this case, whether the parents may also represent their minor child's IDEA rights pro se, is not ripe. Unless and until the rights or interests of the parents diverge from those of the child, a ruling on the issue would be advisory. We therefore vacate the order granting permission for this appeal. *Nickert v. Puget Sound Tug and Barge Co.*, 480 F.2d 1039 (9th Cir. 1973). After *Winkelman* was decided, the continued burden, expense and delay from staying district court proceedings and pursuing this interlocutory appeal was wholly unwarranted.

DISMISSED.

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