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PENNSYLVANIA SUPERIOR COURT

S.N.M. v. M.F.*

Date of Decision: November 20, 2017

Cite: 868 EDA 2017

Holding:

The execution of an acknowledgment of paternity, entry into custody agreement and five year exercise of shared legal and physical custodial rights preclude a legal father from challenging paternity.

Facts and Procedural Posture:

The minor child was born during a period of Defendant Father’s incarceration. Following Defendant’s release from prison, Mother and Defendant exercised shared legal and physical custody of the child pursuant to a custody agreement entered as a court order, under which Father was required to execute an acknowledgment of paternity. In addition to exercising shared custody rights, Defendant was involved with the child on a daily basis for the first five years of the child’s life, until he was sentenced to a period of eight years’ incarceration, during which he exercised no custodial rights of the child. Upon his release from prison in April of 2016, Defendant filed a motion to establish paternity and complete genetic testing regarding the child. A hearing convened, during which Mother argued that Defendant’s motion to establish paternity through genetic testing should be denied by both his execution of an acknowledgment of paternity and by virtue of the doctrine of paternity by estoppel. The Philadelphia Family Court Judge disagreed and issued an order directing that Defendant and the minor child submit to genetic testing. The Assistant District Attorney (ADA) representing Mother in these proceedings orally requested a stay of genetic testing, which was denied. Subsequent results of the genetic testing concluded that the probability of paternity for Defendant was 0%. An administrative hearing was scheduled, during which the Philadelphia Family Court issued an order acknowledging that Defendant was not the biological Father of the child and dismissing the Paternity action. Mother appealed.

Issue:

Whether the trial court erred in granting Defendant’s motion to establish paternity and in ordering genetic testing where paternity had already been established through Defendant’s execution of an acknowledgment of paternity and by virtue of the doctrine of paternity by estoppel?

Rationale:

The Superior Court began by reviewing the statutory provisions governing the signing of an acknowledgment of paternity, set forth in §5103 of the Adoption Act, which states: “The father of a child born to an unmarried woman may file ... an acknowledgment of paternity of the child which shall include the consent of the mother of the child[.] In such case, the father shall have all the rights and duties as to the child which he would have had if he had been married to the mother at

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the time of the birth of the child.” The statute also states that “an acknowledgment of paternity shall constitute conclusive evidence of paternity without further judicial ratification.” Finally, in its discussion of rescission of an acknowledgement of paternity, the statute allows only for rescission within 60 days or upon a showing of fraud, duress or material mistake of fact.

The Superior Court noted that in this case, since Defendant signed the acknowledgment of paternity more than 60 days prior and presented nothing to demonstrate fraud, duress or material mistake of fact, the paternity of the child was established and could not be challenged. Additionally, for the purposes of determining the issue of paternity, the court-ordered custody agreement was to be construed as having the same effect a support order would. The Superior Court determined that the trial court erred and abused its discretion in granting genetic testing, concluding that although the Defendant was not the child’s biological Father, he remains the child’s legal father with all that designation implies.

*S.N.M. v. M.F. was featured in the October 2017 Unpublished Case Report. The Unpublished Opinion was filed with the Superior Court on October 2, 2017. On November 20, 2017, the Pennsylvania Superior Court filed this opinion as a Published opinion; as such, a full review is set forth herein.

AMENDMENTS TO LOCAL RULES

Pursuant to and in compliance with Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania (adopted by the Supreme Court of Pennsylvania and effective January 6, 2018), County Courts are amending their local rules. Due to the closed nature of Dependency, Adoption, and other Child Welfare proceedings, our filings should not be impacted by these changes.