

Court of Appeals, State of Michigan

ORDER

Christopher Sarna v Erin Healy

Michael J. Riordan
Presiding Judge

Docket No. 341211

Michael J. Talbot

LC No. 16-113512-DP

Kirsten Frank Kelly
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion to waive the requirements of MCR 7.209 is GRANTED.

In lieu of granting the delayed application, the Court orders, pursuant to MCR 7.205(E)(2), that the June 20, 2017, order of the Wayne Circuit Court denying the stay is REVERSED. In light of the pending adoption appeal, and under the totality of the circumstances, while considering the best interests of the child, which the circuit court failed to do, the circuit court abused its discretion in not staying this paternity action. Thus, the entry of a stay at this juncture is required pursuant to MCR 7.209.

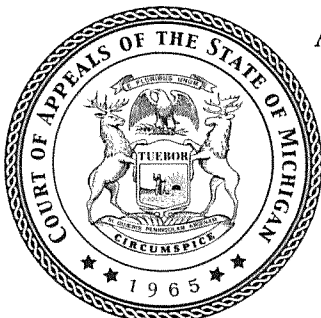
The motion for stay is GRANTED. The child should be returned to the care of the prospective adoptive parents pending resolution of the adoption appeal in the Michigan Supreme Court and pending a decision after an evidentiary hearing regarding custody in the instant matter.

The motion "for production of the orders from the December 11, 2017 hearing, which pertain to the emergency motion for stay filed on December 12, 2017 and an anticipated appeal by right (assuming one of the orders constitutes a 'final order' under the paternity act)" is DENIED.

This order is to have immediate effect, MCR 7.215(F)(2). This Court retains no further jurisdiction.

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Talbot, J., would deny the delayed application. The only issue before this Court in the instant application is whether the circuit court erred in June 2017 by denying the motion for stay and proceeding with this paternity case while the adoption appeal was pending. Although adoption cases should be given priority on the court docket under statute, a challenging party may seek a postponement of an adoption action based on "good cause." *In re MKK*, 286 Mich App 546, 550; 781 NW2d 132 (2009), citing MCL 710.25(2). Plaintiff's efforts to establish paternity provided a valid basis for the circuit court to have declined to enter a stay in this paternity action although the adoption appeal had not concluded. Moreover, it is undisputed that, since the stay was denied, plaintiff's status has changed from putative father to legal father. Under the circumstances, I would find no abuse of discretion in denying the stay.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

DEC 18 2017

Date

[Handwritten signature of Jerome W. Zimmer Jr.]
Chief Clerk