

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
  
Plaintiff-Appellee,

FOR PUBLICATION  
March 26, 2013

v

HELMUT WAMBAR,  
  
Defendant-Appellant.

No. 304116  
Wayne Circuit Court  
LC No. 10-000942-FC

Advance Sheets Version

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Before: METER, P.J., and FITZGERALD and WILDER, JJ.

WILDER, J. (*concurring*).

I join in the result but write separately to offer an additional basis for concluding that defendant is not a “natural parent” under Michigan law.

Pursuant to MCL 722.1(b), “Parents’ means natural parents, if married prior or subsequent to the minor’s birth; adopting parents, if the minor has been legally adopted; or the mother, if the minor is illegitimate.” MCL 722.22(h) defines “parent” as “the natural or adoptive parent of a child.” In *Pecoraro v Rostagno-Wallat*, 291 Mich App 303, 313-314; 805 NW2d 226 (2011), this Court found that the plaintiff, regardless of his assertion that he was the biological father of the minor child, had no standing to establish paternity under the Michigan Paternity Act, MCL 722.11 *et seq.*, and thus could not be the parent of the minor child as that phrase is used in the Paternity Act because the mother of the child was married to another man when the child was conceived. In support of this conclusion, this Court cited *Girard v Wagenmaker*, 437 Mich 231, 251; 470 NW2d 372 (1991), in which our Supreme Court concluded that “a putative father of a child born to a woman married to another man . . . could not obtain a determination that he was the natural or biological father of the child under the Child Custody Act [MCL 722.21 *et seq.*]” This Court further noted in *Pecoraro* that “[t]he phrase ‘natural parent’ was used by the Legislature [in the Child Custody Act] to distinguish between adoptive parents and non-adoptive parents” but was not intended to circumvent the Paternity Act, which under certain circumstances will not recognize a putative father claiming to be the biological father of a minor child as that child’s “natural parent.” *Pecoraro*, 291 Mich App at 314.

As applied to the facts in this case, I would conclude, similar to the conclusion reached by the *Pecoraro* Court, that the use of the phrase “natural parent” in MCL 750.350(2) was neither intended to circumvent the meaning of the phrase “natural parent” as that phrase is used in the Child Custody Act nor undermine the Legislative determination that once a court terminates a person’s parental rights, there may be no further efforts to reunite the child with the former parent. In other words, whether a person is a natural parent under MCL 750.350(2) must,

under certain circumstances, be determined without regard to whether there is a biological connection with the minor child.

Thus, together with these additional reasons stated above, I agree with the majority that defendant's conviction should be affirmed.

/s/ Kurtis T. Wilder