

STATE OF MICHIGAN
COURT OF APPEALS

MARK L. WHITING,

Plaintiff-Appellee,

v

ROBIN TAYLOR-BOLT and GEORGE BOLT,

Defendants-Appellants.

UNPUBLISHED

November 21, 2006

No. 261495

Barry Circuit Court

LC No. 03-000238-DP

Before: O'Connell, P.J., and White and Markey, JJ.

PER CURIAM.

In this paternity action, defendants George Bolt and Robin Taylor-Bolt appeal as of right the trial court's orders denying their motion for dismissal, setting aside the acknowledgment of parentage they signed, determining that plaintiff is the biological father of Taylor-Bolt's minor child, and granting plaintiff parenting time. We reverse in all respects and remand for further proceedings.

Defendants George Bolt and Robin Taylor-Bolt divorced in 1999. The following year, Taylor-Bolt continued to have an intimate relationship with Bolt, but also began dating plaintiff. Although plaintiff's recent efforts to reform his life are nothing short of admirable, the trial court confirmed that plaintiff is a convicted felon, recovering cocaine addict, former drug dealer, recidivist drunk driver, and alcoholic. In September 2001, Taylor-Bolt conceived the minor child, but she was uncertain if Bolt or plaintiff was the father. Taylor-Bolt told plaintiff that she was pregnant, and soon afterward plaintiff and Taylor-Bolt had a tumultuous falling out that led to plaintiff's arrest and charges being lodged against him for domestic assault. Taylor-Bolt immediately ended her relationship with plaintiff and resumed living with Bolt. The domestic assault charge was dismissed against plaintiff when he pleaded guilty to disturbing the peace.

When Taylor-Bolt's daughter was born in June 2002, Bolt and Taylor-Bolt executed an acknowledgement of parentage stating that Bolt was the child's father. In May 2003, plaintiff filed an action under the paternity act, MCL 722.711 *et seq.*, to establish that he was the child's father. In an amended complaint, he requested that the trial court revoke the acknowledgement of parentage. The trial court denied preliminary motions to dismiss the case, and in light of test results, declared plaintiff the father of the minor child, ordered the state registrar to vacate the acknowledgement of parentage executed by Bolt, and established supervised visitation for plaintiff.

Defendants argue on appeal that plaintiff lacked standing to assert a claim under the Paternity Act, MCL 722.711 *et seq.*, or challenge the acknowledgement of paternity under the Acknowledgement of Parentage Act, MCL 722.1001 *et seq.* We agree. We review de novo questions of statutory interpretation and application. *Michigan Muni Liability & Prop Pool v Muskegon Co Bd of Co Rd Comm'rs*, 235 Mich App 183, 189; 597 NW2d 187 (1999). The Paternity Act provides a putative father with an avenue to seek a judicial determination of paternity. MCL 722.714. However, a putative father's standing to file a claim under the act is not absolute and depends on the establishment of several conditions. For example, a putative father lacks standing unless the child is born out of wedlock. *Aichele v Hodge*, 259 Mich App 146, 161-162; 673 NW2d 452 (2003). Similarly, the use of the act to establish or challenge paternity is further limited by MCL 722.714(2), which states, "An action to determine paternity shall not be brought under this act if the child's father acknowledges paternity under the acknowledgement of parentage act"

"The Acknowledgement of Parentage Act permits a man and a woman, in place of adjudication under the paternity act, to legally acknowledge that the man is the father of a child." *Aichele, supra* at 153. If a man acknowledges paternity in accordance with the act, he "is deemed to be the natural father of a child born out of wedlock" *Eldred v Ziny*, 246 Mich App 142, 148; 631 NW2d 748 (2001); see also MCL 722.1003(1). Under the Acknowledgement of Parentage Act, "a man and a woman can essentially stipulate to the man's paternity." *Aichele, supra* at 154-155. The execution of an acknowledgement of parentage "'establishes paternity,' meaning that 'the man signing as the father' has the 'same relationship' with the child as he would have had if the child were 'born or conceived during a marriage.'" *Killingbeck v Killingbeck*, 269 Mich App 132, 143; 711 NW2d 759 (2005), quoting MCL 722.1004. A man who properly executes an acknowledgement of parentage for a child is designated the child's legal father. *Killingbeck, supra* at 143-144. Therefore, when Bolt and Taylor-Bolt executed the acknowledgement of parentage in accordance with the Acknowledgement of Parentage Act, Bolt, not plaintiff, became the child's father in the eyes of the law. Because the child's paternity was established, MCL 722.714(2) precludes any further action to challenge paternity. Therefore, the child's paternity could not be challenged under the paternity act, and the trial court should have dismissed plaintiff's paternity suit.

However, in his first amended complaint plaintiff requested that the trial court revoke the acknowledgement of parentage. Although the act permits revocation of the acknowledgement under certain circumstances, MCL 722.1011(2), standing to argue those circumstances is substantially limited to the same individuals who could bring a challenge under the paternity act: the mother, the man who signed the acknowledgement (the father), the child, and certain governmental authorities. Compare MCL 722.714(1) with MCL 722.1011(1). Even if plaintiff is the biological father of Taylor-Bolt's child, he is not included among the parties who have standing under MCL 722.1011 to file a claim for revocation of an acknowledgement of parentage. Therefore, the trial court erred when it revoked the acknowledgement of parentage at plaintiff's behest. Until the acknowledgement is properly challenged and revoked, paternity has been established, and Bolt's status as the child's father is as unassailable as if the child were born in wedlock. MCL 722.1004; MCL 722.714(2); *Aichele, supra*.

Reversed and remanded for an order reinstating the original acknowledgment of parentage and dismissing plaintiff's paternity suit for lack of standing. We do not retain jurisdiction.

/s/ Peter D. O'Connell

/s/ Helene N. White

/s/ Jane E. Markey