



PATERNITY

12/30/2019

In ***Young v. Davis***, 139 N.E.3d 1099 (Ind. Ct. App. 2019), *rehearing denied*, the Court of Appeals upholds the trial court's ruling to vacate Young's paternity of Child and establishing Faunce as Child's legal father pursuant to I.C. 16-37-2-2.1(l) .

Davis ("Mother") was in a sexual relationship with both Young and Faunce in mid-2012, and became pregnant around the same time. Child was born in April 2013, and Young filed to establish paternity in October 2015. Both Mother and Young testified in a November 2015 hearing that Young was the biological father of Child and that they had executed a paternity affidavit at Child's birth attesting so. However, the paternity affidavit was not produced or entered into evidence. In August 2016, Mother made a motion for genetic testing in the still-pending paternity matter. Young objected, stating that Mother was not entitled to testing because she had signed the paternity affidavit. However, Young still did not produce said affidavit to support his claims. Then, in September 2016, Faunce petitioned to intervene in the paternity matter, and requested genetic testing because he had just learned he might be Child's father. The trial court granted both of Faunce's motions, and ordered genetic testing in October 2016. However, before genetic testing could take place, the trial court entered an order granting Young's petition to establish paternity in November 2016.

Over a year later, all three parties filed a joint request for genetic testing, which the trial court granted in February 2018. The genetic test results were filed with the court in April 2018, establishing that Faunce was Child's father and excluding Young. In May 2018, Mother filed to vacate the paternity order and the trial court held a hearing on all issues in September 2018, at which point Young finally produced a copy of the paternity affidavit. In December 2018, the trial court found that both Mother and Young knew that Young was not the father when they signed the paternity affidavit, and given knowingly false testimony about Child's parentage in subsequent hearings. The trial court then granted Mother's motion vacating the order establishing paternity in Young, and issued an order establishing paternity in Faunce. Young appeals.

The Court first considers the standard of review before it, noting that all parties agree that Mother's motion was a Trial Rule 60(b) motion for relief from judgment. The Court reflects that

"[w]e review the trial court's ruling on a motion for relief from judgment using an abuse of discretion standard. An abuse of discretion occurs only when the trial court's action is clearly erroneous, that is, against the logic and effect of the facts before it and inferences drawn therefrom. Moreover, where as here, the trial court enters special findings and conclusions pursuant to Indiana Trial Rule 52(A), we apply a two-tiered standard of review. First we determine if the evidence supports the findings, and second whether the findings support the judgment. The trial court's findings and conclusions will be set aside only if

clearly erroneous. We neither reweigh the evidence nor reassess witness credibility. Instead, we must accept the ultimate facts as stated by the trial court if there is evidence to sustain them. *Barton v. Barton*, 47 N.E.3d 368, 373 (Ind. Ct. App. 2015) (internal citations omitted).” Young at 1101.

In considering the trial court’s rulings and findings under this standard, the Court first examines paternity establishment in Indiana, and notes that “[a] man’s paternity may only be established: (1) in an action under [Article 14]; or (2) by executing a paternity affidavit in accordance with [Indiana Code section] 16-37-2-2.1.’ Ind. Code § 31-14-2-1.” Id. at 1102. **The Court rejects Young’s argument that he used the second prong, since he failed to produce a signed paternity affidavit until two years after the order establishing his paternity. Id. Instead, the Court finds that the trial court relied on his testimony, and Mother’s, at the 2015 hearing regarding the paternity of Child, which was knowingly false. Id.**

The Court goes on to review Young’s argument that Mother’s motion to vacate his 2016 order of paternity was without merit. The Court disagrees, first noting the outstanding intervenor request for genetic testing that had been granted and was yet unresolved at the time of the 2016 paternity order. Id. at 1103. Further, the Court observes that Young joined in the parties’ 2018 motion for genetic testing, and at the subsequent hearing evidence was presented that he had knowingly misled the trial court in 2015. Id. As such, the Court finds the trial court’s finding was not without merit. Id.

Young goes on to advance arguments about standing for Mother and Faunce, which the Court rejects as both people had party status at hearing. Id. at 1103-04. The Court treats Young’s next argument regarding paternity affidavits in similar fashion – Young argues that the trial court erred by failing to recognize that the signing of the paternity affidavit “conclusively establishes paternity. *See* Ind. Code § 16-37-2- 2.1(p)”. Id. The Court acknowledges this argument, yet goes on to observe that “execution of a paternity affidavit ‘does not preclude another man from attempting to establish paternity of the child.’ *In re Paternity of N.R.R.L.*, 846 N.E.2d 1094, 1097 (Ind. Ct. App. 2006), trans. denied.” Id. at 1103. **Paternity affidavits may be rebutted under the following circumstances:**

“a court: (1) has determined that fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit; and (2) at the request of a man [who is a party to the paternity affidavit] has ordered a genetic test, and the test indicates that the man is excluded as the father of the child.” Id., citing I.C. 16-37-2-2.1(l).

As such, even if the trial court had been provided the paternity affidavit and had been able to rely on it at the 2015 hearing, the establishment of paternity would be rebuttable because Mother fulfilled the first prong when the paternity affidavit was based on Mother’s “knowingly false assertions,” and the second prong was met when Young joined the 2018 request for genetic testing. Id. at 1103-4. As such, the Court finds no abuse of discretion, and the trial court’s orders are upheld.