

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

McQueen v. Stratton

389 So. 2d 1190 (Fla. Dist. Ct. App. 1980) · No. No. 80-175 · Decided October 1, 1980

SUMMARY

The Florida Second District Court of Appeal affirmed a final judgment of paternity against Robert N. McQueen. The court upheld admission of Human Leukocyte Antigen testing, the award of \$650 per month in future child support, and the award of past child support totaling \$40,300.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Campbell, Judge; Hobson, Acting Chief Judge; Danahy, Judge
JURISDICTION	Florida
DECIDED	October 1, 1980
DOCKET	No. 80-175
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment of paternity challenging the admission of HLA test evidence and awards of past and future child support.
STANDARD OF REVIEW	Abuse of discretion for the awards of past and future child support; the court reviewed the trial court's determinations concerning HLA testing and admissibility under the governing authorities.
PRECEDENTIAL VALUE	Published opinion; precedential within the applicable Florida District Court of Appeal jurisdiction.
PARTIES	Robert N. McQueen v. Lucinda B. Stratton

TOPICS

- paternity
- child support
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

- Family law
- Paternity
- Child support
- Evidence
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court properly admitted HLA test results as evidence bearing on paternity.

2. Whether the trial court erred in awarding past child support from the child's birth under section 742.041, Florida Statutes (1979).
3. Whether the trial court abused its discretion by awarding \$650 per month in future child support.

HOLDINGS

1. A putative father may be compelled to submit to HLA testing when the mother has shown good cause, and the trial court properly determined that Stratton had shown good cause.
2. The HLA test results were properly admissible at trial under the rule adopted from Carlyon v. Weeks.
3. The award of past child support from the date of birth in the amount of \$650 per month was not an abuse of discretion.
4. The trial court did not abuse its discretion in awarding \$650 per month in future child support.

KEY QUOTATIONS

"This court held in Simons v. Jorg, 384 So. 2d 1362 (Fla.2d DCA 1980), that a putative father can be compelled to submit to HLA testing if the mother has shown good cause." (389 So. 2d at 1190)

"For the above stated reasons, we affirm the judgment of the trial court." (389 So. 2d at 1191)

FACTUAL BACKGROUND

The paternity action involved HLA testing of McQueen, the putative father, after the mother demonstrated good cause for the testing. The trial court admitted the HLA test results and entered a paternity judgment. It awarded \$650 per month in future child support and the same monthly amount as past support from the child's birth, producing an arrearage of \$40,300; the record showed McQueen's assets exceeded \$800,000, and his evidence did not contradict the mother's testimony about the child's needs.

PROCEDURAL HISTORY

The trial court entered a final judgment of paternity, admitted HLA test evidence, awarded \$650 per month in future child support, and awarded past child support from the child's birth in the same monthly amount, resulting in a \$40,300 arrearage. McQueen appealed, and the District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Simons v. Jorg, 384 So. 2d 1362 (Fla. 2d DCA 1980)
- Carlyon v. Weeks, 387 So. 2d 465 (Fla. 1st DCA 1980)

OPINION

PER CURIAM.

389 So. 2d 1190 (1980) Robert N. McQueen, Appellant, v. Lucinda B. STRATTON, Appellee. No. 80-175. District Court of Appeal of Florida, Second District. October 1, 1980. Rehearing Denied November 12, 1980. Britt Whitaker, Tampa, and Chris W. Altenbernd of Fowler, White, Gillen, Boggs, Villareal & Banker, P.A., Tampa, for appellant. Charles L. Carlton of Carlton & Carlton, P.A., Lakeland, and Gary A. Kahle of Olmsted, Schwarz, Kahle & Casanueva, Port Charlotte, for appellee.

CAMPBELL, Judge. McQueen appeals a final judgment of paternity, alleging that the Human Leukocyte Antigen (HLA) test should not have been admitted into evidence as the primary means of proving paternity. He also appeals the award of \$650 per month future child support and past child support from the date of birth in the same monthly amount, a total arrearage of \$40,300.

We reject McQueen's arguments. This court held in *Simons v. Jorg*, 384 So. 2d 1362 (Fla.2d DCA 1980), that a putative father can be compelled to submit to HLA testing if the mother has shown good cause. The trial court in the instant case followed *Simons v. Jorg*, *supra*, and determined that Lucinda Stratton had shown good cause.

As to the admissibility of the test results at trial, we adopt the opinion of our sister court in *Carlyon v. Weeks*, 387 So. 2d 465 (Fla. 1st DCA 1980). Regarding the award of past child support, appellant has failed to show that the trial court has abused its discretion. Appellant presented no evidence at trial which would prevent an award of past child support.

See § 742.041, Fla. Stat. (1979). Appellant has also failed to demonstrate that the trial court abused its discretion in awarding \$650 per month future child support payments. The only evidence presented on the needs of the child was the testimony of the mother. This testimony supports the trial court's order and was not contradicted by McQueen.

The ability of *1191 the husband to pay the amount awarded is also supported by the record as it reveals his assets to be in excess of \$800,000. For the above stated reasons, we affirm the judgment of the trial court. HOBSON, Acting C.J., and DANAHY, J., concur.