

COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT

Wilson v. Montgomery

2026-Ohio-1434 · No. 25AP-318 · Decided April 21, 2026

SUMMARY

The Ohio Tenth District Court of Appeals affirmed the Franklin County Court of Common Pleas judgment granting Kelly Moore’s motion for relief from judgment and ordering genetic testing concerning the elder child. The court held that Ohio law provides a potential avenue to challenge a final acknowledgment of paternity under R.C. 3119.962 and that the genetic-testing order was not void. The court also upheld intervention despite Moore’s failure to attach a pleading as required by Civ.R. 24(C), construing the rule liberally in light of the parental rights at issue.

CASE DETAILS

|                       |                                                                                                                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Ohio, Tenth Appellate District                                                                                                                                                                                   |
| WRITING FOR THE COURT | Boggs, P.J.; Jamison, J.; Dingus, J.                                                                                                                                                                                                 |
| JURISDICTION          | Ohio Court of Appeals, Tenth Appellate District                                                                                                                                                                                      |
| DECIDED               | April 21, 2026                                                                                                                                                                                                                       |
| DOCKET                | 25AP-318                                                                                                                                                                                                                             |
| DISPOSITION           | affirmed                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Joyce Wilson appealed the trial court's March 27, 2025 judgment granting Kelly Moore's motion for relief from judgment, ordering genetic testing of the elder child, and denying Wilson's motion to reconsider.                      |
| STANDARD OF REVIEW    | Abuse of discretion for the trial court's resolution of the motion to intervene and motion for relief from judgment; appellate jurisdiction was reviewed under the final-order provisions of the Ohio Constitution and R.C. 2505.02. |
| PRECEDENTIAL VALUE    | Published Ohio Court of Appeals opinion                                                                                                                                                                                              |
| PARTIES               | Joyce Wilson v. Keathen Montgomery, Kelly Moore                                                                                                                                                                                      |

TOPICS

- family law procedure
- grandparent rights
- paternity
- intervention
- appellate jurisdiction

## PRACTICE AREAS

family law

civil procedure

appellate procedure

constitutional law

## QUESTIONS PRESENTED

1. Whether the trial court's order requiring genetic testing was void because the acknowledged paternity could no longer be challenged under the time limit in R.C. 3111.28.
2. Whether the trial court abused its discretion by permitting intervention when Moore did not attach a pleading as required by Civ.R. 24(C).
3. Whether Moore's motion to intervene was substantively or temporally defective.
4. Whether the order granting intervention was appealable in the appeal from the later final judgment.

## HOLDINGS

1. The genetic-testing order was not void. R.C. 3119.962 provides an additional mechanism for obtaining relief from a final acknowledgment of paternity when genetic testing shows no probability that the acknowledged father is the child's natural father, and that mechanism is not subject to the one-year limitation applicable to an action under R.C. 3111.28.
2. The trial court did not abuse its discretion in granting intervention despite Moore's failure to attach a pleading, because his motion clearly stated the grounds and purpose for intervention.
3. Wilson properly raised the intervention-related assignments of error in the appeal from the later final judgment because an order granting intervention is not a final, appealable order.

## KEY QUOTATIONS

*“while the denial of a motion to intervene is a final, appealable order, the granting of such a motion is not a final order.”* (¶ 15)

## FACTUAL BACKGROUND

Joyce Wilson, the maternal grandmother of two children, filed a custody complaint asserting that Keathen Montgomery was the biological father and had acknowledged paternity, while allegedly failing to support or meaningfully communicate with the children. The trial court awarded Wilson custody. Kelly Moore, who claimed to be the putative father of the elder child, had previously filed a separate action seeking allocation of parental rights and genetic testing, but Wilson's later custody complaint did not disclose that proceeding. Moore moved to intervene and obtain relief from the custody judgment, and the trial court ordered genetic testing.

## PROCEDURAL HISTORY

Wilson, the maternal grandmother, filed a custody complaint concerning her two grandchildren and obtained an order awarding her custody. Moore later moved to intervene and sought relief from that judgment, asserting that he was the putative father of the elder child and that Wilson had failed to disclose an earlier custody and parentage proceeding. The trial court granted intervention, granted relief from judgment, ordered genetic testing, and denied reconsideration. The Tenth District affirmed.

## DISPOSITION

affirmed

## CASES CITED

- S.N. v. M.B., 2010-Ohio-2479, ¶ 23 (10th Dist.)
- Clark v. Malicote, 2011-Ohio-1874, ¶ 12, fn. 3 (12th Dist.)
- Angus v. Angus, 2015-Ohio-2538, ¶ 20 (10th Dist.)
- Santosky v. Kramer, 455 U.S. 745, 753 (1982)
- Harrold v. Collier, 107 Ohio St.3d 44, 50 (2005)
- In re T.J., 2010-Ohio-4191, ¶ 9 (10th Dist.)
- In re E.C., 2023-Ohio-2072, ¶ 24 (10th Dist.)
- In re Cunningham, 59 Ohio St.2d 100, 106 (1979)
- Taylor v. Haven, 91 Ohio App.3d 846, 852 (12th Dist. 1993)
- Strack v. Pelton, 70 Ohio St.3d 172, 175 (1994) (Pfeifer, J., dissenting)
- Okey v. Worthington City Schools, 2000
- Wilson v. Maurer, 1992 Ohio
- Manchester Ins. & Indem. Co., 1991 Ohio App. LEXIS 5382 (Nov. 5, 1991) (10th Dist.)
- Fouche v. Denihan, 66 Ohio App.3d 120 (1990)
- Tatman v. Fairfield Cty. Bd. of Elections, 2004-Ohio-3701
- State ex rel. Geauga Cty. Bd. of Commrs. v. Milligan, 2003-Ohio-6608
- State ex rel. Wilkinson v. Reed, 2003-Ohio-2506
- State ex rel. Merrill v. Ohio Dept. of Natural Resources, 2011-Ohio-4612, ¶ 41
- State ex rel. First New Shiloh Baptist Church v. Meagher, 1998-Ohio-192, fn. 1
- Blakemore v. Blakemore, 5 Ohio St.3d 217, 219 (1983)
- Whitehall v. Olander, 2014-Ohio-4066, ¶ 34 (10th Dist.)
- State ex rel. SuperAmerica Group v. Licking Cty. Bd. of Elections, 1997-Ohio-347
- Crittenden Court Apt. Assoc. v. Jacobson/Reliance, 2005-Ohio-1993, ¶ 14 (8th Dist.)

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