

SUPREME COURT OF GEORGIA

Veal v. Veal

281 Ga. 128 (Ga. 2006) · Decided October 16, 2006

SUMMARY

The Georgia Supreme Court held that a husband who was neither the biological nor legal father of a child born before the parties’ marriage could not obtain custody over the biological mother’s objection. The court concluded that the husband had not established parental rights through legitimation or marriage-based legitimacy provisions and that adoption was the proper means of establishing legal paternal ties. The court reversed the trial court’s custody award.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Sears, Chief Justice
JURISDICTION	Georgia
DECIDED	October 16, 2006
DISPOSITION	reversed
PROCEDURAL POSTURE	Wife appealed from a trial court order awarding full custody of her biological daughter to husband, her former spouse and the child's stepfather.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of Georgia.
PARTIES	Ms. Veal, wife v. Mr. Veal, husband

TOPICS

- child custody
- parental rights
- family law procedure
- statutory interpretation
- adoption

PRACTICE AREAS

- family law
- child custody
- parental rights
- statutory interpretation

QUESTIONS PRESENTED

1. Whether a husband who is neither the biological nor legal father of a child born out of wedlock may obtain custody of the child from the biological mother based on his marriage to the mother, his treatment of the child as his own, and the placement of his name on the birth certificate.

2. Whether OCGA §§ 19-7-20(c) or 19-7-22 permitted the stepfather to establish legal paternal ties or obtain custody without a formal legitimation or adoption proceeding.

HOLDINGS

1. A stepfather who is neither the biological nor the legal father of a child born out of wedlock may not obtain custody from the biological mother merely because he married the mother, was listed on the birth certificate, or treated the child as his own.
2. The husband's presence at the child's birth, placement of his name on the birth certificate, subsequent marriage to the mother, and treatment of the child as his own did not legitimate the child or make him the legal father because the parties acknowledged that he was not the biological father and he was not married to the mother when the child was born.

KEY QUOTATIONS

“The fact that a biological mother has subsequently married a man, even one who has been a laudable stepfather to her child, cannot, under the law, threaten the mother’s custodial rights.” (130)

“Because husband is neither the biological nor the legal father of H., we conclude that the trial court erred by awarding him custody of the child.” (130)

FACTUAL BACKGROUND

H. was born before the parties married, and both parties knew that husband was not her biological father. Husband's name was placed on H.'s birth certificate, he was present at her birth, and he subsequently treated her as his child. After the parties separated and divorced, the trial court awarded husband full custody of H., despite husband never having initiated a legitimation proceeding and never becoming H.'s biological or legal father.

PROCEDURAL HISTORY

The parties' divorce decree addressed custody and visitation for their three marital children but did not address H., who had been born before the marriage. Husband later moved to set aside the decree as void for failing to address H.'s custody and visitation. The trial court reopened the matter, initially awarded joint custody, and later awarded husband full custody based on an asserted change in circumstances. The Supreme Court of Georgia reversed.

DISPOSITION

reversed

CASES CITED

- Clements v. Phillips, 235 Ga. App. 588, 589, 510 S.E.2d 311 (1998)
- In re Pickett, 131 Ga. App. 159, 160, 205 S.E.2d 522 (1974)
- Baker v. Baker, 276 Ga. 778, 582 S.E.2d 102 (2003)

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