

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION ONE

County of Los Angeles v. Lugo

Lugo · No. B344575 · Decided November 21, 2025

SUMMARY

The California Court of Appeal held that a request to set aside a voluntary declaration of paternity filed before January 1, 2020, may be timely under former Family Code section 7575, subdivision (c) (1), when filed within a reasonable time and no more than six months after an initial court order for custody, visitation, or child support based on the declaration. The court reversed the order denying Henry J. Lugo III’s request as untimely and remanded for the trial court to consider the merits.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division One
WRITING FOR THE COURT	M. Kim, J.; Bendix, Acting P. J.; Weingart, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division One
DECIDED	November 21, 2025
DOCKET	B344575
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the Los Angeles County Superior Court denying as untimely Lugo's request under Family Code section 7576 to set aside a voluntary declaration of paternity.
STANDARD OF REVIEW	De novo review of the legal question whether the request to set aside the voluntary declaration of paternity was timely.
PRECEDENTIAL VALUE	Published; certified for publication
PARTIES	Henry J. Lugo III v. County of Los Angeles

TOPICS

- family law procedure
- paternity
- child support
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- family law
- parentage
- child support
- appellate procedure

QUESTIONS PRESENTED

1. Whether the current two-year deadline in Family Code section 7576 or the former deadline in Family Code section 7575, subdivision (c)(1), governed a request to set aside a voluntary declaration of paternity filed before January 1, 2020.
2. Whether Lugo's request to set aside the voluntary declaration was timely when filed within six months, and within a reasonable time, after the trial court entered an initial child-support order based on the declaration.

HOLDINGS

1. If a voluntary declaration of paternity was filed before January 1, 2020, a request to set it aside may be timely filed within the time permitted by former Family Code section 7575, subdivision (c)(1), rather than under the current two-year deadline in Family Code section 7576.
2. Lugo's request was timely because he filed it within a reasonable time and within six months after the trial court entered the initial child-support order based on the voluntary declaration.

KEY QUOTATIONS

“Specifically, the request is timely if filed within a reasonable time, not exceeding six months, after a court makes an initial order for custody, visitation, or child support based on the VDOP.” (at 1-2)

“Considering all relevant factors, we conclude that the Judicial Council’s statutory interpretation in adopting forms FL-280 and FL-281 “is entitled to great weight and will be overturned only if it is clearly erroneous.”” (at 20)

“Accordingly, we hold that the trial court erred by denying Lugo’s request as untimely.” (at 24)

FACTUAL BACKGROUND

In March 2015, Henry J. Lugo III and Antoinette Martinez signed a voluntary declaration of paternity identifying Lugo as the biological father of Martinez's child, and the declaration was filed with the California Department of Child Support Services. In 2023, the County of Los Angeles sued Lugo to establish child support based on the declaration, and the trial court entered an initial order requiring him to pay \$584 per month. Lugo filed a request to set aside the declaration on October 8, 2024, five months and eight days after the initial child-support order, alleging fraud. The trial court denied the request as untimely under the current two-year deadline in Family Code section 7576.

PROCEDURAL HISTORY

Lugo signed and filed a voluntary declaration of paternity in 2015. After the County sued him in 2023 to establish child support based on the declaration, the trial court entered an initial child-support order on April 30, 2024, followed by a judgment on July 31, 2024. Lugo filed a request to set aside the declaration on October 8, 2024, within six months of the initial child-support order. The trial court denied the request as untimely, and Lugo appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order denying Lugo's request to set aside the voluntary declaration of paternity as untimely is reversed. The trial court must accept the request as timely and rehear it on the merits. The opinion expresses no view on the merits. Lugo is entitled to his costs on appeal.

CASES CITED

- Malone v. Big Flat Gravel Mining Co., 93 Cal. 384, 390 (1892)
- Hearn Pacific Corp. v. Second Generation Roofing, Inc., 247 Cal. App. 4th 117, 133 (2016)
- In re Marriage of Kelkar, 229 Cal. App. 4th 833, 838 (2014)
- In re Marriage of Fellows, 39 Cal. 4th 179, 183, 186-187 & fn. 10 (2006)
- In re Marriage of Heikes, 10 Cal. 4th 1211, 1214 n.1 (1995)
- Sara M. v. Superior Court, 36 Cal. 4th 998, 1011-1014 (2005)
- Yamaha Corp. of America v. State Bd. of Equalization, 19 Cal. 4th 1, 12 (1998)
- In re M.B., 201 Cal. App. 4th 1057, 1063 (2011)
- In re Marriage of McKim, 6 Cal. 3d 673, 678 n.4 (1972)
- In re Marriage of Fink, 54 Cal. App. 3d 357, 365 (1976)
- In re Marriage of Lusk, 86 Cal. App. 3d 228, 232-233 (1978)
- Munn v. Briggs, 185 Cal. App. 4th 578, 593 n.5 (2010)
- Rice v. Rice, 93 Cal. App. 2d 646, 651 (1949)
- Don v. Cruz, 131 Cal. App. 3d 695, 702 n.2 (1982)