

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Michael N. v. Brandy M. and Allen M.

No. 18-0780, slip op. (W. Va. June 17, 2020) · No. No. 18-0780 · Decided June 17, 2020

SUMMARY

This is a dissenting opinion in a West Virginia Supreme Court of Appeals case concerning whether a putative biological father may establish paternity of children born while their mother was married to another man. The dissent argues that the majority improperly expanded judicially created exceptions to West Virginia Code § 48-24-101 and intruded on the Legislature's authority, while also questioning whether the children's best interests were adequately protected.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Armstead
JURISDICTION	West Virginia
DECIDED	June 17, 2020
DOCKET	No. 18-0780
DISPOSITION	other
PROCEDURAL POSTURE	Dissent from the Supreme Court of Appeals of West Virginia majority's decision expanding the circumstances in which a putative biological father may establish standing to bring a paternity action concerning children born while their mother was married to another man.
PRECEDENTIAL VALUE	Dissenting opinion; no independent binding precedential value
PARTIES	Michael N. v. Brandy M., Allen M.

TOPICS

paternity family law statutory interpretation constitutional law appellate procedure

PRACTICE AREAS

Family law constitutional law statutory interpretation appellate procedure

QUESTIONS PRESENTED

1. Whether a putative biological father may assert paternity over children born while their mother was married to another man when the statutory standing requirements do not expressly authorize the action.
2. Whether the Supreme Court may expand the judicially created exceptions to West Virginia Code § 48-24-101 to recognize standing based on a paternal relationship allegedly prevented from developing by the conduct of others.
3. Whether the statutory limitations on paternity standing should be modified by the Court or instead addressed by the Legislature.

HOLDINGS

1. The dissent would hold that expanding the Stone exceptions to permit the petitioner's paternity action improperly rewrites West Virginia Code § 48-24-101 and invades the Legislature's lawmaking authority.

KEY QUOTATIONS

“This Court does not sit as a superlegislature, commissioned to pass upon the political, social, economic or scientific merits of statutes pertaining to proper subjects of legislation.” (3)

“Accordingly, I dissent from the majority’s holding that special circumstances exist for this Court to expand upon Stone, because I believe such expansion is an improper, Court-ordered, modification of West Virginia Code § 48-24-101(e) and because I believe it undermines the safeguards imbedded in that statute to protect the best interests of the children.” (7-8)

FACTUAL BACKGROUND

The children at issue were born while Brandy M. was married to Allen M. Michael N. knew that Brandy M. was married to Allen M. when he engaged in an intimate relationship with her, continued the relationship after it became apparent that she would not divorce Allen M., and was absent for a significant period before asserting paternity and seeking a parental role. The circuit court was concerned that allowing the paternity claim could cause emotional or psychological harm and disrupt the children's established family relationship with Allen M., the only father they had known.

PROCEDURAL HISTORY

Michael N. sought to establish paternity of children born to Brandy M. while she was married to Allen M. The circuit court expressed concern about disruption to the established family and the best interests of the children and concluded that Michael N. lacked clean hands. The majority of the Supreme Court of Appeals held that special circumstances permitted the paternity action to proceed under an expanded framework; Chief Justice Armstead dissented.

DISPOSITION

other

CASES CITED

- Ray v. Ray, 219 N.C. 217, 13 S.E.2d 224 (1941)
- State v. Reed, 107 W. Va. 563, 149 S.E. 669 (1929)
- State ex rel. J. L. K. v. R. A. I., 170 W. Va. 339, 294 S.E.2d 142 (1982)
- Powell v. State, 84 Ohio St. 165, 95 N.E. 660 (1911), overruled on other grounds, State ex rel. Walker v. Clark, 144 Ohio St. 305, 58 N.E.2d 773 (1944)
- State ex rel. Roy Allen S. v. Stone, 196 W. Va. 624, 474 S.E.2d 554 (1996)
- State v. Epperly, 135 W. Va. 877, 65 S.E.2d 488 (1951)
- Dunlap v. State Compensation Director, 149 W. Va. 266, 140 S.E.2d 448 (1965)
- State v. Elder, 152 W. Va. 571, 165 S.E.2d 108 (1968)
- Crockett v. Andrews, 153 W. Va. 714, 172 S.E.2d 384 (1970)
- Appalachian Power Co. v. State Tax Dep't of West Virginia, 195 W. Va. 573, 466 S.E.2d 424 (1995)
- Boyd v. Merritt, 177 W. Va. 472, 354 S.E.2d 106 (1986)
- Michael K.T. v. Tina L.T., 182 W. Va. 399, 387 S.E.2d 866 (1989)