

STATE OF MICHIGAN
IN THE SUPREME COURT

(On Application for Leave to Appeal from the Published Decision of the Court of Appeals,
Sawyer, P.J., O'Connell & Kelly, J.J.)

MATHEW HELTON,
Plaintiff-Appellant,
vs.

Supreme Court No.: 148927
Court of Appeals No.: 314857
Lower Court No.: 2012-798218-DP

LISA MARIE BEAMAN and
DOUGLAS BEAMAN,

Defendant-Appellees,

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148927 (46)
for Spec. Report
DEFENDANT-APPELLEES' RESPONSE TO APPLICATION FOR APPEAL

ORAL ARGUMENT REQUESTED

PROOF OF SERVICE

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TABLE OF EXHIBITS

Exhibit A – Order of January 30, 2013 (Order Appealed From)

Exhibit B – Trial Transcript of 1/18/13; Pgs. 99-102 & 144-145

Exhibit C - Court of Appeals Published Opinions of February 4, 2014

TABLE OF AUTHORITIES

Cases

Sinicropi v Mazurer, 273 MA 149 (2006)

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MCL 722.28

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STATEMENT OF JURISDICTION

The jurisdiction statement is complete and correct.

ISSUE PRESENTED

Appellee accepts Appellant's Issue Presented.

STATEMENT OF FACTS

Appellees accept Appellant's Statement of Facts and accepts the Court's concise and accurate finding of facts and procedural history stated in its' January 30, 2013 Opinion and Order (Attached as Exhibit A).

ARGUMENT

Issue

DID THE TRIAL COURT REVERSIBLY ERR IN DECIDING THAT GRANTING PLAINTIFF'S REQUEST WOULD NOT BE IN THE CHILD'S BEST INTERESTS UNDER MCL 722.1443(4) WHERE IT 1) WAS UNCLEAR ON THE BURDEN OF PROOF; 2) DENIED PLAINTIFF'S REQUEST TO OFFER EXPERT TESTIMONY REGARDING THE CHILD'S BEST INTERESTS AND THE POTENTIAL OF HARM AND 3) THE TRIAL COURT MADE FACTUAL FINDINGS AGAINST THE GREAT WEIGHT OF THE EVIDENCE, SEVERAL OF WHICH WERE COMPLETELY REFUTED BY AND UTTERLY CONTRARY TO THE RECORD IN THIS CASE AND SHOULD THIS COURT GRANT LEAVE TO APPEAL TO SETTLE THE LAW REGARDING JUDICIAL CONSTRUCTION OF THE REVOCATION OF PARENTAGE ACT?

The trial court answered this question: No.

The Court of Appeals answered this question: No.

The Defendant-Appellees will answer this question: No.

The Plaintiff-Appellant answers this question: Yes.

Standard of Review

Appellees accept Appellant's Standard of Review as *de novo* for this issue.

Analysis

Without being repetitive as to the facts as previously outlined, Defendant Douglas Beaman has been the only father Teagan has known for the past 11 years.

Mr. Beaman was with her and raised her since she was born. He was at the hospital, he diapered her, fed her, played with her, taught her to play catch, ride a bicycle, went sledding in

the winter and played in the leaves in the fall. She calls him **daddy** and they have a significant long enduring bond and a father-child trust relationship. TR. 99-102 (Attached as Exhibit B).

Mr. Helton, as he stated, only had brief moments during his time with his daughter. Had he been so proud of her and happy to be with her, he surely would have had mountains of photos of Teagan with the family; holding her, riding a bike, etc. None was produced as evidence. TR. 144-145. Helton was only a sperm donor; never a father.

In *Sinicropi v Mazurer*, 273 MA 149 (2006) this Court did not revoke the Acknowledgment after a 5 year child-father relationship. It is now over 11 years for Teagan.

Although this case deals with the ROPA, perhaps some guidance can be gleaned from the Child Custody Act of 1970.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.28 Child custody disputes; appeal, grounds.

Sec. 8 To expedite the resolution of a child custody dispute by prompt and final adjudication, all orders and judgments of the circuit court shall be affirmed on appeal unless the trial judge made findings of fact against the great weight of evidence or committed a palpable abuse of discretion or a clear legal error on a major issue.

Judge Pezzetti did not commit a palpable abuse of discretion or a clear legal error.

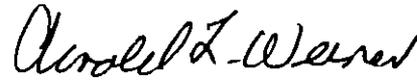
All the evidence presented on both sides demonstrated that Teagan was a well adjusted child doing well in school and at home.

When Judge Pezzetti denied the request for "expert testimony", i.e. the evaluation of the child and family, she was well within her right to do so based on the law and her vast experience as both a family law and probate court judge.

Judge Pezzetti correctly found it was in Teagan's best interest to not set aside the Acknowledgment of Parentage and thus allow Teagan to continue her well adjusted life.

RELIEF REQUESTED

Wherefore, Defendants-Appellees, **LISA MARI BEAMAN and DOUGLAS BEAMAN**, respectfully requests that this Honorable Court deny leave to appeal and upon doing so affirm the Court of Appeals February 4, 2014 published decision and the Oakland Family Court's Order of January 13, 2013 denying his request to set aside the 2003 affidavit of parentage under the Revocation of Parentage Act.



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