



DISTRICT COURT



SEVENTH JUDICIAL DISTRICT, STATE OF OKLAHOMA
OKLAHOMA COUNTY COURTHOUSE
OKLAHOMA CITY, OKLAHOMA 73102

LYNNE McGUIRE
SPECIAL JUDGE

TELEPHONE:

(405) 713-1113

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

LETTER RULING

FEB 13 2023

RICK WARREN
COURT CLERK

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February 13, 2023

Mr. Seth Von Tungelin
6414 N. Santa Fe Ave., Ste. A
OKC, OK 73116

Ms. Robyn B. Hopkins
1225 Piedmont Rd. N.
Piedmont, OK 73078

Ms. Rachel S. Morris
39 E. 15th Street
Edmond, OK 73013

RE: FD-2021-3681 Wilson v. Williams; FP-22-44 Vaughn v. Wilson

Dear Counsel:

On November 14, 15, 17, and 18, 2022, trial was held in this matter. The parties subsequently provided the Court written closing arguments. The matter was then taken under advisement. The following represents the ruling of this Court.

The issue before this Court is the determination as to who are the legal parents of the minor child at issue in this case. In that regard the Court makes the following:

Findings of Fact

1. On September 29, 2018, Wilson, (an unmarried woman), entered into a 'Known Sperm Donor Agreement (hereinafter 'the agreement'), with Vaughn (an unmarried man). Although both parties signed the agreement, neither believed it to be valid.
2. Williams was not a party to the agreement, nor is she included or referenced in any portion of the agreement.

3. The agreement states that Wilson alone decided to 'conceive and raise a child.'
4. The agreement states that Wilson and 'a conceived child' would constitute a 'family.'
5. In the agreement, Vaughn agrees to facilitate the adoption of the minor child if asked to do so by Wilson.
6. Vaughn was never asked by Wilson or Williams to facilitate or approve an adoption of the minor child.
7. Wilson met Vaughn in Texas where they signed the Agreement. Williams was not present.
8. Several at-home, non-medically assisted, inseminations took place over the weekend of December 7-9, 2018, which resulted in Wilson becoming pregnant.
9. Williams and Wilson were legally able to marry both before and after the birth of the minor child.
10. Vaughn was notified of the pregnancy and attended a couple of prenatal appointments.
11. Wilson and Williams married on June 1, 2019.
12. Wilson gave birth to the minor child in August of 2019.
13. Williams was present at the birth of the minor child.
14. Vaughn was notified of the birth of the minor child.
15. Williams filled out the birth certificate. Wilson signed it, although she disputes being aware of what she signed. Williams was listed as Second Mother on the birth certificate.
16. The minor child was given William's surname.
17. Although Williams did not participate in the execution of the agreement and was not included therein, Williams married Wilson knowing Wilson was pregnant with the minor child.
18. Williams was actively involved in the minor child's life up until November 2021 at which time Wilson obtained a Victim Protective Order against Williams and moved in with Vaughn.
19. On December 2, 2021, Wilson filed a Petition in PO-21-3305, alleging domestic abuse and harassment by Williams.
20. An Emergency Order of Protection was approved by another Court on December 2, 2021. The minor child was included on the Emergency Order, which resulted in a no-contact order between Williams and the minor child.
21. In an article written after the birth of the minor child for Metro Family Magazine (hereinafter 'article') by Wilson, Wilson wrote she and Williams talked about 'having a baby' about three years into their relationship.
22. In the article, Wilson writes 'legally speaking, the most secure way to conceive is to use a sperm bank AND complete a second-parent adoption.'
23. In the article, Wilson writes *they (emphasis added)* used a known donor in order for the minor child to know and have a relationship with his biological father.
24. In the article, Wilson identified Vaughn by his first name and refers to him as the minor child's 'dad.'
25. Williams introduced in trial as R's Ex 16(B), a blog (hereinafter 'blog') written by Vaughn on March 1, 2019, titled 'I'm gonna be a dad! My journey toward becoming a (gay) known donor.'
26. In the blog, Vaughn writes "I'm gonna be a dad!"

27. In the blog, Vaughn writes, ‘...arrangement is unorthodox, as in - not the norm. I’ll be known as the father, and its moms, (yes, plural) will be the primary caregivers.’
28. In the blog, Vaughn writes, ‘So I’m basically a sperm donor.’ Later in the blog, he writes ‘But for now, I’m beginning to embrace a new role as a father to a new human.’
29. In August of 2020, in the midst of the ongoing COVID pandemic, Vaughn began having zoom video calls with the minor child.
30. During video calls over Thanksgiving 2020, the minor child was introduced to members of Vaughn’s extended family.
31. Wilson and the minor child referred to Vaughn as ‘dad.’
32. In April 2021, Vaughn along with his mother and stepdad, met the minor child in person.
33. Vaughn moved to Oklahoma City in October of 2021 and began spending time with the minor child.
34. Wilson and the minor child began living with Vaughn in November of 2021.
35. On December 2, 2021, Wilson filed a Petition for Dissolution of Marriage from Williams, alleging no children of the marriage, ‘there is one child that was born during the marriage, however, the alleged/biological father has held himself out as the father for approximately the past year and a half, the minor child knows his biological father, and his biological extended family.’
36. On December 14, 2021, Williams filed a Response and Counterclaim alleging ‘the parties have one minor child.’ Williams did not allege the child was of the marriage or an issue of the marriage.
37. On January 18, 2022, Vaughn filed a Petition for Adjudication of Paternity and Establishment of Custody and Visitation in Oklahoma County Case FP-2022-44, alleging he was the biological father of the child. The Petition names Wilson as the biological mother, that the child was born while Wilson was married to Williams, and that no second parent adoption was filed after the child’s birth.
38. Williams testified and it was uncontroverted, that Williams and Wilson ‘stopped having sex’ prior to the marriage.
39. Williams suggested to Wilson via text they could purse an annulment based upon the failure to consummate their marriage.
40. Both Wilson and Vaughn testified they did not believe their contract was valid and officially terminated it in writing on February 2022.
41. In 2022, Wilson gave birth to another child. Vaughn is the biological father of that child. That child is not the subject of this ruling.
42. The three parties each held this child as their own prior to and after the child’s birth.
43. All three parties have bonded with the minor child.
44. Williams knew that she needed to do a second-parent adoption to secure parental rights of the minor child, but never attempted to do so.
45. Two married men would not be able to seek the same relief that Williams seeks from this Court.
46. It is undisputed that Wilson gave birth to the minor child, and that Vaughn is the biological father.

47. The minor child has lived exclusively with Wilson and Vaughn since November of 2021.
48. Williams has had no contact with the minor child since November 23, 2021.
49. Vaughn has been demonstrably involved in the minor child's life and held the child out as his own.

Conclusions of Law

This Court must make a ruling regarding the legal parentage of W.R.W.W. born in 2019, and more specifically, who are the legal parents of the minor child of this matter.

It is longstanding Oklahoma law that a mother-child relationship is established between a woman and a child by 1) The woman having given birth to the child; 2) Adoption of the child by the woman; or 3) Otherwise provided by law. 10 O.S. § 7700-201. The relevant issues in this matter must be governed by either the Uniform Parentage Act, laws regarding artificial insemination which would include the Oklahoma Gestational Act, or case law from the Supreme Court of Oklahoma regarding same-sex marriage and parentage, and, as is always the case, the best interests of the minor child.

The **Uniform Parentage Act** that Oklahoma adopted was enacted in 2006 and does not take into account same-sex marriage, and there is no presumption that the wife of the mother is automatically the presumed parent of a child born during the marriage. "Oklahoma's Uniform Parentage Act, 10 O.S. §§ 7700-101 to 7700-902, was enacted in 2006 and appears to have in no way anticipated conflicts between biological and non-biological same-sex co-parents regarding the parental rights of children artificially conceived.

The Uniform Parentage Act is specific on how a parent-child relationship is established, and it does not include **artificial insemination**. It does, however, include **adoption** and as otherwise provided by law. The law enables a mother-child relationship to be established through adoption and does not discriminate based upon marital status. It is un rebutted that if the parties in this case had sought an adoption that the laws of the Oklahoma would have permitted them to complete the adoption.

It is un rebutted that the parties performed an at-home, non-medically assisted artificial insemination. The Court finds the intimate details of the insemination are not relevant to the ultimate determination and will not address that testimony. It is further un rebutted that the parties did not comply with any of the laws regarding artificial insemination pursuant to 10 O.S. § 551, et seq.

The **Oklahoma Gestational Agreement Act**, 10 O.S. § 557, et al. became effective May 23, 2019, after the minor child was conceived. However, if it had been in effect at the time of conception, it would not have been applicable to the facts of this case as Wilson would not have been considered a 'gestational carrier.'

The **Uniform Parentage Act** applies to the determination of parentage in this state. Section 7700-103 (C) specifically states, "The Uniform Parentage Act does not create, enlarge, or diminish parental rights or duties under other laws of this state." As stated above, the Act appears to have in no way anticipated conflicts between biological and non-biological same-sex co-parents regarding the parental rights of children artificially conceived. That being said, there is not textual analysis which dictates how to proceed. Textually speaking, the Uniform Parentage Act does not apply to this matter in the manner that Ms. Williams is wanting it to apply.

Based upon the evidence and testimony presented, this Court finds:

Williams did not give birth to the minor child, and therefore cannot establish a mother-child relationship under 10 O.S. § 7700-201(A) (1).

Williams did not adopt the minor child, and therefore cannot establish a mother-child relationship under 10 O.S. § 7700-201(A) (2).

Williams identifies as female and was born a woman, and therefore cannot establish a father-child relationship under 10 O.S. § 7700-201(B) or have the benefit of a presumption of paternity 10 O.S. § 7700-204, as Oklahoma has not yet adopted gender neutral language in the Uniform Parentage Act.

As there is no presumed father under current Oklahoma law, a proceeding to adjudicate the paternity of the minor child can be commenced at any time pursuant to 10 O.S. § 7700-606.

Vaughn's Petition to Adjudicate Parentage was timely filed.

Even if Williams were to be considered to be a "presumed father" of the minor, said presumption can be rebutted by biology, which is undisputed in this case.

Williams and Wilson could have legally married prior to the agreement between Wilson and Vaughn and/ or prior to the conception of the minor child. They did not.

As such, the court in *Guzman v. Guzman*, 2021 OK 26, 507 P.3d 630 makes it clear that *Schnedler v. Lee*, 2019 OK 52, 445 P.3d 238, is inapplicable in this case.

There was no legal bar to Respondent Williams adopting the minor child following his birth.

While Williams was able to prove by a preponderance of the evidence that she acted in a parental role during her marriage, there was no evidence presented regarding the length of time it would take to establish a "meaningful emotional relationship with the child." In the *Schnedler* case, that period was eight years. A stepparent can also act in a parental role.

Although the Uniform Parentage Act doesn't apply to Williams, it does apply to Wilson and Vaughn.

Pursuant to 10 O.S. § 7700-102, Vaughn is the alleged father of the minor child because in addition to Vaughn alleging that he is the father of the minor child, so did Wilson and Williams, both in court and prior to any legal proceeding being filed. Pursuant to 10 O.S. § 7700-623, Vaughn admitted under oath, as did Wilson and Williams, that Vaughn is the father of the minor child, and pursuant to 10 O.S. § 7700-623 (B) "If the court finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity."

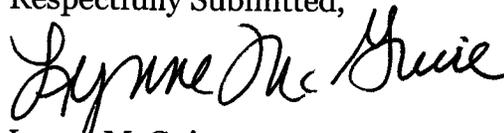
Williams, through her testimony and exhibits presented during the trial, admitted that she and Wilson discussed adoption. Furthermore, Williams admitted she knew that under Oklahoma Law she needed to adopt the minor child to establish parental rights. Williams chose not to adopt. Williams testified that she didn't believe it was fair that she would have to seek court intervention to establish parental rights of the minor child. As a point of reference, in 2019, there were well over one-thousand (1000) cases filed in Oklahoma County, wherein parties were seeking a judicial determination regarding a paternity matter. This number does not include the number of adoptions that were also filed that year. The reality is that the law provides a legal remedy to those seeking to establish parental rights. There was a legal remedy available to Williams. She knowingly chose not to pursue it.

Based upon the evidence and testimony presented, the Court finds the legal parents of the minor child are Wilson and Vaughn. Vaughn is hereby adjudicated the father of the minor child.

The minor child has lived with his mother and father exclusively since November 2021. The minor child now has a sibling that lives with him in the family home. The court further finds that the aforementioned determination with regard to parentage is in this minor child's best interest.

The Court requests a Journal Entry be prepared reflecting this Court's ruling on or before March 10, 2023. The dissolution of marriage portion of this case is set on this Court's Motion to Enter docket on March 30, 2023 at 2:00 p.m.

Respectfully Submitted,



Lynne McGuire
Special Judge