

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTINE ADAMS-HALL ¹ ,	§	
	§	No. 50, 2010
Respondent Below-	§	
Appellant,	§	Court Below: Family Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
ROBERT ADAMS,	§	C.A. No. CN08-05726
	§	Petition No. 08-36646
Petitioner Below-	§	
Appellee.	§	

Submitted: July 22, 2010
Decided: September 8, 2010
Revised: September 27, 2010

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 27th day of September 2010, it appears to the Court that:

(1) This is a parentage determination action resulting from a child conceived by assisted reproduction. A Commissioner of the Family Court determined that the pregnancy of Christine Adams-Hall (“Mother”) resulted from an intrauterine insemination procedure without the written consent required of Robert Adams (“Father”) by the Uniform Parentage Act.² A Judge of the Family Court affirmed the Commissioner’s Order in its entirety. Mother appeals from the Family Court’s denial of her Motion for Relief Pursuant to Family Court Rule 60(b). First, she contends the

¹ By Order dated February 1, 2010, the Court *sua sponte* assigned pseudonyms to the parties. Del. Supr. Ct. R. 7(d).

² 13 Del. C. §§8-703, 8-704.

Family Court abused its discretion when it found Robert Adams (“Father”) was the biological father, but not the legal father of their child because he did not sign a written consent required by the Act to provide his sperm for the express purpose of becoming a father of Mother’s child. Second, she contends the Family Court denied her Procedural Due Process. Third, she contends the Family Court erred as a matter of law when it considered a Mediator’s Report in ruling upon her motion. We find no merit to Mother’s appeal. Accordingly, we affirm.

(2) The parties to this appeal were involved in a relationship which began in March of 2007 and ended around January of 2008. Although Mother adopted Father’s last name, they were never married and did not reside together. At the time of their relationship, Mother was 40, and Father was 25. Sometime in November of 2007, Mother told Father that she was pregnant with his baby. She also told him that she had cystic fibrosis. She stated she needed a sperm sample for genetic testing to determine if Father was a carrier for cystic fibrosis. Father agreed to provide a sample for that purpose. Mother later requested a second sperm sample after telling Father there was blood in his semen which required another test. Father provided the sample for the purpose of testing on February 8, 2008. He drove Mother to the hospital that day believing he had blood in his semen. Mother stated she would taken care of having the sample tested since Father did not have sufficient health insurance. Father did not meet with anyone at the hospital or sign any consent forms.

(3) Father later contacted Dr. Jeffrey Russell, the treating doctor for Mother's pregnancy. Dr. Russell advised him that an intra-uterine insemination procedure was performed on February 8, 2008, and that it was successful. Father testified that he had no knowledge of this procedure and did not consent to it.³ Following the birth of the baby, Father filed a Petition for Parentage Determination on November 5, 2008.

(4) After the Petition was filed, an Order for Genetic Testing was issued upon the agreement of the parties. The result showed that Father is the biological father of the child. A mediation conference was attended by both parties. At the mediation conference Father explained that he had documentation showing that Mother became pregnant through intra-uterine insemination and that he did not consent to participating or to the use of his genetic material. When the case could not be resolved by mediation, Father filed a Motion for Continuance of the Commissioner's hearing because of issues of possible fraud. Mother did not respond, and the hearing was rescheduled.

(5) Both parties appeared at the re-scheduled hearing although Mother, who was self-represented, arrived approximately twenty-five minutes late. She later claimed that she felt she did not need representation because she thought "it was cut and dry." The Commissioner determined that Father was the biological father but not

³ Initially, Mother contended that Father "should have known" that she intended to use the sperm sample to impregnate herself because Father was a "computer whiz" and could have Googled cystic fibrosis testing and realized this was not the method of testing.

the legal father because he had not signed a written consent to provide his sperm for the express purpose of becoming the father of the child under the Uniform Parentage Act.⁴ Mother requested a review of the Commissioner's Order and a Family Court Judge affirmed the Order in its entirety. A Motion for Relief Pursuant to Family Court Rule 60(b) was filed by Mother. The Family Court denied Mother's motion to reopen the matter.

(6) This Court reviews the Family Court's denial of a motion to reopen pursuant to Rule 60(b) for abuse of discretion.⁵ Rule 60(b) provides that the Family Court "may relieve a party ... from a final judgment, order or proceeding for ... [m]istake, inadvertence, surprise, or excusable neglect ... or any other reason justifying relief from the operation of the judgment." The movant also must demonstrate that the outcome of the action would be different if the motion were granted and that substantial prejudice would not be caused to the non-moving party if

⁴ 13 Del. C. § 8-704 provides:

(a) Consent by a woman and a man who intends to be a parent of a child born to the woman by assisted reproduction must be in a record signed by the woman and the man. This requirement does not apply to a donor.

(b) Failure to sign a consent required by subsection (a) of this section, before or after birth of the child, does not preclude a finding of paternity if the woman and man, during the first 2 years of the child's life, resided together in the same household with the child and openly held out the child as their own.

⁵ *Poe v. Poe*, Del. Supr., No. 502, 2004, Jacobs, J. (May 6, 2005) (citing *Albu Trading, Inc. v. Allen Family Foods, Inc.*, 822 A.2d 396 (Del.2002)).

the motion were granted.⁶ This Court will not disturb the Family Court's factual findings unless they are clearly wrong and justice requires that they be overturned.⁷

(7) A central issue in this case has been whether Mother and Father's sexual relationship ended in January or April of 2008. The Commissioner made the credibility findings in favor of Father after considering all the evidence, including a series of false statements that Mother made to Father. The Family Court Judge considered those false statements as well. Mother told Father that she was pregnant in November of 2007, when she was not. She also sent Father a letter saying she was three months pregnant in March 2008, which also was untrue. She told Father she needed a sperm sample because she was pregnant, and that his sperm was needed to test for cystic fibrosis, that her son was her brother, and that she was 35 years old. All of these statements were determined to be false. On the record before us, we find no abuse of discretion by the Family Court in according weight to the credibility findings of the Commissioner.

(8) Mother next contends that her due process rights were violated because she did not understand the legal issues to be decided and could not adequately represent herself. Procedural Due Process requires that a person "be apprised of the nature of the claim with such definiteness that a person of reasonable intelligence is

⁶ *Ravine v. Ravine*, Del. Supr., No. 262, 2005, Jacobs, J. (Feb. 22, 2006) (citing *Harper v. Harper*, 826 A.2d 293, 297 (Del.2003)).

⁷ *Solis v. Tea*, 468 A.2d 1276, 1279 (Del.1983).

able to understand the allegations and respond to the complaint.”⁸ Mother argues that prior to the first scheduled hearing before the Commissioner, the only document she received was the Petition for Paternity Determination, so she thought only genetic testing was at issue. The Family Court recognized that any notice of the legal parent issue received on the day of the hearing would have been insufficient to satisfy Due Process. But that is not what happened here. The Family Court concluded that Mother had sufficient notice “at a meaningful time and in a meaningful manner”⁹ of the legal parent issues prior to the hearing that took place in this case. Mother was present at the mediation hearing when Father said he did not consent to the use of his genetic material. Father’s Motion for Continuance of the Commissioner’s hearing included the following reasons:

The case involves issues of possible fraud and additional complicated issues and will require medical testimony . . . [Father] has retained [Ms.] Dougherty to represent him . . . It is imperative for [Father] to be represented at the upcoming hearing due to the complicated issues before the Court and the medical testimony which will need to be elicited.

This request highlighted that issues of possible fraud and additional complicated issues requiring medical testimony would be presented at the hearing to determine paternity. The mediator informed the parties to “bring all documents” and the Motion itself referred to testimony being elicited. At the subsequent hearing Mother testified

⁸ *Beck and Panico Builders, Inc. v. Straitman*, 2009 WL 5177160, at *5 (Del. Super. Nov. 23, 2009).

⁹ *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004) (quoting *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972)).

but did not claim that she was unaware of the legal parent issue being considered. The Family Court did not abuse its discretion in deciding there was adequate notice of the issues to be litigated.

(9) Mother also argues she was not provided with explanations of procedure, her due process rights, or that leading questions are objectionable. Mother cites *J.C. v. M.C.*, where a language barrier caused the Wife to not comprehend the case.¹⁰ Mother argues that she lacked understanding of legal issues and because she was self-represented, a Rule 60(b) motion should have been granted. “Rule 60(b) has been accorded a liberal construction because of the underlying policy which favors a trial on the merits”¹¹ The Family Court determined that the hearing was based on the merits, it was a full hearing where Mother had the opportunity to cross-examine, even though she was late. The Family Court found that the Commissioner was sensitive to her self-represented status, explained her right against self-incrimination, explained the hearsay rule, and did not hold her tardiness against her. We find no abuse of discretion by the Family Court in finding no violation of Due Process and that Mother was not entitled to relief under Rule 60(b).

(10) Finally, Mother contends that the Family Court erred as a matter of law by relying on the Mediator’s Report when reviewing the decision of the

¹⁰ 2006 WL 4552909, at *1 (Del. Fam. Ct. Dec. 19, 2006).

¹¹ *Battaglia v. Wilmington Sav. Fund Soc’y*, 379 A.2d 1132, 1135 (Del. 1977).

Commissioner. The Mediator's Report was only considered on the issue of notice after Mother raised that issue. Under D.R.E. 408, the report could be considered when offered for another purpose other than proving liability.¹² Moreover, there was other evidence from which Mother's knowledge of the issues to be litigated could be inferred, including the petition itself, Father's motion for continuance, and Mother's testimony at the hearing. The Family Court Judge did not err in considering the Mediator's Report for the limited purpose of determining whether Mother had adequate notice of the legal parent issue. We conclude that there was no abuse of discretion by the Family Court in denying Mother's motion under Rule 60(b). Accordingly, the judgment must be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is **AFFIRMED**.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

¹² D.R.E. 408 provides:

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as providing bias or prejudice of a witness, negating a contention of undue delay or proving an effort to obstruct a criminal investigation or prosecution.