

Father Loses Custody Suit

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Abstract (Abstract): Robert O. didn't know he had fathered a child until 17 months after the mother gave the son away for adoption. Claiming a biological right to be notified of the adoption, he sued the adoptive parents to get custody of his son. But a panel of four State Supreme Court justices in Brooklyn Monday upheld a lower court ruling that such a right does not protect an unwed father who fails to claim paternity or help raise the child before the adoption.

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Writing for the Appellate Division panel, Justice Charles B. Lawrence cited past court cases that found unwed fathers must be given a say in adoptions if they show a commitment to becoming a parent, for example, by helping with medical bills.

Acknowledging that Robert O. did know about the child, the judge said adoptions would have little guarantee of permanence if biological parents could cancel them years later. "Such uncertainty would undermine the state's recognized interest in . . . providing permanent, stable homes for adopted children," he wrote, affirming a 1990 Suffolk County Family Court decision.

Calling the case a critical test in the rights of "truly unknowing fathers," Robert O.'s attorney, Paul Brozdowski, of Bridgeport, Conn, said the judges unfairly applied standards to his client, who would have come forward sooner if he'd known about the pregnancy. "The laws that exist are designed to protect fathers who know they have children," he said.

The plaintiff is identified in court papers only as Robert O., and Brozdowski declined to identify him further or have him contact Newsday. He said his client and Carol A., the mother, married after the family court ruling, and she supports custody efforts.

The couple broke up in February, 1988. Carol A. did not tell Robert O. that she was going to have a child, fearing that he would think she became pregnant to force the marriage. That October she gave birth to a boy and turned him over to hospital authorities to handle the adoption. The two did not communicate again until they reconciled in January, 1990, according to court records. In March, 1990, Carol A. told the father about the child, and he filed suit the next month.

While Robert O. made the right moves in claiming paternity, "it's all too late," said Frederick Magovern, an attorney for the adoptive parents. "What the case means is you have to take seriously your relationships with women if you wish to have an equal say."

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