

*Jason P. vs. Danielle S.*

What does it take to be a legally recognized father in modern, technologically-oriented America? Has the science of assisted reproduction outpaced the law? This celebrity-hyped custody battle addressed the interpretation of California parentage statutes by determining the following:

- (1) *Family Code* section 7613(b) should be interpreted only to preclude a sperm donor from establishing paternity based on his biological connection to the child;
- (2) *Family Code* section 7613 does not preclude sperm-donor bio-dad from establishing that he is a presumed father under *Family Code* section 7611(d);
- (3) Mother is not estopped from contending that sperm-donor bio-dad could not establish parentage based upon his biological connection to her child.

The trial court ruled against sperm-donor bio-dad by holding that section 7613(b) applied to bar his claim, relying on the 2005 opinion in *Steven S. vs. Deborah D.*, 127 Cal.App.4th 319. But this appellate tribunal reversed, holding that *Steven S.* did not govern the issues here presented, and that the trial court erred in finding that section 7611(d) barred sperm-donor bio-dad from establishing paternity pursuant to section 7611(d).

*Jason P.* had a relationship with the child for approximately 2 ½ years, before mother terminated her relationship with him and prohibited any further contact with the child. This litigation then ensued. The initial trial included testimony of bio-dad of his close relationship with the young child. The trial court granted mother's CCP 631.8 motion for judgment at the conclusion of bio-dad's case. In reversing, determining that section 7613(b) did not preclude sperm-donor bio-dad from establishing that he was a presumed parent under section 7611(d), the appellate court remanded the case for a full plenary hearing to weigh all the evidence regarding whether *Jason P.* qualifies as a presumed parent under section 7611(d).

This type of case inevitably calls to mind the remembered statement by Judge Yankwich of the Los Angeles Superior Court in a child custody case that, "there are no illegitimate children, only illegitimate parents." [*Estate of Woodward* (1964) 230 Cal.App.2d 113]. Well, perhaps not. Let's look at parenting from a more positive, ennobling perspective. Rather than viewing *Jason P.* merely as a dry legal case of statutory interpretation, we can analogize it as a mirror to reflect our own conduct and values as parents. An irony not to be overlooked: this Comment is being finalized on Father's Day. Perhaps it's time to look at being a parent not in the context of bitter custody disputes, but for the blessing it should be. *Family Code* section 3011 sets forth the factors determining best interest of a child, and case law correctly puts the best interests of the child as the paramount concern. The concept of fatherhood has expanded greatly.

In addition to biological fathers, we have and recognize, as part of ever-increasing blended families, stepfathers, adoptive fathers, foster fathers, surrogate fathers, Godfathers, grandfathers. Often our most precious blessings are right in front of us. As taught in biblical terms [Genesis 28.16], “Surely the Lord is present in this place, and I did not know it.” Happy Parent’s Day!

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