

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of KCS, Minor.

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JESSICA ARRON STRAUB, BRUCE STRAUB,  
and AMANDA CHRISTINE RIZE,

UNPUBLISHED  
June 2, 2009

Petitioners-Appellees,

v

MATTHEW VINCENT HELMUTH,

Respondent-Appellant.

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No. 288824  
Jackson Circuit Court  
Family Division  
LC No. 08-006507-AD

Before: Bandstra, P.J., and Whitbeck and Shapiro, JJ.

PER CURIAM.

Respondent birth father, Matthew Vincent Helmuth (Vincent), appeals as of right from an order that terminated his parental rights to the minor child pursuant to MCL 710.37(1)(a) of the Adoption Code. We affirm.

The birth mother, Amanda Christine Rize (Amanda), together with the adoptive parents, Jessica and Bruce Straub, petitioned to identify the birth father and terminate his parental rights. The record presented to the trial court in support of the petition contained a form approved by the State Court Administrator's Office (SCAO), dated April 25, 2008 (the PCA 316 form), in which Vincent expressly disclaimed any interest in the child. The file also contained a June 12, 2008 "Family Medical History Form" in which Vincent stated that "[t]he decision to allow an adoption was relatively easy because I know that me and the mother would not have been able to give the child any kind of life and also I would never have been able to support the child fairly," as well as paperwork from the Michigan Central Adoption Registry, also dated June 12, 2008, in which Vincent indicated that he did not give consent to have his name or address released to the child. The child was born July 5, 2008. A hearing on the petition to terminate Vincent's rights took place on July 22, 2008. Although the trial court mistakenly stated that notice of the petition had been served on Vincent, it had not been, and he did not appear. At the hearing, Amanda testified that she was present when Vincent signed the PCA 316 form after reading it; that testimony was corroborated by testimony from a social worker at Catholic Social Services where the document had apparently been executed. Based on the file documents and this testimony, the trial court granted the petition and terminated Vincent's parental rights.

On August 12, 2008, Vincent filed a timely petition for rehearing pursuant to MCL 710.64(1) and MCR 3.806(B). Vincent filed the petition himself and indicated that “[a]fter much soul searching I cannot live with giving my child up for adoption.” Vincent’s petition explained that, at the time he made his “foolish decision” to give up his parental rights, “I had not talked with my family about the matter” and that, “after informing my family of the situation we have come to the conclusion that we will be able to take care of” the child.

Vincent later retained counsel and filed a brief in support of his petition. In the brief, Vincent for the first time claimed that he agreed to give up rights to the child only because Amanda coerced him into doing so by threatening to tell his Catholic family and his athletic coaches that he had impregnated her. According to Vincent, when he signed the custody statement at the Catholic Social Services offices, Amanda and a girlfriend were there, along with at least one female CSS staff member, creating a coercive atmosphere. In addition, Vincent said he had been taking Vicodin for a medical condition and was under the influence of the drug when he signed the custody statement. Vincent also stated that, although he was a student at the University of Michigan, he was there on an athletic scholarship and had extreme reading comprehension difficulties. Vincent further claimed that he signed a “blank” PCA 316 form and that someone else must have checked the box indicating his custody interest. Vincent also claimed that he was told that it would be an “open adoption” and that he could still see the child. Vincent argued that, because of these “irregularities,” the execution of the custody statement was invalid.

The trial court denied Vincent’s petition for rehearing, concluding that Vincent had merely experienced a change of heart. The judge did not accept any of Vincent’s arguments regarding coercion, reading difficulties, or the like. We do not find that the trial court abused its discretion in denying Vincent’s petition for rehearing, *In re Koroly*, 145 Mich App 79, 87; 377 NW2d 346 (1985), nor that this decision resulted from any clearly erroneous factual findings, *In re Cornet*, 422 Mich 274, 277; 373 NW2d 536 (1985).

In this adoption proceeding, the trial court was authorized to grant a rehearing “only for good cause.” MCR 3.806(B). Vincent first argues that “good cause” was shown because he failed to receive notice of the termination hearing. We find that the trial court was correct in concluding that Vincent, in executing the PCA 316 form,<sup>1</sup> effectively waived notice of hearing. Vincent’s parental rights were terminated pursuant to MCL 710.37(1)(a), which clearly provides that, if a putative father has been timely served with notice that a birth mother intends to release a child for adoption or consent to an adoption, has been served with or waived his statutory right to a hearing regarding a termination hearing, and has submitted a verified affirmation of his paternity and a denial of his interest in custody of the child, the court may permanently terminate the putative father’s rights without notice of a hearing. The PCA 316 form was apparently developed by the SCAO to comply with that statute and an associated Court Rule, MCR 3.801. It informed Vincent that Amanda intended to sign a release or consent to relinquishing her rights to the child and specified that, by signing the form, Vincent acknowledged his paternity, denied

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<sup>1</sup> As discussed below, we do not conclude that the trial court erred in determining that Vincent’s execution of the form was in any way invalid.

any interest in the custody of the child and gave up his right to notice of any hearing to terminate his paternal rights. Accordingly, the trial court properly terminated Vincent's rights without providing him notice of the hearing and the failure to provide him notice does not constitute "good cause" warranting any rehearing.

Most of Vincent's remaining arguments focus on his claim that his signing of the PCA 316 form was not knowing or voluntary. We do not conclude that the trial court's determination of this question was clearly erroneous.

The trial court rejected this claim on the basis of the record and pleadings presented to it in support of the rehearing request, as authorized by MCR 3.806(B). Contrary to Vincent's argument, that Rule does not require any evidentiary hearing on the petition for reconsideration. We find it notable that Vincent's original petition mentioned none of the grounds that his attorney later claimed suggested that his execution of the PCA 316 form was invalid. Instead, the petition constituted an honest admission on Vincent's part that he had simply changed his mind. He acknowledged that he had previously "[given] my child up for adoption" but after "much soul searching" reached the conclusion that this had been a "foolish decision." We also note that, in addition to the PCA 316 form, Vincent filled out a Family Medical History Form and a Michigan Central Adoption Registry form some months later. Both of these later forms support the finding that the PCA 316 statement was voluntarily signed. The PCA 316 form and the forms Vincent subsequently signed demonstrate that he had determined to, and, in fact, did relinquish his rights to the child, notwithstanding his later attempt to rescind that decision.

Reviewing the petition in light of Vincent's earlier declarations showing no interest in the child, the trial court did not abuse its discretion in concluding that this change of heart was the real reason that Vincent sought a rehearing. A change of heart is insufficient grounds to warrant a rehearing. *Koroly, supra* at 87.

Vincent also argues that he was denied equal protection under the law because he was treated differently than Amanda. However, this argument has already been rejected by this Court in *In re RFF*, 242 Mich App 188, 210; 617 NW2d 745 (2000):

In short, mothers and fathers of children born out of wedlock are not similarly situated. There are several differences between mother and fathers of out of wedlock children, including the identity of the mother of the child born out of wedlock is rarely in question and that "only a father can by voluntary unilateral action make an illegitimate child legitimate." Moreover, the mother of a child born out of wedlock has made the decision to give birth to the child rather than have an abortion and, as a result of that decision, has carried the child in her womb for nine months. Accordingly, the gender-based classification created by [section] 39 is substantially related to the achievement of the Adoption Code's legitimate objective. Appellant's equal protection claim is without merit. [Citations omitted.]

In sum, the record here demonstrates that Vincent and his family ultimately concluded that he should father the child. We have no reason to doubt that, as he claimed in his petition for rehearing, Vincent would be a good father. Nonetheless, while we sympathize with his situation, we cannot overlook the concerns and interests of Amanda, the Straubs and, of course, the child.

The statutory scheme that we apply here was established to fairly accommodate the interests of all involved interested parties, in a process that is orderly and predictable. That process cannot be undermined simply because, as the trial court correctly determined was the case here, one of the parents has a change of heart regarding a decision to terminate parental rights.

We affirm.

/s/ Richard A. Bandstra  
/s/ William C. Whitbeck  
/s/ Douglas B. Shapiro