

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT E. HUGHES,)
) NO. 363, 2007
 Petitioner Below,)
 Appellant,) Court Below: Family Court
) of the State of Delaware in
 v.) and for Kent County
)
 JOSIE M. HUGHES,) Case No. CK06-01697
)
 Respondent Below,)
 Appellee.)

Submitted: October 31, 2007

Decided: November 9, 2007

Before **STEELE**, Chief Justice, **HOLLAND, BERGER, JACOBS** and **RIDGELY**, Justices, constituting the court *en banc*.

ORDER

This 9th day of November 2007, it appears to the Court that:

(1) Robert Hughes, appellant, appeals a Family Court judge's order denying a Motion to Reopen Divorce Proceedings and declining to approve a Stipulation and Order Regarding Parentage Determination. The Family Court judge denied Hughes's petitions because he found that Hughes did not meet either of the two exclusive exceptions prescribed by § 8-607 of the Delaware Uniform Parentage Act ("UPA")¹ and that no other provisions of the UPA provided recourse. On appeal, Hughes argues that the UPA violates the Equal Protection

¹ 13 *Del. C.* §§ 8-101 *et seq.*

Clause of the United States Constitution by creating two statutes of limitations in paternity actions based on a child's legitimacy or illegitimacy and that the UPA is unconstitutionally overbroad because of its generalizations regarding family stability.

(2) Hughes directly challenged the constitutionality of the UPA in his motion before the Family Court. However, the Family Court judge never addressed his argument and never considered the constitutionality of the statute.

(3) NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is **REVERSED** and **REMANDED** with instructions to consider the constitutional questions Hughes presented. Jurisdiction is not retained.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice