

STATE OF MICHIGAN
COURT OF APPEALS

BRANDI WALKER,

Plaintiff-Appellee,

v

THOMAS WALKER,

Defendant-Appellant.

UNPUBLISHED

March 16, 2004

No. 221515

Otsego Circuit Court

LC No. 98-007780-DS

ON REMAND

Before: Saad, P.J., and Kelly and Donofrio, JJ.

PER CURIAM.

This Court reversed the family court's order that required defendant to pay confinement and childbirth expenses of \$13,029.90 in this paternity action. The Supreme Court vacated that decision and remanded for reconsideration in light of *Rose v Stokely*, 258 Mich App 283; 673 NW2d 413 (2003). We affirm the order of the family court.

MCL 722.712(1) provides in part:

The parents of a child born out of wedlock are liable for the necessary support and education of the child. They are also liable for the child's funeral expenses. The father is liable to pay the expenses of the mother's confinement, and is also liable to pay expenses in connection with her pregnancy as the court in its discretion may deem proper.

In *Thompson v Merritt*, 192 Mich App 412; 481 NW2d 735 (1991), this Court found that this section of the Paternity Act did not violate equal protection because it gave the court the power to apportion costs between the parents. In the original opinion in this case, the Court relied on *Thompson* to reverse the family court order.

In *Rose, supra*, this Court convened a conflict panel based on a disagreement with the holding of *Thompson*. The conflict panel found that the language of the statute does not grant the circuit court the discretion to apportion confinement expenses between the mother and the father of a child born out of wedlock. 258 Mich App at 291. The conflict panel also held that the requirement that the father be liable for necessary confinement expenses of the mother before, during, and after the birth of the child is substantially related to an important governmental objective, and the provisions are constitutionally permissible. *Id.*, 317.

Therefore, under *Rose*, the family court properly required defendant to pay all of the confinement and childbirth expenses. Defendant argued, in the alternative, that the requirement that the father pay all confinement expenses violated the equal protection clause of the state and federal constitutions, or, that the trial court erred when it failed to consider the best interests of the child and the financial status of the parties in apportioning costs. Both of these arguments were rejected in *Rose*. The Paternity Act requires the father to pay the expenses of the mother's confinement and expenses in connection with her pregnancy, as the court in its discretion may deem proper. There is no showing that the family court abused its discretion by requiring defendant to pay the child's hospitalization and medical expenses incurred in connection with the mother's pregnancy.

Affirmed.

/s/ Henry William Saad
/s/ Kirsten Frank Kelly
/s/ Patrick M. Donofrio