STATE OF MICHIGAN

COURT OF APPEALS

CARLOS TAYLOR,

Plaintiff-Appellant,

v

MELISSA LUNA,

Defendant-Appellee,

and

H T, Minor,

Appellee.

UNPUBLISHED
September 27, 2011

No. 303421
Washtenaw Circuit Court
LC No. 10-001332-DP

Before: SHAPIRO, P.J., and WILDER and MURRAY, JJ.

PER CURIAM.

In this action under the Paternity Act, MCL 722.711 *et seq.*, plaintiff Carlos Taylor appeals as of right the trial court's January 28, 2011, order, dismissing his claim for lack of standing. We reverse and remand.

The only issue presented is whether the trial court erred when it held that plaintiff did not have standing to pursue his claim under the Paternity Act. We review this issue de novo. *Barnes v Jeudevine*, 475 Mich 696, 702; 718 NW2d 311 (2006). "Under Michigan law, a presumption of legitimacy attaches to a child born or conceived during an intact marriage." *In re KH*, 469 Mich 621, 624-625; 677 NW2d 800 (2004). "[I]n order for a biological father to establish standing under the Paternity Act, there must be a 'prior court determination that a child is born out of wedlock.'" *Barnes*, 475 Mich at 703, quoting *Girard v Wagenmaker*, 437 Mich 231, 242; 470 NW2d 372 (1991). The Paternity Act defines a "child born out of wedlock" as "a child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage." MCL 722.711(a).

In the present case, there is no dispute that the minor child was conceived and born during defendant's marriage to Quentin Hutton. Thus, plaintiff only has standing under the Paternity Act if there was a prior court determination that the minor child was not the issue of defendant and Hutton's marriage. MCL 722.711(a); *Barnes*, 475 Mich at 703. More than two

years before plaintiff filed suit under the Paternity Act on May 26, 2010, the Washtenaw Circuit Court had issued an order containing an affirmative finding that the minor child was not an issue of defendant and Hutton's marriage. The order stated:

> The plaintiff, Mellisa [sic] Jean Luna, having testified that the child to which she gave birth on April 4, 2006, Harmony Majizinae Janette Taylor, was not conceived by the defendant, Quentin Keith Hutton, and that the parents of said child are the persons identified in the affidavit of parentage signed by Carlos Darnell Taylor and Mellisa [sic] Jean Luna on June 29, 2007; the plaintiff, Mellisa [sic] Jean Taylor, having exhibited the original of said affidavit of parentage (a copy of which document is attached to this order); the defendant [sic], Mellisa [sic] Jean Taylor having acknowledged her signature and identified the signature of Carlos Darnell Taylor on said affidavit of parentage, and the court being thus advised in the premises,
>
> Now, therefore, it is determined that the child, Harmony Majizinae Taylor, born on April 4, 2006, is not a child of, nor issue of, this marriage. [Underlining in original.]

The court made its determination on the basis of both defendant's testimony that plaintiff, not Hutton, was the minor child's natural father and an original affidavit of parentage that identified plaintiff and defendant as the minor child's natural parents. Consequently, the order was "an affirmative finding regarding the [minor] child's paternity in a prior legal proceeding that settled the controversy between the mother and the legal father." *Barnes*, 475 Mich at 705. Thus, the order was a prior court determination that the minor child was not an issue of defendant and Hutton's marriage, *Id.* at 703, and plaintiff had standing to pursue his claim under the Paternity Act. *Id.*

We reject the minor child's argument that the January 17, 2008, order was not a prior determination because, under *Barnes*, a default judgment of divorce is never a sufficient prior judicial determination. First, the circuit court's determination that the minor child was not an issue of defendant and Hutton's marriage was not contained in a default judgment of divorce; rather, the court made its determination in a separate order after receiving evidence regarding the minor child's paternity. Second, the *Barnes* Court did not establish a rule of law that a default judgment of divorce is never a sufficient prior judicial determination. Instead, the *Barnes* Court recognized the forcefulness of a default judgment, but found the language contained in the judgment deficient for purposes of a judicial finding sufficient to overcome the presumption. See *Barnes*, 475 Mich at 705-706.

Finally, we decline to review the minor child's additional, abandoned arguments: (1) plaintiff did not have standing because the termination of Hutton's parental rights made Hutton's status as the minor child's legal father irrevocable; (2) the prior judicial determination was "deeply troubling" because neither Hutton nor the Lawyer Guardian Ad Litem appeared at the hearing where defendant testified about the child's conception; and (3) the circuit court made the prior judicial determination on the basis of incomplete and inaccurate evidence. "A party may not merely announce [her] position and leave it to this Court to discover and rationalize the basis for [her] claims, or give issues cursory treatment with little or no citation of supporting

authority." *Wolfe v Wayne-Westland Community Sch*, 267 Mich App 130, 139; 703 NW2d 480 (2005) (citations deleted).

Reversed and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Douglas B. Shapiro
/s/ Kurtis T. Wilder
/s/ Christopher M. Murray