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NO. COA03-1232

NORTH CAROLINA COURT OF APPEALS

Filed: 5 October 2004

GUILFORD COUNTY by and  
through its CHILD SUPPORT  
ENFORCEMENT OFFICE, *ex rel.*  
CANDICE N. RAY,  
Plaintiff-Appellant,

v.

Guilford County  
No. 03 CVD 005697

JOHNNIE O. WILLIAMS, JR.,  
Defendant-Appellee.

On writ of certiorari to review order entered 29 May 2003 by Judge Harold Thomas Jarrell, Jr., in Guilford County District Court. Heard in the Court of Appeals 23 August 2004.

*Guilford County Attorney's Office, by Deputy County Attorney Angela F. Liverman, for plaintiff-appellant.*

*No brief filed by defendant-appellee.*

TIMMONS-GOODSON, Judge.

On or about 3 August 2001, plaintiff Candice N. Ray, mother of a minor child born 1 August 2001, and defendant Johnnie O. Williams, Jr. executed an Affidavit of Parentage acknowledging defendant to be the natural father of the minor child and establishing paternity for the child. An order to show cause for child support was issued and the case was scheduled for hearing on 25 April 2003. At the hearing, defendant claimed plaintiff told

him he was not the father of the minor child and asked for a paternity test. Defendant did not move to rescind the Affidavit of Parentage nor set aside the finding of paternity. By order entered 29 May 2003, the trial court ordered paternity tests and set temporary support in the amount of \$227 per month and \$20 per month toward past public assistance arrears. This Court subsequently issued its writ of certiorari to review the trial court's 29 May 2003 order.

Well-settled case law in this state conclusively bars a party from obtaining paternity testing as long as there is a prior acknowledgment of paternity or judgment establishing paternity still in effect. See *State of N.C. ex rel. Bright v. Flaskrud*, 148 N.C. App. 710, 559 S.E.2d 286 (2002); *Abrose v. Ambrose*, 140 N.C. App. 545, 536 S.E.2d 855 (2000); *State ex rel. Hill v. Manning*, 110 N.C. App. 770, 431 S.E.2d 207 (1993). Here, there is no order setting aside the judgment of paternity. Accordingly, *res judicata* bars paternity testing at this juncture. The order of the trial court is, therefore, reversed.

Reversed.

Judges CALABRIA and LEVINSON concur.

Report per Rule 30(e).