

[J-236-1998]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

TIMOTHY STRAUSER,	:	No. 44 M.D. Appeal Docket 1998
	:	No. 45 M.D. Appeal Docket 1998
Appellant	:	
	:	Appeal from the Order of the Superior
	:	Court entered 12/4/97 at No. 1010HBG96,
v.	:	reversing the Order entered 11/25/96 in
	:	the
	:	Court of Common Pleas of Juniata
APRIL R. STAHR,	:	County,
	:	Civil Division, at No. 172-1996.
Appellee	:	
	:	ARGUED: November 17, 1998
	:	
	:	
	:	

DISSENTING OPINION

MR. JUSTICE NIGRO

DECIDED: MARCH 30, 1999

Since I believe that the trial court properly found that the blood test results disclosing a 99.99% probability that Appellant is Amanda's father were admissible, I respectfully dissent.

In effect, the majority concludes that the "presumption of paternity" automatically forecloses any consideration of the blood test results at issue here, which were voluntarily taken and all but confirm Appellant's status as Amanda's biological father. By rigidly applying this presumption, the majority only perpetuates the disturbing trend noted by my concurring and dissenting opinion in Brinkley v. King, 549 Pa. 241, 701 A.2d 176 (1997) (plurality) (Nigro, J., concurring and dissenting). There, I observed that the strict application of the presumption doctrine has only acted as an obstacle to the discretion of the trial court

to order and use blood testing of the parties, which is “the single most valuable technique available to a court in determining parentage.” Id. at 253, 701 A.2d at 182.

As noted by the majority, my opinion in Brinkley advocates that the better approach in paternity matters would be to allow trial courts to determine paternity on a case-by-case basis, unburdened by the obligatory application of the presumption doctrine. Id. Such an approach permits a court to weigh the relevant evidence and circumstances of each particular situation, including blood test results, concerns as to the maintenance of an existing family unit and the interests of the child, in order to reach an equitable result. Id. at 254, 701 A.2d at 182.

The benefits of this approach are exemplified by the circumstances of the instant case. Here, voluntary test results representing virtually conclusive evidence of Appellant’s paternity are available and undeniably probative of the question of who Amanda’s biological father is. Additionally, though Amanda’s mother and her husband remain married, I do not believe that their marital status should serve as a license to completely disregard a biological father’s interest in having a relationship with his child. Moreover, for medical and other reasons, it may very well be in the best interests of Amanda to know the identity of her biological father. It is simply unreasonable, in my view, to preclude the trial court from considering the interests of those involved and the evidence of the blood tests solely on the basis of a presumption that is no longer reflective of today’s social reality.

For these reasons, I believe the trial court properly admitted the blood test results into evidence and directed that a hearing be held on the issue of what is best for Amanda. Thus, I would reverse the Superior Court and affirm the order of the trial court.