

IN THE UTAH COURT OF APPEALS

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Office of Recovery Services,	)	MEMORANDUM DECISION
ex rel. Rebecca Sue Marden,	)	(Not For Official Publication)
	)	
Petitioners and Appellees,	)	Case No. 20060871-CA
	)	
v.	)	F I L E D
	)	(December 29, 2006)
Paul Nieves,	)	
	)	2006 UT App 522
Respondent and Appellant.	)	

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Third District, Salt Lake Department, 044905297  
The Honorable L.A. Dever

Attorneys: Paul J. Nieves, Salt Lake City, Appellant Pro Se  
Mark L. Shurtleff and Brent A. Burnett, Salt Lake  
City, for Appellee State of Utah, Office of Recovery  
Services

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Before Judges Bench, Greenwood, and Thorne.

PER CURIAM:

Paul Nieves appeals the trial court's order determining paternity and setting child support. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

Nieves's primary arguments appear to be that the trial court erred because the child had a presumed father and that the action was brought too late.<sup>1</sup> Both of these arguments fail.

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1. To the extent Nieves attempts to raise other arguments, they are inadequately briefed or without merit, and we decline to address them further here. See Beehive Brick Co. v. Robinson Brick Co., 780 P.2d 827, 833 (Utah Ct. App. 1989) (noting the principle established in both civil and criminal cases that the  
(continued...)

This action was begun in 2004 and is therefore subject to a prior version of the Utah Uniform Act on Paternity (the Act), Utah Code sections 78-45a-1 to -17 (2002). See Utah Code Ann. § 78-45g-902 (Supp. 2006) (restricting the application of the revised Act to actions commenced after May 1, 2005). Under the version of the Act applicable to this case, there were no limitations on challenging a presumed legal father. Rather, even if the child was born into a marriage, the former Act provided for establishing paternity outside of the marriage. "For purposes of child support collection, a child born outside of marriage includes a child born to a married woman by a man other than her husband if that paternity has been established." Utah Code Ann. § 78-45a-1 (2002). "Paternity may be determined upon the petition of the mother, child, putative father, or the Office of Recovery Services." Id. § 78-45a-2(1) (2002).

Paternity may be established by genetic testing of the mother, child, and putative father. See id. § 78-45a-7 (2002). When a genetic test has established paternity in accordance with the Act, paternity may be rebutted only by a second genetic test that results in an exclusion of the proposed father as the natural father. See id. § 78-45a-10(3)(b) (2002). Here, genetic testing results established Nieves as the biological father of the child. No second genetic test was performed. Therefore, even if there were a presumptive father other than Nieves, the genetic testing rebutted any presumption. As a result, the trial court properly entered an order that Nieves was the child's father. See id. § 78-45a-10(4) (providing that where unrebutted genetic testing identifies the father, "the court shall issue an order establishing paternity").

Additionally, the petition to establish paternity was timely filed even where the child was seven or eight years old at the time of the filing. The former Act did not contain any limitation on the time to bring paternity actions. As a result, the general four-year statute of limitations applies to paternity actions. See Dow v. Gilroy, 910 P.2d 1249, 1251 (Utah Ct. App. 1996). However, the statute of limitations is tolled while the child is still a minor. See Szarak v. Sandoval, 636 P.2d 1082, 1084 (Utah 1981) (applying Utah Code section 78-12-36 to toll any limitations period for paternity actions while the child is a

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1. (...continued)  
court "need not analyze and address in writing each and every argument").

minor). Therefore, effectively, a paternity action may be brought at any time before the child turns eighteen, making this action timely.

Accordingly, the trial court's order is affirmed.

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Russell W. Bench,  
Presiding Judge

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Pamela T. Greenwood,  
Associate Presiding Judge

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William A. Thorne Jr., Judge