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RHODE ISLAND PARENTAGE Q & A

What happened in this case?

Cara Millett and Bryce Helie went to Rhode Island family court for a second parent adoption – that is, Cara sought to adopt the child that she and Bryce had planned together, and that Bryce bore. When the judge required the couple to post a newspaper advertisement to alert the sperm donor about the adoption they objected.

Why did they object to the notification requirement?

The requirement makes no sense in a situation where two women use an unknown donor to become pregnant. Also, it comes with a financial cost and risks disclosing private information relating to the couple and child. The notification is intended to alert someone who is a parent that a child is getting adopted. Because a donor is not a potential parent, it makes no practical or legal sense to provide notice of a pending adoption resulting from the donation of his genetic material.

What was the legal argument?

In the context of asking the Court to waive the notification requirement, Cara and Bryce argued that they should not have to adopt their child at all in order to establish the parent-child relationship between Cara (the non-birth parent) and their child. Rather, they argued that Rhode Island law provides full protections for parent-child relationships that result from the very kind of family relationship presented by this case. The Court agreed.

What was the result?

As a result of legal actions by GLBTQ Legal Advocates & Defenders, the judge issued a decision on October 26, 2016 granting the order of parentage to Cara and passing on the adoption proceeding. This created an alternative path to parentage for couples who use assisted reproductive technology in their pregnancies, one that more closely tracks the reality of these families' lives

What is an order of parentage?

An order of parentage is a judgment issued by a court establishing a person as the legal parent of a child. This is a route to parentage that does not rely on biology, adoption, or marriage.

Who can get an order of parentage?

According to the decision in this case, an adult is eligible to be declared a parent if they have lived with a child, performed significant parental functions for that child, formed a parent-child bond, and if the legal parent consents to and fosters the relationship between that adult and the child. The standard the Court drew from was one established by the Rhode Island Supreme Court in a case decided in 2000 involving a custody dispute between two lesbian parents.

Do you have to go to court to get it?

Yes.

Is an order of parentage valid in another state?

Yes. The order of parentage is a final judgment issued by a court that is entitled to full faith and credit in courts of every other state.

What do you get with an order of parentage?

An order of parentage is a court judgment that creates full legal parentage in the person named in the order. That means that the person named has all of the parental rights and responsibilities otherwise accorded to a legal parent. This includes obligations of financial, emotional, and physical support as well as full rights of a relationship with a child. It create the equivalent of full on legal parentage.

How does it differ from adoption?

An order of parentage can be obtained by filing a parentage petition rather than an adoption petition. The petition must include facts showing that the person meets the parentage standard set for the by the Rhode Island Supreme Court in the case of *Rubano v. DiCenzo*. There are no home studies required and no publication of notice to any parent or potential parent. There is, however, a trial in which the petitioner and other parent (and any other family members) may need to show up to testify to facts that establish the basis of the parent-child relationship.