



IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA, ex rel.)
JOHANNA M. KELLER,)

318

Petitioner-Appellee,)

Filed May 31, 1988

vs.)

GEORGE S. KARRAS,)

8-135
87-673

Respondent-Appellant.)

Appeal from the Iowa District Court for Iowa County (No. 19552), Lynne E. Brady, Judge.

Respondent appeals from an adverse judgment in this paternity and child support action pursuant to Iowa Code Chapter 252A (Uniform Support of Dependents Law). **AFFIRMED.**

James L. Chipokas of Chipokas & Flitz, Cedar Rapids, for appellant.

Carol A. Turner, Assistant County Attorney, for appellee.

Considered by Schlegel, P.J., and Sackett and Habhab, JJ.

PER CURIAM

319

The sole issue for our determination is whether there is enough evidence in the record to prove respondent's paternity by a preponderance of the evidence. We find there is.

Betty Keller gave birth to Johanna M. Keller (Joni) on October 1, 1980. Betty testified that her last menstrual period before the birth was the end of December 1979 or the beginning of January 1980. At the time she became pregnant, Betty was married to Jim Steffes. She had stopped having sexual relations with him in August or September of 1979.

The record reveals that Betty and respondent met in mid-January 1980 and had sexual relations their first night. They dated for approximately five to six weeks, during which time they had intercourse three or four times a week. Betty testified to having sex with no one during December 1979 and with only George Karras, the respondent, during January and February 1980. The respondent admitted having sexual intercourse with her during the week of either January 21st or January 28th, 1980.

Betty admitted writing a letter to the respondent's brother, Tom Karras, on January 30, 1984, in which she stated that George, the respondent, was not Joni's father. Much time was spent during cross-examination as to the contents of this letter. She confirmed at trial that parts of the letter were true and other parts were false.

In explaining the apparent inconsistencies in the letter and her testimony, Betty testified that she was afraid of George. The record establishes that she had a legitimate cause for concern for respondent had a drinking problem, was known to be violent, and had once been arrested for attempted murder. In addition, Tom First, a mutual friend of Betty and George, testified that Betty had on a number of occasions expressed her fear of George, confirming that George

was capable of violence and that he drank excessively even after he was court-ordered to undergo alcohol counseling as a part of a sentence. The trial court had the opportunity to observe the various witnesses and found Betty's testimony believable.

Against this background, we turn to the applicable law of the case. On appeal, the record is reviewed de novo. State, ex rel., Buechler v. Vinsand, 318 N.W.2d 208, 210 (Iowa 1982). Although the court gives weight to the findings of the trial court, especially when considering the credibility of the witness, it is not bound by them. Iowa R. App. P. 14(f)(7). The court can take judicial notice of the ordinary period of gestation. Moody, 306 N.W.2d at 777.

Paternity must be proven by a preponderance of the evidence. Moody v. Christiansen, 306 N.W.2d 775, 777 (Iowa 1981). There is no requirement of corroboration of the mother's testimony, although the presence or absence of such corroboration may influence the ultimate determination. Foreman v. Wilcox, 305 N.W.2d 703, 704 (Iowa 1974).

Blood tests showed a probability of paternity of 96.9% in the respondent. The blood tests excluded James Steffes as the father. The corroboration of Betty's testimony by the blood test results proved paternity in the respondent by at least a preponderance of the evidence.

Applying the above law to the facts of this case, we find there is proof of paternity by a preponderance of the evidence.

AFFIRMED.