

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

EJK,		: NO. 05-21,672
	Plaintiff	:
		: PACSES NO. 145107912
	vs.	:
		: DOMESTIC RELATIONS SECTION
DCB,		:
	Defendant	: Petition to Terminate Child Support

**OPINION AND ORDER**

Before the Court is Defendant's Petition to Terminate Child Support, filed July 28, 2008. A hearing on the petition was held September 9, 2008.

Plaintiff filed a Complaint for Support for one minor child, CRB, born November 15, 2005, on December 22, 2005. The parties were directed to appear in the Domestic Relations office on January 24, 2006, for genetic testing. On that date, the parties appeared and Defendant waived his right to genetic testing and signed an acknowledgment of paternity. By Order dated March 10, 2006, Defendant was directed to pay child support of \$50 per month. In the instant petition, Defendant contends he was informed in April 2007 that he was not C's biological father, that genetic tests were performed at that time and the results of those tests excluded him as the father. Defendant seeks to have his support obligation terminated, contending his acknowledgment of paternity was obtained by fraud.

Defendant testified that he became involved with Plaintiff in January 2005 and that when Plaintiff informed him that she was pregnant she did not tell him that she was involved with anyone else, and thus he was led to believe he was the child's father. He testified that he signed the acknowledgment of paternity as he was sure he was the father, and that he believed that to be true until April 2007, when Plaintiff and her mother told his mother that he was not the father. Plaintiff, on the other hand, testified that she met Defendant in April 2005 and that she was two months pregnant at the time. She testified that she immediately told Defendant she was pregnant and that he said he was "ok" with that. Plaintiff testified that she did not want

to be involved with the “real” father,<sup>1</sup> that she and Defendant were engaged at the time of the child’s birth, that she filed for child support because she was on welfare, that the parties were still in a relationship at the time of filing, and that Defendant signed the acknowledgment of paternity as they planned to be married. Plaintiff admitted that Defendant’s mother did not know about the situation, and that she and her mother went to her in April 2007 to inform her that Defendant was not the biological father of the child because “she kept coming around and it was weird”. According to the testimony of both parties, their relationship ended shortly after the child was born. Defendant testified that he has had no contact with the child since then, and has no bond with her.

Section 5103 of the Domestic Relations Code provides that after 60 days (from the date of signing an acknowledgment of paternity), such acknowledgment may be challenged in court only on the basis of fraud, duress or material mistake of fact. 23 Pa.C.S. Section 5103(g)(2). In the instant case, while Defendant testified to what could be characterized as fraud were such testimony to be believed, the Court believes instead the version provided by Plaintiff, and thus finds no fraud. His acknowledgment of paternity will, therefore, stand and his support obligation will continue.

**ORDER**

AND NOW, this 9<sup>th</sup> day of September 2008, for the foregoing reasons, the petition to terminate child support is hereby denied.

BY THE COURT,

cc: Brad Hillman, Esq.  
Melody Hanisek, Esq.  
DRO  
Gary Weber, Esq.  
Hon. Dudley Anderson

Dudley N. Anderson, Judge

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<sup>1</sup> Both parties testified regarding an ongoing dispute between Defendant and the biological father. Plaintiff characterized it as Defendant “threatening” him and “chasing him away” when he would “come around”. Defendant admitted to the dispute but claimed to not know what it was about.