Highlights of Mills v. Harell et. al.

Arguments Before Judge Todd Hernandez

Monday, April 10, 2017

Before the Court: Motion by Defendant Harrell of Peremptory Exception of no RIGHT of Action and Prescription.

Chris Wittington, Mover and Defense Attorney for Lisa Pecquet Harell (neither the parents nor the adoption agency, who are other defendants in the suit, were parties to today's hearing):

Argued that Mills comes to court with "unclean hands" and emphasizes that, when criminal acts are the basis of a petition, in whole or in part, they can't form the basis of a civil action. Referred to Mills' assertions as "wild accusations" including any reference to "contracts to sell babies." He also emphasized that Code of Civil Procedure "isn't applicable for adoptions."

He then emphasized that the birth parents have a <u>constitutional right</u> to choose whomever they'd like to obtain custody of the baby "up to the point of adoption." He stated that Mills "cannot force" the birth parents of the child to choose them as the recipients of their baby. He repeatedly emphasized that the parents are free to change their minds regarding who will obtain custody of their unborn child. He said "it's unfortunate, but it's a risk prospective adoptive couples know they're taking on when they engage in the process of adopting an unborn child."

He stated that Harell did a home study of the Mills household in August of 2012. He emphasized that she had <u>no</u> further obligation to the Mills and that she had done "exactly" what she was supposed to have done. He emphasized to Judge Hernandez that attorneys have the utmost of loyalty **to their clients (in this case, the couple whom she contracted with to represent in the adoption process) and <u>NOT</u> to the Mills family.** He then emphasized that Harell served as the attorney for the successful adopting parents and that, if the Mills were so inclined, they could "knock themselves out" suing the adopting parents, but that they have no basis for a claim against Harell.

Crystal Bounds (attorney for the Mills family in providing oral arguments for the both exceptions to be denied).

She emphasized that all of Whittington's arguments represented "copying and pasting" and "smoke and mirrors." The "copy and paste" assertion was buttressed by referencing the fact that the Court had

already heard a Motion for Peremptory Exception for no CAUSE of Action, that the Motion was denied, and that the First Circuit declined to take writs on the matter. She acknowledged that the birth parents do indeed have the constitutional right to change their minds, but immediately followed that up with emphasizing that "my clients have the right not to be scammed and defrauded." She emphasized that Harell knew full well that the birth parents were "double dipping" and emphasized that all of that had previously been recognized by the court, thus forming the basis for the entirety of the suit record to be introduced as evidence for the day's proceeding since it included the fact that the no CAUSE of action had previously been argued, denied, and the First Circuit declined to hear the matter.

She also emphasized that, client fiduciary relationship between Harell and the successful adopting parents notwithstanding, an attorney can be held liable to a third-party beneficiary for intentionally misrepresenting to that beneficiary as she asserts Harell did in this case. She also denies that the Mills come to court with any "unclean hands" and emphasized that they declined to make payments that would have constituted essentially the purchasing of a baby, and she emphasized that, in doing so, they went against the guidance of Harell when the birth parents were making financial demands and for which Harell reportedly said, "probably the best way to handle the situation is to just pay them." She then emphasized that, while the birth parents do indeed have the constitutional right to change their minds entailing whom they wish to adopt the baby, they have no right to engage in scams. She further argued that was exactly why the Legislature enacted laws providing very specific guidelines on what is permissible to pay for in the adoption process to protect against just such "bidding wars."

Regarding prescription, Harrell argued that a home study is valid for **two years**. She indicated that, with that being the case, the petition is certainly filed timely.

Chris Wittington, Rebuttal:

He said he wanted to correct a "misrepresentation" by Bounds regarding the length of time for which a home study is valid. He emphasized that it is valid for **one year**. He said that it "must be renewed" to be effective for the second year, and that the Mills did not seek such renewal from Ms. Harell. He said that, if they had and it had been renewed, then there would be no question that Harell had a blatant conflict and that, if that had transpired, arguments would be made "before a different body" entailing her very license to practice law. He indicated the fact that the Mills made no such request of Harell enabled her to take on the adoptive parents as clients, after which she owed the utmost of loyalty to **them and had no obligation whatsoever to the Mills**, thus triggering the need "for the Court to grant the Motion of no RIGHT of action and provide no mechanism for amendment" because it is not an impediment to the petition which is curable via amendment.

Judge Hernandez took the matter under advisement and indicated that he would issue his ruling at a later date.