

IN THE SUPREME COURT OF OHIO
FIRST DISTRICT COURT OF APPEALS
HAMILTON COUNTY, OHIO

In The Matter Of : CASE NO. 2010-0276

LUCY KATHLEEN MULLEN : CONSOLIDATED CASES
APPEAL NOS. C-090285
AND C-090407 FIRST
DISTRICT

MICHELE HOBBS :

PETITIONER-APPELLANT : TRIAL NO. F-07-2803 X
HAMILTON COUNTY

VS. :

KELLY MULLEN :

DEFENDANT APPELLEE :

AND :

SCOTT LIMING :

CROSS-PETITIONER-APPELLEE

APPELLEE SCOTT LIMING'S RESPONSE TO APPELLANT, MICHELE
HOBB'S MEMORANDUM IN SUPPORT OF JURISDICTION

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When a parent contractually cedes shared custody of her child to a third party, the contract is formed like any other-upon acceptance of the offer-and it cannot be unilaterally revoked after the agreement is formed.

APPELLEE'S POSITION

Ms. Mullen had never contractually relinquished her right to exclusive custody in favor of shared custody with Ms. Hobbs. Michele Hobbs did not prove at the trial that Ms. Mullen had contractually relinquished her right to the custody of her child so as to establish, according to Ohio Law, a right to any custodial, shared, or parental rights to a child to whom Ms. Hobbs is a legal stranger?

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I. A STATEMENT WHY THIS CASE IS NOT A CASE OF PUBLIC OR GREAT GENERAL INTEREST.

If this were a case between a heterosexual male and a heterosexual female, there would be no public interest or great general interest in this case. It would be a very common case in either Juvenile Court or Domestic Relations Court. Would a step father or a step mother, a babysitter, a mother or father in law, or a day care worker be accorded any privileges of parenthood? Absolutely not!

Should this case be transformed into a case of Public Interest or of Great General Interest because two of the parties are lesbians and one is a gay male? Would any business contract case, tort, or real property case turn on the sexuality of the parties. Hardly!

The Appellant is trying to turn this case into a cause célèbre, while the Appellees are trying to protect the child from abnormal publicity and a circus mentality.

This Court should protect the child involved herein by declining to treat this case in any special way because of the sexuality of the parties, and refuse to consider this case.

II. APPELLEE'S POSITION

Ms. Mullen has never contractually relinquished her right to exclusive custody in favor of shared custody with Ms. Hobbs. Michele Hobbs did not prove at the trial that Ms. Mullen had contractually relinquished her right to the custody of her child so as to establish, according to Ohio Law, a right to any custodial, shared, or parental rights to a child to whom Ms. Hobbs is a legal stranger.

The Trial Court did not error in rejecting the Magistrate's legal conclusion that Ms. Mullen had contractually relinquished her right to exclusive custody in favor of shared custody with Ms. Hobbs.

Michele Hobbs did not prove at the trial that Ms. Mullen had contractually relinquished her right to the custody of her child so as to establish according to Ohio Law a right to any custodial, shared, or parental

rights to a child to whom Ms. Hobbs is a legal stranger.

The State may deny parents custody of their children in situations where the Court determines that a preponderance of evidence shows that parents have abandoned the child, where they have contractually relinquished custody of the child, where they have contractually relinquished custody of the child, or child, or that an award of custody to the parent would be detrimental to the child. Hockstok, 98 Ohio St. 3d 238, (2002), 2002-Ohio-7208, 781 N.E. 2d 971 The Trial Court was correct in concluding that Ms. Mullen had no legally binding agreement with Hobbs, and that all documents signed by her were revocable at will.

The documents executed by Ms. Mullen were fully revocable by her at will, and they were indeed revoked. Also, she refused to enter into any kind of shared custodial arrangement. Even though, an agreement to relinquish custody can be oral in nature, nothing arises to that occasion here. In Re Perales, 52 Ohio State 2d, 89, (1977), 6 O O 3d 293, 369 N.E. 2d 1047.

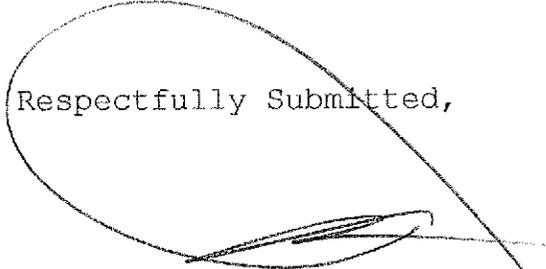
While Mullen freely entered into documents which she could revoke, she never intended, and refused to sign any kind of shared parenting documents. The legislature has established methods of obtaining parental rights, including adoption, grandparent rights, a determination of the unfitness of the parents, and other means. The Courts cannot, either in law or equity, establish a means to become a parent other than as established by statute. In *Re Bonfield*, 97 OS 3d 387, (2002)-Ohio-6660, 780 N.E. 2d 241.

It is clear that under Ohio law, Ms. Hobbs cannot be considered one of Lucy's legal parents. Ms. Mullen is the legal and biological mother, and Mr. Liming is the father.

III. CONCLUSION

None of the Trial Court's rulings were arbitrary, capricious, or an abuse of discretion, and they were fully supported in the law, by finding that Kelly Mullen had not legally relinquished any parental rights to Michele Hobbs, and that Scott Liming was the natural father of Lucy Mullen, which entitled him to certain parental rights to Lucy Mullen, and therefore, this appeal must be found to be without merit.

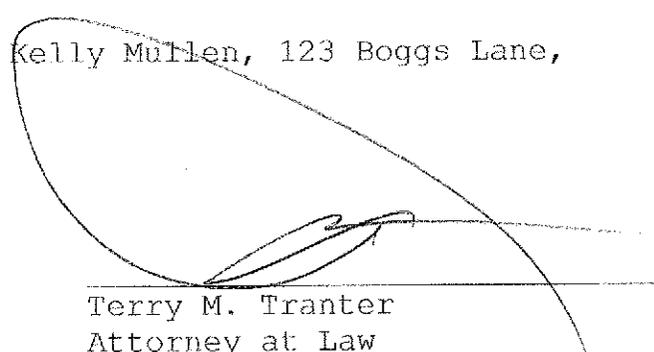
Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify a copy of this Brief was mailed by regular mail service on March 9, 2010 to Lisa T. Meeks, Attorney for Appellant Michelle Hobbs, Suite 650, 215 E. Ninth Street, Cincinnati, Ohio 45202, to Christopher R. Clark, Attorney for Appellant Michelle Hobbs, Suite 1008, 11 East Adams, Chicago, Illinois 60613, and to Karen P. Meyers, Attorney for the Appellee Kelly Mullen, 123 Boggs Lane, Cincinnati, Ohio 45246.



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