

Case Study: Mistaken Avowal of Fatherhood Imposes an Equitable Paternity

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Recently, the courts heard a controversial case involving the new concept of 'equitable paternity.' The matter of Shondel J. v. Mark D., focused on the situation of Mark D., a man who had mistakenly believed he had fathered a girl while visiting family in Guyana and proceeded to behave as her father would be expected to. He visited her, sent her gifts, helped financially to support her and even signed a letter affirming his position as her father so that she could obtain immigration papers.

When Shondel moved to New York she lodged a paternity petition and Mark filed a visitation petition. Upon administering a DNA test, the court learned that Mark was not the biological father. However, when Mark tried to end his relationship with the wouldbe daughter, he was "equitably estopped from disclaiming paternity" and ordered by the court to pay child support. It was the court's opinion that to end the relationship between father and daughter so suddenly could potentially damage the young girl's psyche and development even worse than had the relationship never existed in the first place.

The concept of "equitable paternity" or "paternity by estoppel" has been criticized as involuntary adoption. the argument is that it takes advantage of a "completely innocent litigant" who was misled by the child's mother. the dissenters in this decision noted that Shondel had sworn that she had not had sexual relations with any other man, and that the DNA test proved she had lied. They claim that the system rewards the biological fathers who make not effort to care for their children by exploiting those like Mark who accept the consequences of their actions and act responsibly.