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Hamberlin v. Bradford Appellant's Reply Brief Dckt. 45697

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Idaho Supreme Court
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IN THE

SUPREME COURT

OF THE

STATE OF IDAHO

Supreme Court Case Number : 45697

Bonneville County District Court Number: CV-2016-5707

SHAD LEWIS HAMBERLIN,

PLAINTIFF-RESPONDENT

vs.

JORDAIN LEANN BRADFORD,

DEFENDANT-APPELLANT

Appeal from the District Court of the Seventh Judicial District of the State of Idaho,

in and for Bonneville County

Hon. Joel E. Tingey, District Judge

RESPONDENT/APPELLANT'S REPLY BRIEF

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I. DID THE DISTRICT COURT ERROR IN APPLYING A REASONABLE PERSON STANDARD TO A MOTION TO SET ASIDE A VAP UNDER I.C.§7-1106(2)?

Shad argues that the plain language of Idaho Code §7-1106(2) requires this Court to enter into a statutory interpretation. This is completely incorrect.

"The objective of statutory interpretation is to give effect to legislative intent." *State v. Yzaguirre*, 144 Idaho 471, 475, 163 P.3d 1183, 1187 (2007). "Because 'the best guide to legislative intent is the words of the statute itself,' the interpretation of a statute must begin with the literal words of the statute." *Id*. (quoting *In re Permit No. 36–7200*, 121 Idaho 819, 824, 828 P.2d 848, 853 (1992)). When language is unambiguous, there is no reason for a court to consider rules of statutory construction. *Idaho Youth Ranch, Inc. v. Ada Cnty. Bd. of Equalization*, 157 Idaho 180, 184–85, 335 P.3d 25, 29–30 (2014). A statute is ambiguous when:

> [T]he meaning is so doubtful or obscure that reasonable minds might be uncertain or disagree as to its meaning. However, ambiguity is not established merely because different possible interpretations are presented to a court. If this were the case then all statutes that are the subject of litigation could be considered ambiguous.... [A] statute is not ambiguous merely because an astute mind can devise more than one interpretation of it. *Farmers Nat'l Bank v. Green River Dairy, LLC*, 155 Idaho 853, 856, 318 P.3d 622, 625 (2014) (alterations in original) (quoting *BHA Invs., Inc. v. City of Boise*, 138 Idaho 356, 358, 63 P.3d 482, 484 (2003)).

In this matter, the interpretative question of the statute is if the legislative intent was to require the application of a reasonable person standard to the recession of the VAP.

The actual words of the statute at issue are. "(2) After the period for rescission, an executed acknowledgment of paternity may be challenged only in court on the basis of fraud,

duress, or material mistake of fact, with the burden of proof upon the party challenging the acknowledgment." *I.C. § 7-1106(2).*

It is immediately clear that a reasonable person standard is not articulated in the actual, clear and unambiguous language of the statute. Shad argues that a reasonable person standard must be the legislative intent, as at the time of the 1996 amendment, "Idaho jurisprudence was replete with interpretation of the analogous provision allowing judgments to be set aside on the grounds of mistake, inadvertence, surprise, or excusable under Idaho Rule of Civil Procedure Rule 60(b)(1)." *Respondent's Brief p. 10.* While it is true that at the time of amendment, IRCP 60(b)(1) was in place and there had been many cases examining the findings for "mistake," it must also be noted and examined that despite this replete jurisprudence, the legislature did not include a reasonable person standard in the statute, nor did the legislature simply require a "mistake" as contained in Rule 60(b)(1). The legislature set the requirement as a "fraud, duress, or material mistake of fact." The legislature did not include **any** of the language from IRCP 60(b)(1), rather the legislature used language related to contracts and the standards for relieving a party from a contract.

A material mistake of fact is contract evaluation tool used to relieve a party from performance of a contract. This term comes with its own Idaho jurisprudence setting forth the requirements for utilization. "[A] mistake is an unintentional act or omission arising from ignorance, surprise, or misplaced confidence. The mistake must be material, that is, so substantial and fundamental as to defeat the object of the parties." *Leydet v. City of Mountain Home*, 119 Idaho 1041, 1044, 812 P.2d 755, 758 (Ct.App.1991) (citations omitted).

It is this language and jurisprudence the legislature utilized in its decision to not use the word "mistake" but to utilize the term "material mistake of fact" in the language of I.C.§7-1106(2).

Shad's assertion that utilizing the language of the statue would result in an absurd application is grossly self-serving and unsupported. The jurisprudence of a material mistake of fact in contract law extends back before Idaho was a state. In *Alan v. Hammond,* 36 U.S.63 (1837) the United States Supreme Court indicated that a contract entered into by mistake fails as there is no assent to the contract. Later, in 1876 the United States Supreme Court in *Utley v. Donaldson,* 94 U.S. 29 stated, "Where there is a misunderstanding as to any thing material, the requisite mutuality of assent as to such thing is wanting; consequently the supposed contract does not exist, and neither party is bound." Here the material mistake insulates itself into American jurisprudence. The Idaho Supreme Court has stated, "A mistake may justify grounds for relief if it si so substantial and fundamental that it defeats the object of the parties." *Maroun v. Wyreless Sys., Inc.*, 141 Idaho 604, 611, 114 P.3d 974, 981 (2005), abrogated on other issues by *Wandering Trails, LLC v. Big Bite Excavation, Inc.,* 156 Idaho 586, 329 P.3d 368 (2014).

The existence of a legal principle for 181 years seems to indicate that its use does not result in an absurd application.

The final argument by Shad states that a public policy should exist to preclude the implementation of the "material mistake of fact" standard for a rescission of a VAP. The public policy as to the rescission of a VAP should be to allow for the identification and legal acceptance of a biological parent and not the furtherance of a fiction based on a material mistake.

As the plain language of I.C. §7-1106 does not include the requirement of a reasonable person analysis either in the statute or the interpretation of the "material mistake of fact"

provision. The District Court erred in applying this standard for the review of the Jordain's Motion to Rescind the VAP. Any analysis of the "material mistake of fact" provision should be pursuant to the contract jurisprudence that mirrors the language used by the legislature. This analysis should require an evaluation if the mistake was an unintentional act or omission arising from ignorance, surprise, or misplaced confidence and that the mistake be material, that is, so substantial and fundamental as to defeat the object of the parties.

In this matter, the mistake by Jordain was the unintentional act of identifying Shad as the father of her child based on her ignorance in remembering the physical encounters with Matthew. This mistake is absolutely material as it defeats the intention of Jordain to correctly identify the father of T.J.H.

The determination of the District Court should be reversed and the VAP in this matter rescinded.

II. DID THE DISTRICT COURT ERROR IN DETERMINING THAT JORDAIN DID NOT ACT AS A REASONABLE PERSON?

As noted above, the reasonable and prudent person standard does not apply to a rescission of a VAP. Therefore any findings of the District Court by the District Court on this matter are irrelevant and an abuse of discretion.

Should any analysis of a reasonable person be reviewed, the District Court erred in its analysis as the actions of Jordain as set forth in her pleadings satisfy the requirement. Additionally, the absence of any other facts to counter those set forth by Jordain show an abuse of discretion and there is no contrary evidence to weigh.

The determination by the District Court as to any reasonable person analysis should be reversed.

CONCLUSION

In this matter, the District Court erred in imposing a reasonable person requirement into the statute where none existed and then in not finding Jordain acted as a reasonable person. Jordain presented, by clear and convincing evidence that she acted under a material mistake of fact when she signed the VAP in July, 2014. This mistake resulted in her stating that Shad was the father of T.J.H. when he was not. This Court should vacate the Order of the Magistrate Court and District Court denying the rescission of the VAP and rescind the VAP based on Jordain's uncontradicted material mistake of fact.

Respectfully submitted this 21st day of August, 2018.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I caused to be served a true and correct copy of the foregoing document on the parties designated below and by the method of delivery indicated:

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Dated this 21st day of August, 2018.

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