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CIVIL LITIGATION
Parents May Be
Liable for What Their
Kids Post on
Facebook, Court
Rules

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4:00 pm ET
Oct 17, 2014

CIVIL LITIGATION

Court: Facebook Not a Valid Way for Mom to Tell Dad She's Pregnant

ARTICLE

COMMENTS (1)

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- FACEBOOK
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- RIGHTS OF FATHERS
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By JACOB GERSHMAN

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— Reuters

A pregnant unwed mother can't use **Facebook** **FB -0.48%** alone to notify the father about the baby before putting the child up for adoption, Oklahoma's highest civil court **has ruled**.

The case was the latest to test the legal weight of communication through Facebook and other social media. Previously, for instance, **courts have debated** whether a plaintiff in a lawsuit could use Facebook to serve legal papers — such as summonses or hearing notices — on a defendant.

In Oklahoma, the issue came up in a custody battle — a dispute between the biological father of a two-year-old child and the kid's adoptive parents.

The father, Billy McCall, went to court to contest the termination of his parental rights over the baby girl, whose teenage biological mother put her up for adoption after giving birth in 2012.

Mr. McCall and the woman had a brief sexual relationship in 2011 and then lost touch. At some point prior to the delivery, she sent a Facebook message to Mr. McCall letting him know she was pregnant, according to court papers.

The father, a man in his early 20s who was Facebook friends with the woman, claims he never saw the message. He says he didn't find out about the child's existence until a week after the child was born and regularly visited the baby for several months. A trial court terminated his parental rights in May 2013.

In weighing the interests of unmarried biological fathers against the government's interest in securing a stable home for a newborn, **courts have ruled** that a father can acquire substantial due-process protection by seizing a chance to develop a relationship with the baby.

In Oklahoma, the natural father of a child born out of wedlock is entitled to be notified of the existence of the child — so as to at least have that opportunity to take responsibility.

The question before the Oklahoma Supreme Court was whether a Facebook message alone satisfies that notice requirement. The court — in a 6-3 ruling handed down this week — concluded that it didn't, reversing rulings in lower courts.

Here's Justice Douglas Combs, **writing for the majority**:

Instead of contacting Father directly, Mother left him a message on Facebook, which is an unreliable method of communication if the accountholder does not check it regularly or have it configured in such a way as to provide notification of unread messages by some other means. This Court is unwilling to declare notice via Facebook alone sufficient to meet the requirements of the due process clauses of the United States and Oklahoma Constitutions because it is not reasonably certain to inform those affected.

The dissenting justices didn't buy that logic.

"Why would Facebook be any less reliable than other forms of electronic communication?" wrote Justice James Winchester in a dissenting opinion joined by two other justices. "Does the Court require a face-to-face confrontation with witnesses? Face-to-face discussions can be denied; letters can remain unopened; and faxes can be lost."

Attorneys representing the adoptive parents declined to comment. A lawyer representing the father didn't respond to a request for comment.

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5:42 pm October 20, 2014

Kitty wrote:

Facebook is most definitely NOT a valid form of communication. If she had tried in more than one way and facebook was one of the ways, fine, but really, it was laziness on her part.

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Must Reads

Court: Remains of Jim Thorpe Can Remain in Jim Thorpe

The remains of Jim Thorpe can remain in Jim Thorpe, Pa. That was the ruling handed down on Thursday by a federal appeals court in Philadelphia in an unusual case involving a dispute between the family of the legendary Native American athlete and a small Pennsylvania town named after him.

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Lawyers & Law Firms	3312	Law & Technology	547
Criminal Law	2130	Roundup	145
Supreme Court	1512	State Legislation	139
Politics	1361	Regulations	107
Constitutional Law	1322	Bankruptcy	83
Judges	1091	Congress	60
Civil Litigation	1033	Courts	29
Intellectual Property	769	State Law	28
Law School	662	Policy	20

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