

NEWS IN BRIEF

Appeals Court upholds men's custody in surrogate case

The Virginia Court of Appeals has upheld custody orders from North Carolina in favor of a male homosexual couple that were challenged by the surrogate mother of the child the couple are rearing.

Roberto-Luis Copeland and Philip B. Spivey each contributed sperm that was used to artificially inseminate Tanya Lynn Prashad in 2003 under a surrogacy agreement in Minnesota.

A girl was born in August 2004, and Copeland was listed on her birth certificate as her father. He and Spivey took the child to North Carolina, where Prashad visited her several times. The relationship between the parties deteriorated, and Prashad went to North Carolina with her husband in April 2005 with the intent to return to Minnesota with the girl after Copeland and Spivey had limited Prashad's contact with the child.

The partners refused to allow Prashad access to the girl after a confrontation and went to California where they filed a Declaration of Domestic Partnership.

Prashad filed a complaint in North Carolina seeking custody and a determination of biological paternity. DNA tests showed that Spivey was the father.

The North Carolina court entered an order allowing both Spivey and Copeland to participate in the custody dispute and in September 2006 gave the partners primary legal and physical custody of the girl with secondary legal and physical custody to Prashad.

Spivey and Copeland moved to Virginia while the custody dispute was under way, and in December 2007 Prashad filed petitions in Fairfax Juvenile and Domestic Relations District Court seeking custody of the girl.



The J&DR judge registered the North Carolina order without modifying it to give her custody as Prashad had requested and Circuit Judge Bruce D. White made the same ruling on appeal.

In the Court of Appeals, Prashad contended that the lower courts had tacitly recognized the legitimacy of the homosexual relationship of Spivey and Copeland when they awarded custody to the couple. The recognition was in violation of the federal Defense of Marriage Act and the Virginia Marriage Amendment the state Marriage Affirmation Act, which say that the state will not recognize same-sex relationships, Prashad argued.

Appellate Judges Cleo E. Powell and Larry G. Elder disagreed in *Prashad v. Copeland* (VLW 009-7-491). The rulings in North Carolina and Virginia were consistent with the federal Parental Kidnapping Prevention Act and the Uniform Child Custody Jurisdiction and Enforcement Act, which Virginia has adopted, Powell said.

Moreover, she wrote, the North Carolina court based its custody award to Copeland as a non-biological parent on his role in raising the girl as his child for almost two years and not on his role as Spivey's partner.

Copeland's name was on the girl's birth certificate, and everyone had believed that he was her biological father for the first 14 months of her life. "Virginia has long recognized these facts, among others, to be clear and convincing evidence of paternity," she said.

The third member of the panel, Judge Randolph A. Beales, dissented on procedural grounds and did not address the merits of the case.

One-third of homicides result of family discord

The Virginia Department of Health says about one-third of the homicides that oc-



curred in the state between 1999 and 2007 were the result of family or intimate-partner discord or violence.

In a report released last week, the agency analyzed 1,232 domestic homicides that occurred in that time frame. About 56 percent of such homicides involved the use of a firearm. Sharp instruments such as knives were used in 16.4 percent of domestic-related homicides.

The state rate of such homicides varied from 1.6 to 2.1 victims per 100,000 people annually, but the rate was more than twice that for blacks, with a range of 3.6 to 4.5 victims per 100,000 people.

The Western part of the state and Hampton Roads had the highest domestic homicide rates while Northern Virginia had the lowest, according to the report.

The report was based on the Family and Intimate Partner Homicide Surveillance program that started in 1999 with a goal of providing accurate, timely and complete information about domestic violence in the state.

Virginia Chief Medical Examiner Leah Bush said, "As a result of this report, public health officials and policy developers have the tools needed to understand how the rate of domestic violence has changed over time. This is vital to creating and implementing violence prevention strategies, an important mission for the Virginia Department of Health."

Norfolk judge rules in legal notice dispute

A daily newspaper with paid circulation that wants to publish legal notices does not need a court order, a Norfolk Circuit Court has ruled.

Newspapers that meet the requirements