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GETTING A PATERNITY TEST

By **Michael Lynch**, 11 May 2015



GETTING A PATERNITY TEST

A DNA test result provides a clear answer in paternity cases but getting a DNA Test is not always as easy as it may seem.

To satisfy a court that an order for DNA testing should occur, an applicant needs to satisfy the court, under the specified tests, that there is a presumption of parentage. If that can be satisfied and a DNA test is ordered there is then the question as to what happens if a party refuses to comply with the test procedure.

The court recently considered such a complex case.



Facts:

- The husband and wife were married for 20 years. There were 5 children in the family.
- The applicant was a close friend of the family. He claimed he was the biological Father of 2 of the children, girls aged 7 and 5 years.
- The applicant also claimed:
 - he was present at the birth of both children.
 - he had had a physical relationship with the wife over approximately 12 years.
 - he spent time with the wife and the children on holidays (the husband did not deny this) and visited the family most mornings and evenings.
 - he gave \$4,000 to the wife when the (7 year old) child was born.
- Difficulties arose when the wife told the applicant that he could not see her or the children anymore.
- The husband stated he was the biological father of the children and that the applicant was a close family friend.
- The wife put forward no evidence.

Court Finding:

- The applicant satisfied the presumption of parentage and an order for DNA testing was made.
- The Husband refused to take a DNA test stating this was due to his religious beliefs.

Court Order:

- When a party refuses to comply with a DNA test they are deemed to have failed.
- The applicant was declared the father of the 2 children.

ABOUT MICHAEL LYNCH



Michael has practiced for over 25 years, specialising in **Family Law and De Facto Relationship Law**. He is well recognised and respected as one of Queensland's leading **Family Law Specialists** and has extensive experience in complex Family Law matters, including **Property Settlement** and Children's matters.

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