



FOR IMMEDIATE RELEASE

Press Contact: Jer Welter

Email: jwelter@freestate-justice.org

Office: 410-625-5428 x13

Cell: 410-657-2485

Victory: Maryland’s Highest Court Rules in Favor of De Facto Parentage for Same-Sex Couples, in Case Brought by FreeState Justice

Annapolis, MD – July 7, 2016 – In a case that impacts thousands of children in Maryland born into families headed by same-sex couples, the state’s highest court today ruled unanimously in favor of recognizing the parent-child relationships of de facto parents who lack a biological or adoptive relationship with their children. FreeState Justice litigated the case on behalf of Michael Conover. Conover has been denied visitation with his son for four years because his relationship with the child, whom he raised from birth with his same-sex partner of nearly a decade, was not recognized by Maryland courts.

“With the Court’s decision today, Maryland family law now recognizes the lived reality of LGBTQ families,” said Conover’s attorney, FreeState Justice deputy director and managing attorney Jer Welter. “This decision strongly affirms that children’s relationships with their parents are entitled to legal protection—even if their parents are not parents by blood or adoption.”

Michael Conover is a transgender man. Before his gender transition, Michael Conover was in a committed same-sex relationship for nearly a decade with Brittany Eckel.¹ In 2009, before marriage equality for same-sex couples was recognized in Maryland or any nearby jurisdiction, Conover and Eckel decided to have a child together by artificial insemination. They chose an anonymous sperm donor on the basis of physical resemblance to Conover, and when Eckel gave birth to their son Jaxon, the child was given Conover’s last name. A few months later, Conover and Eckel married in nearby Washington D.C., where marriage between same-sex couples had become legally recognized. They parented Jaxon together for the first two years of his life, but

¹ The case is titled under the parties’ former names, Michelle Conover and Brittany Conover. Brittany Eckel took Michael Conover’s last name when they married, but resumed her original last name after their divorce. Conover legally changed his name to Michael after the litigation began. The Court of Appeals decision, and all of the briefing in the case, referred to the parties by feminine pronouns and their names at the time of trial.

later broke up. In their divorce case, Conover asked the court for visitation with their son, but Eckel claimed that they had no children together.

The trial court ruled that Conover is a legal stranger to Jaxon because he lacks a biological or adoptive relationship to the child. In August 2015, Maryland's intermediate appeals court, the Court of Special Appeals, upheld the trial court's decision. In today's decision, the Maryland Court of Appeals overruled the lower courts and recognized that a person who, like Conover, has been a "de facto parent" to a child—who has raised a child together with the child's other legal parent—has standing under Maryland law to have custody of or visitation with their child.

"I haven't seen my son in four years because the state of Maryland didn't recognize me as a parent," stated Michael Conover. "I am elated that the state's highest court has ruled that people like me should have our relationships with our children legally protected. This decision is a huge milestone for my family and for Maryland, and it gives me hope that I will get to see my son again very soon."

In the 36-page Court of Appeals opinion, written by Judge Sally Adkins, the court ruled that "de facto parenthood is a viable means to establish standing to contest custody or visitation." The Court overruled its own contrary decision in the 2008 case *Janice M. v. Margaret K.*, which had rejected the de facto parenthood doctrine, calling the 2008 decision "clearly wrong" and stating that *Janice M.* "failed to effectively address problems typical of divorce by same-sex married couples." Instead, the court declared today: "A legal parent does not have a right to voluntarily cultivate their child's parental-type relationship with a third party and then seek to extinguish it."

The Court of Appeals' decision is available on its website at:
<http://www.mdcourts.gov/opinions/coa/2016/79a15.pdf>

The case will now return to the Circuit Court for Washington County in Hagerstown, where Conover will seek visitation with his son as a legally recognized de facto parent.

###

FreeState Justice is a social justice organization, formed through the recent merger of Maryland LGBTQ advocacy organizations FreeState Legal and Equality Maryland, that works statewide to improve the lives of LGBTQ Marylanders and their families through legal services, policy advocacy, outreach, education, and coalition building. We envision a Maryland where people across the spectrum of lesbian, gay, bisexual, transgender, and queer identities are free to live authentically, with safety and dignity, in all communities throughout our state. Our work brings to the forefront the experiences of those of us at greater risk for discrimination, such as youth, communities of color, low-income individuals, and transgender and gender non-conforming people.