

Paretta v. Medical Offices for Human Reproduction (2003)

Court: Supreme Court, New York County, New York
Citation: Paretta v. Medical Offices, 760 N.Y.S.2d 639 (2003)
Status as current law: Questionable
Value as precedent: Low

Case significance:

The court decided a child of in vitro fertilization born with cystic fibrosis does not have the right to sue for wrongful life even in the presence of demonstrable acts of medical negligence because to allow such a case would grant the IVF child rights not possessed by naturally born children. The decision in Paretta has not been publicly tested in other jurisdictions.

Case Summary:

- Facts—Mr. and Mrs. Paretta used the IVF services of defendants, including an approved ova donor. The donated ova were fertilized with Mr. Paretta's sperm and implanted in Mrs. Paretta. The IVF providers failed to disclose that the ova donor was a known carrier of the cystic fibrosis genes and also failed to test Mr. Paretta to determine if he was a carrier. The Parettas' child Theresa was born with cystic fibrosis. The Parettas and Theresa sued defendants on a claim of medical malpractice.
- Law—Under New York law, a child cannot sue on a theory of wrongful life. That is, a child may not sue for medical negligence that resulted in the child being born with a debilitating condition when the only negligence was a failure to identify the condition in time to prevent the child from being born altogether.
- Ruling—The child's lawsuit was dismissed by the court for failure to state a legally cognizable claim. The Parents were allowed to sue for Theresa's medical expenses they incurred and will incur in the future due to defendant's negligence.

Quotes:

"Because a child does not have a fundamental right to be born free of disease, the [Becker] Court refused to subject the obstetricians and gynecologists to liability to the infants. 'Whether it is better never to have been born at all than to have been born with even gross deficiencies,' the Court stated, 'is a mystery more properly left to the philosophers and the theologians.'"

This case cites to these authorities:

Becker v. Schwartz, 46 N.Y.2d 401, 413 N.Y.S.2d 895, 386 N.E.2d 807 (1978)
Wrongful life cases are not allowed in New York.

This case was cited in:

Tort law and in vitro fertilization: The need for legal recognition of "procreative injury", 115 Yale L.J. 237, 245+ (2005)