

Supreme Court of California

Johnson v. Calvert

851 P.2d 776 (1993)

CASE SYNOPSIS

Appellant surrogate sought review of an order from Court of Appeal for the Fourth District, Division Three (California), which, under the Uniform Parentage Act, Cal Civ. Code §§ 7000-721 (repealed 1994), affirmed the trial court's ruling that respondents, genetic parents, were the natural parents of a child born as a result of a surrogacy contract.

CASE FACTS

Appellant surrogate entered into a contract with respondents, genetic parents, whereby she would gestate a zygote conceived of respondents genetic material. Respondents filed a declaratory judgment action seeking a determination that they were the natural parents of the child. The appellate court affirmed the trial court's holding that they were.

DISCUSSION

- On further appeal, the court affirmed, holding that although the Uniform Parentage Act, Cal Civ. Code §§ 7000-721 (repealed 1994), recognized both genetic consanguinity and giving birth as means of establishing a mother and child relationship, when the two means did not coincide in one woman, she who intended to procreate the child and raise as her own, was the natural mother.
- The court held that the surrogacy contract was not barred by public policy.
- The court held that the determination that respondents were the natural parents of the child did not deprive appellant of her constitutional rights as appellant was not exercising her own right to make procreative choices.

- Rather she agreed to provide a necessary and profoundly important service without any expectation that she would raise the child as her own.

CONCLUSION

The court affirmed the judgment that respondents, genetic parents, were the natural parents of a child gestated by appellant surrogate. Although the Uniform Parentage Act recognized both genetic consanguinity and giving birth as means of establishing a mother and child relationship, when the two means did not coincide in one woman, she who intended to procreate the child and raise as her own, was the natural mother