

Man to get child support back

Parents owe \$14,460 in case of mistaken paternity, judge says

By **Sandy Hodson** | *Staff Writer*

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Judge David Roper said he felt badly for Kenneth Samuels when he learned the child he had fathered for 11 years wasn't his.

Justice was also shortchanged, the judge said, because Mr. Samuels had been paying child support all of those years.

Last month, Judge Roper ruled that Jamie Hope, the child's mother, and Oba Wallace, the child's biological father, would have to repay Mr. Samuels \$14,460 in child support he had paid since 1997.

Such an order is unusual, but not unique.

"We have seen it happen before," said Sandra Jarrett of the state's Child Support Recovery Unit.

Usually there is no intent to defraud, Ms. Jarrett said. Mothers who have had relationships with more than one man might not know who the biological father is without a DNA test.

Ms. Jarrett estimated 40 percent to 45 percent of their new cases are filed by a custodial parent who never married, and a DNA test is requested to establish paternity.

Child Support Services helps about 30,000 families in Richmond, Columbia and Burke counties. Across Georgia, 500,000 families are assisted, Ms. Jarrett said.

In Mr. Samuels' case, it began April 22, 1997, when Ms. Hope opened a Child Support Services case that named Mr. Samuels the father of her child.

Mr. Samuels said he never had any reason to doubt the child was his. He signed the birth certificate, and he consented to an order to pay child support.

Mr. Wallace told the judge at a hearing last summer that he heard from different people that the child looked like him. The child called him daddy when she saw him in town, Mr. Wallace said.

Mr. Wallace said he told Ms. Hope he would take care of the child financially if he was the biological father. They decided to get a DNA test last summer, Mr. Wallace said.

The DNA test proved Mr. Wallace was the biological father, and he filed a court petition to legally establish paternity. The case was assigned to Judge Roper, who had no problem with signing the order that established legal paternity. But he said he was troubled by the position in which it left Mr. Samuels.

The judge questioned Mr. Wallace and Ms. Hope about when they first suspected Mr. Wallace was the biological father. Both eventually admitted it was around the time the child was 2.

"I've never heard (of) this gentleman until this year, and I never knew that she was seeing anyone else," Mr. Samuels told the judge last summer.

Ms. Hope told the judge she wanted a paternity test in 1997 when the baby was born but that Mr. Samuels declined. He denied that.

"You swore that he was the father when you took out a child support action," Judge Roper told Ms. Hope. He said he considered that action fraudulent and ordered Ms. Hope to repay Mr. Samuels the \$14,460 he had paid in child support payments.

In February, Judge Roper ruled Mr. Wallace was liable to Mr. Samuels for the back child support, too. Judge Roper said in explaining his ruling that once paternity is established, a father can be required to pay back support to the time of birth. Since Mr. Wallace's paternity was established, he was responsible for the child support since the birth in 1997, and responsible for repaying Mr. Samuels.

Ms. Jarrett said that when a child support case is opened, the man identified as a child's father can request a DNA test. If the test comes back negative, the case against that man is closed. If it is positive, then paternity is established and Child Support Services works to obtain a court order for child support.

A man can also petition the court directly to request a legal determination of paternity, which is what Mr. Wallace did.

Paternity establishes who is responsible for the financial support of a child. If a father also desires visitation rights, he must legitimize the child, too, Judge Roper said. Although Child Support Services cannot help with visitation issues, the office can refer parents to mediation.

Child Support Services will help fathers with employment issues. It operates the Georgia Fatherhood Program to provide job counseling, training, educational assistance, placement assistance and other services. In Georgia, 25 percent of children have a case with the Child Support Services, according to the state Department of Human Resources.

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