

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

October 12, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 95-1204-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**IN RE THE PATERNITY OF KIRSTIA M. C.,  
A PERSON UNDER THE AGE OF 18:**

**JOAN D. ELORANTA,  
as Guardian ad Litem for  
Kirstia M. C.,**

**Appellant,**

**v.**

**MITCH S.,**

**Respondent.**

APPEAL from a judgment of the circuit court for Clark County:  
MICHAEL W. BRENNAN, Judge. *Affirmed in part; reversed in part and cause  
remanded with directions.*

Before Dykman, Sundby, and Vergeront, JJ.

PER CURIAM. Kirstia M.C. appeals by her guardian ad litem from a paternity judgment. We affirm in part; reverse in part and remand with directions.<sup>1</sup>

Kirstia filed a paternity petition in April 1993, three days short of her thirteenth birthday. The petition named Mitch S. as respondent. Mitch conceded paternity. The trial court declined, on the ground of equitable estoppel, to order Mitch to pay support for the period between Kirstia's birth and the filing of her petition. Kirstia appeals.

Equitable estoppel is applicable in family law cases. *Harms v. Harms*, 174 Wis.2d 780, 784, 498 N.W.2d 229, 231 (1993). A person may be equitably estopped if he or she takes action or inaction which induces reliance by another to his or her detriment. *Id.* at 785, 498 N.W.2d at 231. Here, the trial court found that Kirstia was equitably estopped from collecting back support payments because her mother had not pursued a claim against Mitch earlier. We conclude the court erred. Kirstia cannot be estopped by someone else's action or inaction. As a child, Kirstia had no say in her mother's activities.

Kirstia asserts, and we agree, that the trial court may consider her claim for retroactive support in light of the factors in § 767.51(5), STATS. On remand, the trial court shall review those factors.

*By the Court.*—Judgment affirmed in part; reversed in part and cause remanded with directions.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

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<sup>1</sup> This is an expedited appeal under RULE 809.17, STATS.