COURT OF APPEALS
DECISION
DATED AND RELEASED

September 12, 1995

No. 95-1997

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

IN RE THE PATERNITY OF COURTNEY R. B.,
A PERSON UNDER THE AGE OF 18:

RYAN A.,

Petitioner-Appellant,

v.

WRIGHT C. LAUFENBERG, AS GUARDIAN
AD LITEM FOR COURTNEY R. B. AND
WENDY R. B., AND STATE OF WISCONSIN,

Respondents-Respondents.

APPEAL from an order of the circuit court for Lincoln County: J. MICHAEL NOLAN, Judge. *Affirmed.*

MYSE, J. Ryan A. appeals an order dismissing his petition to terminate his parental rights to a child born to Wendy R. B. Ryan contends that the trial court erred when it concluded that he lacked standing to petition for the termination of his parental rights over the child because he did not fit the definition of parent in ch. 48, STATS. In addition, Ryan contends that Wendy was not entitled to notice of his petition to terminate parental rights because the child was born as a result of a sexual assault based on Ryan being under the age of sixteen years at the time of conception. Ryan further contends that the State

of Wisconsin should not be permitted to intervene in the action to terminate his parental rights. Because this court concludes that Ryan had no standing to petition to terminate his parental rights, the order of dismissal is affirmed.

This case arises as a result of Ryan's petition to terminate his parental rights to Courtney R. B., a child born to Wendy R. B. At the time of conception, Ryan was fifteen years old and Wendy had just passed her seventeenth birthday. They had dated in high school and had consensual sexual intercourse on two occasions while dating. However, because Ryan was under the age of sixteen at the time of intercourse, Wendy had committed a sexual assault as defined by § 948.02(2), STATS.

A paternity action was filed against Ryan, and blood tests indicate a probability of paternity of 99.9%. The paternity action remains pending, with Ryan denying his paternity at the time he petitioned to terminate his parental rights to Courtney.

The sole dispositive issue is whether Ryan had standing to terminate his parental rights when he had neither been adjudicated the father of the child nor had he admitted that he was the biological father. This issue requires interpretation of ch. 48, STATS. Statutory interpretation is a question of law that we review without deference to the trial court. ***Kluth v. General Cas. Co.***, 178 Wis.2d 808, 815, 505 N.W.2d 442, 445 (Ct. App. 1993).

Section 48.42(1), STATS., provides: "A proceeding for the termination of parental rights may be initiated by petition which may be filed by the child's parent, an agency or person authorized to file a petition under 48.25 or 48.835." The word "parent" is subsequently defined in § 48.02(13), STATS., as follows:

> "Parent" means either a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.60, "parent" includes a person adjudged in a

> judicial proceeding to be the biological father. "Parent" does not include any person whose parental rights have been terminated.

The clear and unambiguous language of the two statutes provides that a parent may file a petition to terminate parental rights, but a parent, as relevant to this case, has been defined by statute to be either a biological parent or a person adjudged in a judicial proceeding to be the biological father. Ryan argues that he is the biological father because of the overwhelming evidence of paternity, including the blood test, which establishes a 99.9% probability of paternity. Ryan reasons that because biological paternity is established by compelling evidence, he has standing to file a petition to terminate his parental rights. The problem with Ryan's analysis is that he has continued to deny biological paternity both at the paternity proceedings and in the petition to terminate his parental rights.

Wendy contends that for Ryan to be a biological father within the meaning of the statute there must be an adjudication that he is the biological father. This court need not go so far in its analysis. Because Ryan does not admit he is the biological father and there has been no adjudication of paternity, he fails to meet the definition of parent as set forth in the relevant Wisconsin statutes. This court therefore concludes that Ryan has no standing to petition to terminate his parental rights to Courtney.

Because this court concludes that the trial court's order dismissing Ryan's petition is correct, it need not address Ryan's other issues. *See* ***Gross v. Hoffman***, 227 Wis. 296, 300, 277 N.W. 663, 665 (1938) (only dispositive issue need be addressed). This court will defer consideration of these issues until they are ripe for determination.

By the Court.—Order affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.