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The Significance of Caban v Mohammed and Its Application to the Adoption of Newborns

Shannon Fry

Caban v Mohammed was a significant case concerning the rights of unwed fathers. The case demonstrated the entitlement of certain rights and privileges in the adoption process to unmarried fathers who show an interest in their children, and also helped answer the question of who has a voice in the adoption of newborns. To better understand the significance of Caban, two critical, preceding cases, which dealt with the rights of unmarried fathers in adoption, will be introduced. Analysis of Caban v Mohammed will follow an examination of these two cases. Finally, an explanation of the determination process when deciding whether or not an unmarried father should have a voice in his newborn child's adoption procedures, while still maintaining the best interests of the child, will be given.

Stanley v Illinois marked “the beginning of the contemporary development on unwed fathers’ rights” (Sturgill 988). Before Stanley, unwed fathers did not have many rights, the mother held the legal rights to the child. Stanley helped to alter this practice.

The Stanleys lived together periodically for approximately eighteen years. During this time, Stanley “actively supported”
the three children he fathered, and claimed paternity for them (Gutekunst 318). When the mother died, the children were declared wards of the state (Gutekunst 318-319). Stanley claimed his equal protection rights were violated because all parents except unwed fathers, such as Stanley, had the right to a hearing before they were deprived of their children (Sturgill 990). Stanley appealed and the Illinois Supreme Court affirmed the decision of the lower court, the children could “be separated from their father because he had never married the children’s mother” (Gutekunst 319). In issuing a reversal, the United States Supreme Court stated, “all Illinois parents are constitutionally entitled to a hearing on their fitness before their children are removed from their custody” (Gutekunst 319). The Court declared “the due process clause required a fitness hearing before this right could be terminated” (Sturgill 990). Clearly, the Court emphasized, a statute “based upon the presumption that unwed fathers are unfit to care for their children violated the due process provision of the fourteenth amendment” (Gutekunst 319). In addition, the Court expressed that “since all other parents receive such a hearing, depriving Stanley of a hearing contravened the equal protection clause” (Sturgill 990). The right of an unwed father to a hearing, to determine his fitness as a parent, before being deprived of his children was a substantial step forward regarding the rights of unmarried fathers.

Quilloin v Walcott also set a precedent for Caban. Quilloin fathered an illegitimate child. Shortly after the child’s birth, the mother married a man by the name of Walcott. Nine years later, Walcott petitioned for adoption of the illegitimate child. Quilloin argued for an “absolute veto over the adoption of his child absent a finding of his unfitness as a parent” (Sturgill 993). The court denied Quilloin’s request. The case was appealed and reached the Supreme Court. The Supreme Court stated that since Quilloin had never “exercised actual or legal custody of his child, and thus had never shouldered any significant responsibility with respect to the daily supervision, education, protection, or care” of his child, that he had no right to veto the adoption (Sturgill 993). In addition, stopping the adoption would interrupt an already existing family (Sturgill 993). The Court also found the due process clause was satisfied because the best interests of the child were met (Gutekunst 327). The Court decided since Quilloin had not taken custody of the child, nor had accepted any “significant responsibility” with respect to the daily care of the child, there indeed was a difference between Quilloin and a married father of the child, a married father would have contributed to the support of the child (Gutekunst 327). Therefore, the distinction made did not violate the equal protection clause because Quilloin and a responsible, married father were not equal (Gutekunst 327). Thus, Quilloin gave up his veto right to the adoption when he decided not to participate in the life of his child.

Both Stanley and Quilloin helped set the stage for Caban v Mohammed. Abdiel Caban and Maria Mohammed lived together as a family unit for about five years without getting married and parented two children. After the five years, Maria took the children and moved in with Kazim Mohammed, whom she married about two months later. For the following nine months, the two children spent their weekdays living with
the three children he fathered, and claimed paternity for them (Gutekunst 318). When the mother died, the children were declared wards of the state (Gutekunst 318-319). Stanley claimed his equal protection rights were violated because all parents except unwed fathers, such as Stanley, had the right to a hearing before they were deprived of their children (Sturgill 990). Stanley appealed and the Illinois Supreme Court affirmed the decision of the lower court, the children could “be separated from their father because he had never married the children’s mother” (Gutekunst 319). In issuing a reversal, the United States Supreme Court stated, “all Illinois parents are constitutionally entitled to a hearing on their fitness before their children are removed from their custody” (Gutekunst 319). The Court declared “the due process clause required a fitness hearing before this right could be terminated” (Sturgill 990). Clearly, the Court emphasized, a statute “based upon the presumption that unwed fathers are unfit to care for their children violated the due process provision of the fourteenth amendment” (Gutekunst 319). In addition, the Court expressed that “since all other parents receive such a hearing, depriving Stanley of a hearing contravened the equal protection clause” (Sturgill 990). The right of an unwed father to a hearing, to determine his fitness as a parent, before being deprived of his children was a substantial step forward regarding the rights of unmarried fathers.

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Kazim and Maria and their weekends with Maria's mother. Caban visited the children on the weekends at the maternal grandmother's apartment (Rausch 94). The Mohammeds filed for and received custody. Then, they petitioned for adoption of the children, and Caban cross-petitioned for adoption of the children on behalf of himself and his new wife (Rausch 94-95). At the time, the New York Domestic Relations statute held the unwed mother, but not the father, could veto the adoption. Caban could only try to prove the adoption was not in the children's best interest or that the Mohammeds were unfit parents (Rausch 95). Caban did neither. Next, Caban appealed the case and argued the New York Domestic Relations Act "unconstitutionally denied him equal protection and due process contrary to the guarantees of the fourteenth amendment" (Rausch 95). Both the Appellate Division of the New York Supreme Court and the New York Court of Appeals rejected his claims, but the United States Supreme Court ruled differently. The Supreme Court proclaimed Caban could indeed veto the adoption by Mohammed. Justice Powell wrote that the statute under the New York Domestic Relations Act violated Caban's rights under the equal protection clause because it "drew a gender-based distinction bearing no substantial relationship to the state's interest in furthering the adoption of children born out of wedlock" (Rausch 95-96). The Court did not address the due process argument because analysis of the equal protection clause decided the case (Rausch 96).

One of the most significant results of Caban was the "relationship of older children with their father may be fully comparable with that of their mother" (Sturgill 994). The Court decided that sex cannot be a discriminator in determining veto rights for an adoption hearing (Sturgill 995).

Another important point of Caban was that a father cannot be determined unfit, and a court cannot remove his parental rights on grounds that he did not marry the mother of the child (Rausch 98). The Court clearly stated "nothing in the Constitution prohibits states from terminating parental rights upon proof of unfitness" (Rausch 98).

A third important point of law determined by Caban was stating the factors which constituted the fitness or the unfitness of a parent, this was the deciding factor that separated Quilloin from Caban. The Court restricted the unmarried father's right to intervene with the adoption of his child to fathers who have "established a substantial familial relationship with his offspring," such as Caban (Sturgill 1005). Fathers who have not established a substantial relationship, such as Quilloin, were not given this right (Sturgill 1005).

Lastly, if a father did not establish contacts and a relationship with his child, and did not contribute to the well-being of the child, he should not be given the right to intervene in the adoption. If a father chose not to establish a significant relationship with the child, contribute to the child's welfare, or did not try to be a "father" for the child, then this lack of a relationship should be taken as a willful surrender of the father's parental rights. The right to veto an adoption should be a parental privilege, not a right based solely on biological ties.
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The courts recognized the distinction between fathers who should have a voice in their child's adoption and fathers who should not. In *Quilloin*, there were substantial contacts between the father and the child, as existed in *Caban* (Gutekunst 330). Quilloin had taken “no action to legitimize the child during the eleven years of the child’s life” (Gutekunst 330). Quilloin had never “exercised actual or legal custody over his child, and thus had never shouldered any significant responsibility with respect to the daily supervision, education, protection, or care of the child” (Sturgill 993). Caban, on the other hand, established these contacts and relationships and accepted responsibility for the children’s well being. The Courts awarded rights to the two fathers accordingly: it gave Caban the right to veto his children’s adoption, and denied this right to Quilloin. The fact that Caban did establish significant relationships with his children demonstrated that he was competent to care for them, and “his efforts to care for and adopt his children were indicative of his desire to care for them” (Gutekunst 331).

The question remains, though: does a father have the right to intervene in the adoption of a newborn infant? Sturgill believes that because the father has not married the mother and has not “had the opportunity to engage in a de facto familial relationship with the child,” that the unwed father of a newborn child “can present no substantial evidence of a real or presumptive commitment to the child’s welfare” (1000). The process of adoption should also be speedily determined, and not bound up in lengthy hearings, for the child’s sake in order to quickly enter into a healthy family situation. The father’s rights also need consideration. A balance between the father’s rights and the best interests of the child must be established, and *Caban* helped discover this balance.

The deciding factor in the “fitness” of the father and therefore whether or not he should be granted the right to intervene in his child’s adoption in both *Caban* and *Quilloin*, was “whether the father [had] established contacts with the child” (Gutekunst 331). This indicator of “fitness” may be slightly modified and used to determine whether a father has the right to intervene into his child’s adoption. If a father tried to help the mother during the time of her pregnancy and showed an interest in the unborn child, these concerns indicate the father establishing the beginnings of a significant relationship, having the same magnitude as the relationship which allowed Caban to adopt his children. Sturgill stated, “some fathers of newborns might have a protectable interest in their offspring arising from support and care of the mother” (998). Sturgill also said, in regard to the case of *Caban*, the father’s commitment to the child’s welfare, as shown by his interest in the child and his taking responsibility for them, is not only “important to the determination of the father’s accrued rights to the child, but also to the evaluation of the likelihood of his future commitment to the child’s welfare” (996). Fathers who abandon the mother obviously have not tried to establish significant contacts, and those fathers, by not establishing contacts, forgo the right to a voice in the child’s adoption process.

Another reason for the success of this method was that it questioned whether the unwed father acted in the same way a
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Another reason for the success of this method was that it questioned whether the unwed father acted in the same way a
responsible married father would. One of why reasons Quilloin was denied the right to intervene in his child’s adoption was because he had not acted as a legal father in the relationship with his children. A responsible married father would have helped pay the expenses of the pregnancy and childbirth, taken an interest in the unborn child’s welfare, and expressed a desire to care for the unborn child. If an unwed father performed these duties, then he should receive the same rights of a married father, including the right of a voice in his child’s adoption proceedings.

A third argument compelling this method was that it took into account the best interests of the child. If the father took responsibility for the child and took a financial, emotional, and physical role in his or her life, then the father acted in the best interests of the child, thus the child’s “best interest” test had been passed. Once a caring, loving, responsible father enters the adoption proceedings, he is to be viewed as a person who is looking out for the child’s best interests, especially if the mother does not want the child and the father is willing to adopt the child and raise them in a loving environment.

Caban v Mohammed was a monumental case that showed unwed fathers, when proven fit and worthy to participate in decisions regarding their children, have rights equal to those of married fathers. Determination of “fitness” and “worthiness” involved whether or not the father has taken an interest in, and responsibility for the child’s life, as well as the number of contacts the father has made with the child. A modified version of the fitness test may be applied to the special case of newborn adoptions. If a father expressed a desire and tried to establish an interest in the child’s life, these actions indicate that the father deserved to have a say in the child’s adoption process. If an unmarried father has performed the same responsibilities as a married father, then he should receive the same rights of a married father. Consideration of the father’s relationship with the child, as in Caban v Mohammed, may determine the father’s rights to intervention in the adoption process of his child.

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