

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**IN THE MATTER OF: D.S.K., N.B.K. and B.N.K. By and Through Thier Next Friend,
J.J.K.,**

Respondents,

v.

D.L.T;

Respondent,

R.S.K.;

Appellant,

K.S.T., M.T., C.T., and V.T.,

Respondents.

DOCKET NUMBER WD76789

Date: December 31, 2013

Appeal from:
Platte County Circuit Court
The Honorable Thomas C. Fincham, Judge

Appellate Judges:
Division Three: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and Gary D. Witt, Judges

Attorneys:
Jonathan Sternberg, Kansas City, MO and Richard L. Becker, Gladstone for appellant.
Sarah E. Recker, Parkville, MO; Jacob A. Pruet, Platte City, MO, for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS -- WESTERN DISTRICT

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WD76789

Platte County

Before Division Three: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and
Gary D. Witt, Judges

R.S.K. ("Husband") appeals the circuit court's order denying his motion to intervene as a matter of right in a paternity action filed by J.J.K. ("Wife"). In the paternity action, Wife sought to have her deceased paramour, D.L.T., declared the father of three children born during her marriage to Husband. On appeal, Husband contends he had a right to intervene in the paternity action to assert his claim for third-party custody and visitation.

AFFIRMED.

Division Three holds:

The circuit court did not err in denying Husband's motion to intervene as a matter of right in Wife's paternity case. Husband failed to establish that he has an interest in

Wife's paternity case, as the children's custody is not at issue in that action. Merely because Section 210.841.3, RSMo 2000, allows a paternity judgment to include custody provisions does not mean custody is necessarily at issue in every paternity case. No issues other than paternity were included in Wife's paternity petition. Husband also failed to establish that the disposition of Wife's paternity case will impair or impede his ability to assert his third-party custody claim. Because he has already been excluded as the children's biological father, he will neither gain nor lose by the court's determining who the children's biological father is. The paternity determination will not impact Husband's need to raise a third-party custody claim if he wishes to seek custody of Wife's children, and it will not impair or impede his ability to do so.

Opinion by: Lisa White Hardwick, Judge

December 31, 2013

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