

2015 IL App (2d) 141138-U  
No. 2-14-1138  
Order filed September 16, 2015

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

---

THOMAS J. STROHMEYER,	)	Appeal from the Circuit Court
	)	of McHenry County.
Petitioner-Appellant,	)	
	)	
v.	)	No. 13-FA-346
	)	
SHANDRA L. RICHARDSON,	)	Honorable
	)	Mark R. Gerhardt,
Respondent-Appellee.	)	Judge, Presiding.

---

JUSTICE HUTCHINSON delivered the judgment of the court.  
Justices Burke and Birkett concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Petitioner did not establish that section 607(e) of the Parentage Act was unconstitutional as applied to him, as he challenged only a provision that did not apply to him.
- ¶ 2 Petitioner, Thomas J. Strohmeyer, appearing *pro se*, appeals the trial court's dismissal of his petition seeking visitation with his child with respondent, Shandra L. Richardson. The trial court dismissed the petition on the basis that section 607(e) of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/607(e) (West 2012)) prohibited visitation when petitioner was incarcerated for convictions of predatory criminal sexual assault of a child

(720 ILCS 5/11-1.40 (West 2010)). Petitioner contends that section 607(e) is unconstitutional. We affirm.

¶ 3

## I. BACKGROUND

¶ 4 Petitioner and respondent were never married but have one child, T.D.S., age seven, whom petitioner has not seen since the child was six months of age. In 2011, petitioner was convicted of three counts of predatory criminal sexual assault and sentenced to an aggregate term of 60 years' incarceration. On October 10, 2013, petitioner filed a petition to establish paternity and order visitation. On May 8, 2014, the trial court entered an agreed order establishing paternity; the issue of visitation remained pending. Respondent moved to dismiss, arguing that visitation was precluded by section 607(e) of the Act. A hearing was held, during which petitioner argued that section 607(e) was unconstitutional. On October 10, 2014, the trial court dismissed the petition, finding that section 607(e) was constitutional and prohibited visitation. Petitioner appeals.

¶ 5

## II. ANALYSIS

¶ 6 Petitioner contends that section 607(e) of the Act is unconstitutional as applied to him because it prohibits him from visitation absent his obtaining sex-offender treatment, which he was not ordered to undergo.

¶ 7 The Illinois Parentage Act of 1984 establishes a comprehensive scheme for determining paternity and for establishing custody, visitation, and child-support obligations in connection with a judgment of paternity. *In re Parentage of J.W.*, 2013 IL 114817, ¶ 38. Once paternity is established, the judgment “may” contain provisions concerning visitation. 750 ILCS 45/14(a)(1) (West 2012). Thus, “under the express terms of the Parentage Act, a judgment of paternity does

not automatically entitle a biological father to visitation.” *In re Parentage of J.W.*, 2013 IL 114817, ¶ 39.

¶ 8 Section 607(e) of the Act provides:

“No parent, not granted custody of the child, or grandparent, or great- grandparent, or stepparent, or sibling of any minor child, convicted of any offense involving an illegal sex act perpetrated upon a victim less than 18 years of age including but not limited to offenses for violations of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-1.70, or Article 12 of the Criminal Code of 1961 or the Criminal Code of 2012, is entitled to visitation rights while incarcerated or while on parole, probation, conditional discharge, periodic imprisonment, or mandatory supervised release for that offense, and upon discharge from incarceration for a misdemeanor offense or upon discharge from parole, probation, conditional discharge, periodic imprisonment, or mandatory supervised release for a felony offense, visitation shall be denied until the person successfully completes a treatment program approved by the court.” 750 ILCS 5/607(e) (West 2012).

¶ 9 Legislative acts enjoy a strong presumption of constitutionality, and the party challenging the constitutionality of a statute bears the burden of rebutting this presumption and clearly establishing a constitutional violation. *People v. Sypien*, 198 Ill. 2d 334, 338 (2001). The constitutionality of a statute is a question of law, which we review *de novo*. *People v. Einoder*, 209 Ill. 2d 443, 450 (2004).

¶ 10 In an as-applied challenge to a statute, “the party challenging the statute contends that the application of the statute in the particular context in which the challenger has acted, or in which he proposes to act, would be unconstitutional.” *People v. Brady*, 369 Ill. App. 3d 836, 847

(2007). “An ‘as-applied’ challenge requires a party to show that the statute violates the constitution as the statute applies to him.” *Id.*

¶ 11 Petitioner concedes that he is currently incarcerated for an offense that bars him from visitation under section 607(e) of the Act. However, relying on *In re Marriage of Donald B.*, 2014 IL 115463, he contends that section 607(e) is unconstitutional as applied to him because he was not ordered to obtain sex-offender treatment and it will be impossible for him to enroll in a treatment program before T.D.S. reaches the age of majority.

¶ 12 In *In re Marriage of Donald B.*, the trial court found section 607(e) of the Act unconstitutional on its face and as applied to the petitioner. The Cook County Public Guardian appealed. By the time the appeal was heard, the petitioner had completed probation, had been evaluated for treatment, which was deemed unnecessary, and thus was eligible for visitation under section 607(e). As a result, our supreme court held that the issue was moot. *Donald B.*, 2014 IL 115463, ¶ 38. In determining that the public-interest exception to the mootness doctrine did not apply, the court observed that, while in some instances section 607(e) could operate to permanently terminate visitation rights, that was not the case in the appeal before it. *Id.* ¶ 35. The court vacated the trial court’s ruling. *Id.* ¶ 38

¶ 13 Here, under section 607(e) of the Act, petitioner is ineligible for visitation because he is incarcerated. He makes no argument that the portion of section 607(e) pertaining to incarcerated parents is unconstitutional. Instead, he argues only that the requirement of sex-offender treatment after discharge renders section 607(e) unconstitutional as applied to him, because T.D.S. will reach the age of majority before he can obtain treatment. But T.D.S will reach the age of majority long before petitioner even finishes his term of incarceration. Thus, only the incarceration provision, not the treatment provision applies to him. By challenging only the

treatment provision, petitioner has not shown that section 607(e) violates the constitution as it applies to him.

¶ 14 As previously mentioned, petitioner makes no argument that the incarceration provision of section 607(e) of the Act is unconstitutional. He notes that he argued to the trial court that section 607(e) is unconstitutional on its face and violates the separation of powers, but he makes no specific arguments about those issues on appeal, nor does he cite to any authority for those propositions.

¶ 15 Illinois Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013) provides that the appellant's brief shall include "[a]rgument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." An appellant who fails to present cogent arguments supported by authority forfeits those contentions on appeal. *People v. Ward*, 215 Ill. 2d 317, 332 (2005). Here, any contentions concerning the incarceration provision of section 607(e), the facial constitutionality of the statute, and the separation of powers have been forfeited.

¶ 16 III. CONCLUSION

¶ 17 The trial court properly dismissed the petition. Accordingly, we affirm the judgment of the circuit court of McHenry County.

¶ 18 Affirmed.