[Cite as *Francis v. Giffin*, 2009-Ohio-2707.]

COURT OF APPEALS
PERRY COUNTY, OHIO
FIFTH APPELLATE DISTRICT

SUZAN FRANCIS, et al. Plaintiffs-Appellees -vs- MICHAEL S. GIFFIN Defendant-Appellant	JUDGES: Hon. Sheila G. Farmer, P. J. Hon. W. Scott Gwin, J. Hon. John W. Wise, J. Case No. 08 CA 12 O P I N I O N

CHARACTER OF PROCEEDING:	Civil Appeal from the Court of Common Pleas, Juvenile Division, Case No. 2007-H-113
JUDGMENT:	Affirmed
DATE OF JUDGMENT ENTRY:	June 8, 2009

APPEARANCES:

For Plaintiff-Appellee CSEA	For Defendant-Appellant
STEPHEN R. HERENDEEN ASSISTANT PROSECUTOR Post Office Box 569 New Lexington, Ohio 43764	MICHAEL S. GIFFIN, PRO SE 7833 Township Road 331 Corning, Ohio 43730

Wise, J.

{¶1} Appellant Michael S. Giffin appeals from the decision of the Perry County Court of Common Pleas, Juvenile Division, which established a child support order for his minor son, S.F. Appellee Susan L. Francis is S.F.'s mother. The relevant facts leading to this appeal are as follows.

{¶2} Appellee was married to Shawn Francis from February 1991 until October 1994. Appellee and Shawn thereafter lived together again for a time. S.F. was born to appellee in October 1995, approximately one year after her divorce from Shawn. The birth certificate of S.F. listed his father as Shawn.

{¶3} On January 25, 2005, genetic paternity testing arranged by Appellee Perry County Child Support Enforcement Agency ("CSEA") showed a 99.99% probability that appellant was the biological father of S.F. On January 31, 2005, CSEA issued an administrative order establishing the existence of a father-child relationship between appellant and S.F.

{¶4} Appellant thereafter filed a court action for the allocation of parental rights and responsibilities regarding S.F. According to appellant, that action was subsequently dismissed.

{¶5} On March 23, 2007, CSEA filed a complaint for child support regarding S.F. in the Perry County Court of Common Pleas, Juvenile Division. The matter proceeded to an evidentiary hearing on August 23, 2007, at which time appellant appeared with counsel.

{¶6} On September 11, 2007, the magistrate issued a decision setting appellant's child support obligation for S.F. at $452.80 per month, plus processing

charges, effective March 23, 2007. After successfully requesting findings of fact and conclusions of law, appellant filed an objection to the decision of the magistrate.

{¶7} On May 27, 2008, the trial court issued a judgment entry overruling the objections and adopting the decision of the magistrate.

{¶8} On June 25, 2008, appellant filed a notice of appeal. He herein raises the following four Assignments of Error:

{¶9} "I. WHETHER THE TRIAL COURT ERRED IN NOT TAKING ALL PRESUMPTION OF PATERNITY INTO CONSIDERATION DURING THE COURSE OF CONDUCT BY PARTIES INVOLVED.

{¶10} "II. WHETHER THE TRIAL COURT ERRED NOT APPLYING THE BEST INTEREST OF THE CHILD POLICY FOR WHICH IT HAS PREVIOUSLY RULED UPON IN A PREVIOUS ACTION INVOLVING LIMITED INDIVIDUALS IN THE ACTION OF CHILD SUPPORT AND PATERNITY.

{¶11} "III. WHETHER THE TRIAL COURT ERRED WHEN IT DID NOT APPLY EQUITABLE ESTOPPEL WHEN THE PARTIES INVOLVED WERE UNDER EQUITABLE AGREEMENT FROM A PREVIOUS COURT ACTION.

{¶12} "IV. WHETHER THE TRIAL COURT ERRED NOT APPLYING THE DOCTRINE OF LACHES TO THE CASE BEFORE THE BAR OF CHILD SUPPORT AGAINST THE WISHES OF THE PARTIES."

I., II.

{¶13} In his First and Second Assignments of Error, appellant contends the trial court erred in failing to consider presumptions of paternity and the best interest of the child. We disagree.

{¶14} R.C. 3111.49 mandates as follows: "The mother, alleged father, and guardian or legal custodian of a child may object to an administrative order determining the existence or nonexistence of a parent and child relationship by bringing, within thirty days after the date the administrative officer issues the order, an action under sections 3111.01 to 3111.18 of the Revised Code in the juvenile court or other court with jurisdiction under section 2101.022 or 2301.03 of the Revised Code in the county in which the child support enforcement agency that employs the administrative officer who issued the order is located. If the action is not brought within the thirty-day period, the administrative order is final and enforceable by a court and may not be challenged in an action or proceeding under Chapter 3111. of the Revised Code."

{¶15} As noted in our recitation of facts, CSEA issued an administrative paternity order in January 2005. Appellant presently does not articulate that he duly objected to the administrative paternity finding as set forth in R.C. 3111.49, supra. In *Richards v. Kazleman* (May 31, 1994), Stark App.No. CA-9544, we rejected the assertion that an administrative paternity finding by the CSEA cannot act as res judicata. Our reading of appellant's present arguments indicates that he is essentially trying to challenge the trial court's reliance on the 2005 administrative paternity order. As such, we find appellant is barred by res judicata.

{¶16} Appellant's First and Second Assignments of Error are overruled.

III., IV.

{¶17} In his Third and Fourth Assignments of Error, appellant argues the trial court erred in failing to apply the doctrines of equitable estoppel and laches to the action for child support. We disagree.

{¶18} Issues of waiver, laches, and estoppel are fact-driven, and will not be reversed absent an abuse of discretion. *Riley v. Riley*, Knox App.No. 2005-CA-27, 2006-Ohio-3572, ¶ 27, citing *Dodley v. Jackson,* Franklin App. No. 05AP11, 2005-Ohio-5490. However, a review of the file in the case sub judice reveals that appellant has failed to provide us with a transcript of the relevant trial court proceedings pursuant to App.R. 9(B) and App .R. 10(A).[1] Therefore, this Court has no choice but to presume the validity of the lower court's proceedings, and affirm. See *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197,199.

{¶19} Appellant's Third and Fourth Assignment of Error are therefore overruled.

{¶20} For the reasons stated in the foregoing opinion, the judgment of the Court of Common Pleas, Juvenile Division, Perry County, Ohio, is affirmed.

By: Wise, J.

Farmer, P. J., and

Gwin, J., concur.

/S/ JOHN W. WISE_____

/S/ SHEILA G. FARMER_____

/S/ W. SCOTT GWIN_____

JUDGES

JWW/d 527

[1] The record indicates the trial court ordered that the preparation of a transcript was contingent upon appellant depositing the sum $200.00 with the juvenile division. This apparently did not occur.

IN THE COURT OF APPEALS FOR PERRY COUNTY, OHIO
FIFTH APPELLATE DISTRICT

SUZAN FRANCIS, et al.	:	
Plaintiffs-Appellees	:	
-vs-	:	JUDGMENT ENTRY
MICHAEL S. GIFFIN	:	
Defendant-Appellant	:	Case No. 08 CA 12

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Court of Common Pleas, Juvenile Division, Perry County, Ohio, is affirmed.

Costs assessed to appellant.

/S/ JOHN W. WISE_____

/S/ SHEILA G. FARMER_____

/S/ W. SCOTT GWIN_____

JUDGES