

Sperm donor wants access to his biological son

The judgment was reserved in an application brought by a sperm donor to have access to his biological son after the child's biological mother and her same-sex partner severed all ties with him.

This case is a first of its nature in South African legal history with no existing case laws in this country to guide the Court. The sperm donor and his mother want to be involved in the child's life and be able to have contact with him. The lesbian couple, on the other hand, said they are legally the child's parents and that they do not want the donor to be involved and to interfere in their family.

The sperm donor and his mother approached the Court, under the Children's Act, for the Court to decide what will be the best interest of the child.

The sperm donor said that when he held the newborn in his arms, he realized not having appreciated the psychological effect his sperm donation would have on him when he entered into the agreement to act as sperm donor.

The biological mother maintained that the sperm donor had no legal right in bringing the application, as he should be seen as an ordinary person who wanted contact with a child who already has a close-knit family.

University of KwaZulu Natal law expert Professor Donrich Thaldar joined as a friend of the Court and stressed that sperm donation does not make one a parent. He said that while there are exceptions, the integrity of family units made possible through donorship, should be protected.

The Court reserved its judgment and held that it not only has to consider complex issues measured against the Law, but also must look at the human side of the situation.

Reneilwe Magodiello, Van Velden-Duffey Inc