

## A Man's Right to Choose?

Reluctant Dad Wages Court Battle Over Child Support

By Brette Sember



**A** woman's right to choose whether to become a parent is well-established, but what about a man's right? One man is seeking to change the way we think about reproductive choice for men.

Matt Dubay was a young man in his early 20s when he began a sexual relationship with a young woman. According to Dubay and his advocates, the woman told him she was medically unable to have children and they agreed they did not wish to conceive a child together. The woman became pregnant, had the child, and took Dubay to court for child sup-

port of her daughter. Dubay contested the case, lost, and began paying child support. He has no relationship with the child.

### The Legal Argument

Dubay soon filed a case in U.S. District Court in Michigan claiming that the state child-support law violated the Equal Protection Clause of the Constitution and seeking to have his child support obligation overturned. Dubay's position was that women have a right to choose whether they become parents, through birth control, abortion, and

adoption. Men, however, do not. If a woman becomes pregnant, the father has no control over whether she has an abortion, and if she chooses to have the child, he is legally required to pay child support, even if he and the woman had agreed they would not bring a child into the world.

### The Power of Choices

Mel Feit, executive director of The National Center for Men ([www.nationalcenterformen.org](http://www.nationalcenterformen.org)), which calls the case "Roe vs. Wade for

Men" and is taking a public role in advocating for Dubay (Dubay himself would not comment for this story), thinks the case is about choice. "[Dubay] and the woman he was with did not have sex for procreation. He made it clear he did not want a child and she consented. He had the right to rely on that promise."

Debbie Kline, executive director of the Association for Children for Enforcement of Support ([www.child-support-aces.org](http://www.child-support-aces.org)), says, "The whole thing is ridiculous. Why didn't he use a condom? If you never want to be a father, never take anyone's word for it. If someone held a gun to your head, would you let them pull the trigger even if they told you there were no bullets?"

## Implications for Single Moms?

The U.S. District Court dismissed Dubay's case, stated that child-support laws are enforced in a gender-neutral way, and indicated that a child is entitled to have two parents. Dubay is appealing. Feit thinks the case could have consequences for single mothers. "The state is saying a child is entitled to two parents. What about a woman who chooses to have a child alone? The question is, is single motherhood to be valued and honored? If the state says a child is entitled to two parents, that devalues whether a woman can raise a child on her own."

Kline disagrees. "This is a free country and a free society. It's not a perfect world and we can't make blanket statements about how it is best for a child to always have two parents. What if a father dies before a child is born?"

## Weighing Reproductive Rights

The state argued that Dubay's case had no merit because it was equivalent to a similar scenario for women: If a woman has a child and wants to place it for adoption, and the man refuses to sign his parental rights away, the woman is legally responsible for child support if the father accepts custody of the child. The state's position was that both men and women are equally at risk for child support for a child they do not want.

Feit says, "It is important for women to have control of their lives, but women take it for granted and don't seem to want to share empowerment with men." He

believes reproduction has to be about an agreement between men and women.

Kline points out that Dubay did have a choice—the choice to wear a condom, not have sex, or get a vasectomy, none of which he did. "There is *always* the chance of pregnancy when you have sex. Period. It's a risk you assume."

Feit clarifies his position: "There is a risk of pregnancy, but not the risk of unwanted parenthood" for a woman, he points out, because abortion and adoption are options. A woman can have a baby, he says, take the child to a hospital, and anonymously leave it there for adoption without any financial penalties. A man does not have that option. If a woman agrees she does not want a child, but then has a change of heart once she discovers the pregnancy, "at that point society should help if her partner did not want to be a father, rather than impose a burden on the man."

Attorney Lauren Stiller Rikleen, senior partner with Bowditch & Dewey and executive director of the Bowditch Institute for Women's Success, contends, "The logical extension of Mr. Dubay's argument would be that a man who does not want to be responsible for an unplanned pregnancy should be able to compel a woman to have an abortion. That was not what *Roe vs. Wade* was about."

## Children's Rights

Kline believes the case is not about what Dubay wants or doesn't want. It is about what the child deserves. "In all of this circus, the little girl is the one I feel sorry for. It will follow her her entire life. This is about the child. It is not mother support; it is child support."

Feit counters that arguments about the child's rights are not valid. "If we're talking seriously about the best interest of the child, then a woman who has a child and does not have the resources to care for it should give that child up for adoption." Feit acknowledges this position may sound harsh. Kline calls it "outrageous."

As this case proceeds to appeal, many child-support advocacy groups are hoping that if they ignore it, it will just go away. The National Child Support Enforcement Association had no comment for this story. Kline herself was reluctant to comment: "We're trying not to engage in this." **SM**

## What Do You Think?

*SM would like to hear from our readers on this case. Is Matt Dubay entitled to relinquish his financial responsibility for a child he says the mother and he agreed never to have, or is it fair that the court has forced him to pay? Weigh in with us:*

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