

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX: CHRISTIANSTED

GOVERNMENT OF THE VIRGIN ISLANDS	)	
	)	
Plaintiff,	)	FAMILY S. 290/82
	)	
v.	)	
	)	ACTION FOR PATERNITY
WINSTON BRODHURST,	)	SUPPORT
	)	
Defendant.	)	
	)	

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PETERSEN, Judge

MEMORANDUM OPINION

August 5, 1983

On July 15, 1983, a jury rendered a verdict in this matter. The jury found that the Respondent, Winston Brodhurst, was the father of a minor child, Jesus Daniel Figueroa, born to the Petitioner, Julia Dolores Figueroa, on October 31, 1982. Respondent has now moved this Court for a judgment notwithstanding the verdict or in the alternative for

FIGUEROA v. BRODHURST
FAMILY NO. S290/82
ACTION FOR PATERNITY SUPPORT
Page 2

a new trial.

The standard for granting judgment notwithstanding the verdict is precisely the same as the standard for directing a verdict. U.S. Industries, Inc v. Blake Const. Co., 671 F.2d 539, 550 (D.C. Cir. 1982). See also 9 C. Wright & A. Miller, Federal Practice and Procedure: Civil, Sections 2524 and 2537 (1971). A motion for judgment notwithstanding the verdict may not be granted unless, as a matter of law, it is found that the successful party failed to present a case for the jury and a verdict in favor of the opposite party should have been directed at the end of the trial. Neville Chemical Co. v. Union Carbide Corp., 422 F.2d 1205, 1210 (3d Cir.), cert. denied, 400 U.S. 826, 91 S.Ct. 51, 27 L.Ed. 2d 55 (1970). The question is whether, giving the benefit of all reasonable inferences capable of being drawn from the evidence to the party against whom the motion is made, it must be concluded as a matter of law that "the record is critically deficient of that minimum quantum of evidence from which a jury might reasonably afford relief." Blair v. Manhattan Life Ins. Co., 692 F.2d 296, 300 (3d Cir. 1982) (quoting Denneny v. Siegel, 407 F.2d 433, 439 (3d Cir. 1969)). In addressing this question, the Court is not free to weigh the evidence or to pass on the credibility of witnesses or to substitute its judgment of the facts for that of the jury.

FIGUEROA v. BRODHURST
FAMILY NO. S290/82
ACTION FOR PATERNITY SUPPORT
Page 3

"The fundamental principle is that there must be a minimum of interference with the jury." Wright & Miller, supra, Section 2524 at 543-46 (quoting Simblest v. Maynard, 427 F.2d 1, 4 (2d Cir. 1970)).

With the foregoing principles in mind, this Court cannot find that the Petitioner has not made a case for the jury, nor can it say that there is but one reasonable conclusion, that sought by Respondent, as to the verdict. The jury had ample evidence to find the Respondent to be the father. Both Respondent and Petitioner admitted that they had had sexual intercourse over a period of months. The issue as to when such relationship terminated was a matter for the jury. Apparently the jury simply gave greater weight to the testimony of the Petitioner than the Respondent.

Respondent has alternatively moved for a new trial based on the admission into evidence of the child, Jesus Daniel Figueroa. The Court holds that this was a proper exercise of its discretion. Moreover, if the Court erred in permitting this evidence to be presented to the jury, a new trial would be warranted only if the error was so fundamental that gross injustice resulted. C. Wright & A. Miller, Federal Practice and Procedure: Civil, Section 2805 at 39 (1973). Respondent's grounds for a new trial do not come anywhere near that standard.

FIGUEROA v. BRODHURST
FAMILY NO. S290/82
ACTION FOR PATERNITY SUPPORT
Page 4

For these reasons, Respondent's motion for a judgment notwithstanding the verdict and the alternative motion for a new trial must be denied.


EILEEN R. PETERSEN
Judge