

## SUMMARY STATEMENT

*Doe v. Doe I*, Docket. No. 44419

This case involves a custody dispute between Jane Doe I, Child's natural mother, and Jane Doe, the natural mother's former partner. During the course of Mother and Partner's relationship, Mother conceived a child via artificial insemination. After the parties separated, Partner filed a petition to establish parentage, custody and visitation with Child. Partner advanced two legal arguments to support her petition. First, she argued this Court's decision in *Stockwell v. Stockwell*, 116 Idaho 297, 775 P.2d 611 (1989), provides an independent cause of action by which the court may grant custody to Partner. Second, she argues that she should be deemed a parent under Idaho Code section 39-5405, Idaho's artificial insemination statute, because she consented to the artificial insemination. As part of this argument, Partner contends that Idaho's artificial insemination statute violates Child's rights and her rights under the Equal Protection Clause of the United States Constitution by discriminating against children born outside of marriage.

We hold that the *Stockwell* decision does not create an independent cause of action for a non-parent seeking custodial rights to a minor child. We further hold that Partner cannot be deemed a parent under Idaho's artificial insemination statute because she was not married to Mother. We hold that any equal protection claim that might exist under the artificial insemination statute belongs to Child, and Partner does not have standing to raise that claim.

The judgment of the magistrate court is reversed in part and affirmed in part. We remand this matter to the magistrate court to vacate the temporary visitation order that was entered.