

*Martinez v. Vaziri*

*“And that most venerable man which I  
Did call my father, was I know not where  
When I was stamp’d.”*

Posthumus, *Cymbeline*, II.v.2

Even with this prescient quote, Shakespeare could hardly have imagined that a child could have more than two legally recognized parents. Effective January 1, 2014, California enacted Family Code sections 7612(c) and (d). Subdivision (c) provides that in an appropriate action, a court may find that more than two persons with a claim to parentage are parents if the court finds that recognizing only two parents would be detrimental to the child. Subdivision (d) provides that unless a court orders otherwise after making the determination specified in subdivision (c), a presumption under section 7611 [presumed parent] is rebutted by a judgment establishing parentage of the child by another person.

The *Martinez* trial court rejected the claim of a man not the child’s biological father on the ground that finding that the child had only two parents would not be detrimental because removal of the child from a stable placement had already occurred. Even though the third party Petitioner was found to be a presumed parent under 7611, the presumption was found rebutted by the earlier judgment establishing bio-dad as a natural parent. The trial court thus denied Petitioner’s Petition to be recognized as a natural, third parent of the child...and was **reversed** for an incorrect application of the 7612(c) detriment standard and the 7612(d) “stable placement” and “all relevant factors” standard. A reversal of a trial court interpretation of a newly enacted statute commands our attention.

Lessons learned in the case include the meaning of the term “stable placement” of the child, explained to mean “one in which there is an *existing* parent-child relationship between the child and the putative third parent, such that recognizing only two parents would be detrimental to the child.” The appellate court also determined that the trial court did not consider “all relevant factors” as required under 7612(c) in making its decision. Since the “more than two legal parents” statute is relatively new, *Martinez* is required reading for a proper understanding of the new paradigm in which we now find ourselves.

So here, to carry on Shakespeare’s rather graphic vision, the man who “stamp’d” the child (bio-Dad), was in prison; his half-brother (hey, we don’t make this stuff up), stepped in to raise the child, live with Mom, and held the child out as his own. He, thus, attained 7611 presumed father status. *Martinez* gives us an analysis of the new 7612 statutory standards and should be carefully read and followed.

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