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Settlement reached in transsexual custody case

By Emanuella Grinberg
 Court TV
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(Court TV) -- A historic child custody battle between a transsexual father and his ex-wife ended last Friday in a shared custody agreement that both sides have hailed as nothing short of "miraculous."

A Florida judge approved the settlement Friday between Michael Kantaras, who was born Margo Kantaras, and his ex-wife, Linda Forsythe, ending a seven-year dispute that went all the way to the Florida Supreme Court and back before the intervention of "The Dr. Phil Show" raised the prospect of compromise.

After two and a half days of guided mediation, the couple agreed on custody terms for Matthew, 16, Linda's child from a previous marriage, who Michael adopted, and Irina, 13, born through artificial insemination from Michael's brother.

The teenagers will spend four more evenings with their mother than their father each month, although both parents will share decision-making authority in their lives, according to their lawyers.

The international media spectacle surrounding the case often lost sight of the children as it focused on the opposing interest groups who used the case as a flashpoint for their issues. But now the parties are united in their characterization of the settlement as a prime example of a divorced couple putting the needs of their children ahead of their own.

"The time is now to bring stability to the lives of the children," said Linda Forsythe's lawyer, Mathew Staver, also president and general counsel of Liberty Counsel, a Christian firm dedicated to "advancing religious freedom, the sanctity of human life and the traditional family."

"If these two can reach a settlement, anyone can," said Michael Kantaras' lawyer, Karen Doering of the National Center for Lesbian Rights, who also served as co-counsel in a 2002 three-week custody trial.

"This couple had as many complications as you'll ever see in a custody case, so I give a lot of credit to both sides for coming together and working toward a settlement," she said.

The Kantaras v. Kantaras child custody bench trial ended in an unprecedented ruling in favor of Michael Kantaras, who underwent surgery in 1987 to remove his breasts and ovaries and began taking hormones before he met and married his ex-wife, Linda, in 1989.



Michael Kantaras, left, won custody of two children in 2002 but that ruling was reversed.

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"Michael has always, for a lifetime, had a self-identity as a male," Pasco County Judge Gerard O'Brien wrote in an 809-page decision. "Chromosomes are only one factor in the determination of sex, and they do not overrule gender or self-identity, which is the true test or identifying mark of sex."

In 2004, the Florida Supreme Court reversed the ruling, upholding Forsythe's claim that the marriage was null and void because her ex-husband was still a woman and same-sex marriages are illegal in Florida.

The unanimous decision went further to establish the precedent that a marriage could not exist between two people of the same birth gender.

With the marriage dissolved and Michael Kantaras' right to assert parental authority placed in limbo, the case was remanded to trial court.

Faced with the prospect of another round of litigation, the couple taped a segment for "The Dr. Phil Show." After the taping, an on-air therapist encouraged the couple to undergo mediation with a family mediator from Fort Lauderdale-based Mediation Inc.

While both sides have cast the agreement as a victory for all involved, they clearly have different views of the case's legal implications.

"Florida joined Texas and Kansas in its decision to recognize gender reassignment as a medically valid procedure that enables transsexuals to live new lives in every which way except to allow them to get married," Doering said of the appeals court decision.

"Tens of thousands of transsexuals get married each year. The only time they end up in court is in disingenuous cases such as this one when the spouse knows their partner is a transsexual when they get married, but chooses to use it against them in divorce proceedings," she said.

Staver of Liberty Counsel, however, points to the appeals court ruling as verification of the definition of gender and marriage.

"The trial court established a precedent in which gender was ruled a product of one's mind that could change through a medical procedure," said Staver. "But when it was reversed, it was established that being a male or a female is still a matter of law for the legislature to decide."

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