

NO RIGHT AGAINST DNA-INCRIMINATION

The right to self-incrimination is a constitutionally enshrined right. It states that “no person shall be compelled to be a witness against himself.”

In paternity cases where there is no other evidence showing the filiation of the child to the putative father, may the latter be compelled to partake in a DNA testing?

In one of the landmark cases of our Philippine judiciary, the Supreme Court decisively answered this in the affirmative.

Arnel began courting Fe when she was 27 years old and they became a couple. When Fe was 34 years old, she became pregnant. Arnel insisted that the child be aborted, but Fe fought to keep the baby. Irritated, Arnel literally drove off into the sunset, nearly running Fe over.

Fe instituted a case to compel Arnel to acknowledge the child. Fe motioned that the parties undergo DNA testing. Arnel refused, raising his constitutional right to self-incrimination.

The Supreme Court decided that the right against self-incrimination applies only to testimonial compulsion or that which amounts to a verbal admission of guilt. It does not apply when what is sought is “object evidence” such as photographs, hair samples, and other bodily substances.

Pointedly, the ruling stated that if the right against self-incrimination was unavailing in criminal cases where the liberty of the accused is at stake, what more in a civil case for paternity where the putative father is not facing a comparably dire consequence.

Further, it recognized that *“For too long, illegitimate children have been marginalized by fathers who choose to deny their existence. The growing sophistication of DNA testing technology finally provides a much needed equalizer for such ostracized and abandoned progeny”*.

And in 2007, the Supreme Court embodied this policy in a circular which allowed DNA testing in criminal and civil cases as well as special proceedings. Under the issuance, a resulting probability value of 99.9% or higher gives rise to a presumption of paternity, while a lower probability is only corroborative in nature. On the other hand, a result that excludes the putative father is conclusive proof of non-paternity.

(Based on G.R. No. 162571, June 15, 2005 and A.M. No. 06-11-5-SC, October 2, 2007)