

*The following is a real-time transcript taken as closed captioning during the oral argument proceedings, and as such, may contain errors. This service is provided solely for the purpose of assisting those with disabilities and should be used for no other purpose. These are not legal documents, and may not be used as legal authority. This transcript is not an official document of the Florida Supreme Court.*

**Heart of Adoptions, Inc. v. J.A.**

**SC07-738**

>> ALL RISE.

HEAR YE HEAR EYE HEAR EYE, THE SUPREME COURT OF FLORIDA IS NOW IN SESSION.

ALL THOSE HAVING BUSINESS BEFORE THIS COURT, DRAW NEAR AND GIVE ATTENTION AND YOU SHALL BE HEARD.

GOD SAVE THE UNITED STATES, GREAT STATE OF FLORIDA, AND THIS HONORABLE COURT.

>> GOOD MORNING.

>> GOOD MORNING.

>> GOOD MORNING.

>> LADIES AND GENTLEMEN, FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING, FRIENDS AND WELCOME TO THE ORAL ARGUMENT CALENDAR FOR THE FLORIDA SUPREME COURT FOR MONDAY, JUNE 4, 2007.

BEFORE WE ACTUALLY BEGIN, OUR ORAL ARGUMENT SCHEDULE, IT IS WITH A HEAVY HEART BUT ALSO WITH GREAT ADMIRATION THAT WE ACKNOWLEDGE THAT THIS IS THE FINAL WEEK OF ORAL ARGUMENT THAT MESS DEBBIE CASSEUA WILL BE WITH US AS DEPUTY CLERK. SHE HAS SERVED THE COURT SO VERY WELL FOR SUCH A LONG PERIOD OF TIME AND ALTHOUGH WE ARE SADDENED, WE ARE HAPPY FOR HER, THAT SHE IS ENTITLED TO HER RETIREMENT.

AND I WOULD ASK YOU TO ENTER THE WELL, PLEASE, AT THIS TIME.

>> I DO UNDERSTAND THAT I HAD VERY SPECIFIC INSTRUCTIONS THAT I WAS NOT ALLOWED TO ORGANIZE ANYTHING LARGER THAN THIS MORNING.

BUT IT COULD NOT GO WITHOUT THIS COURT EXPRESSING ITS GREAT,

GREAT APPRECIATION TO YOU FOR EVERYTHING THAT YOU HAVE DONE FOR THIS COURT AND FOR THIS INSTITUTION.

BECAUSE IT IS PEOPLE LIKE YOU THAT KEEP THIS INSTITUTION STRONG AND KEEP US IN LINE AND DOING WHAT WE OUGHT TO BE DOING, WHERE AS SHE BEGAN HER HERE AT THE COURT AS A DOCKET CLERK ON JUNE 1, 1973, AT THAT TIME WE HAD NO CHILD LABOR LAWS, SHE STARTED WHEN SHE WAS FIVE OR SIX I THINK, AT A TIME WHEN THERE WERE NO COMPUTERS AND THE CLERK'S OFFICE WAS STAFFED BY JUST EIGHT PEOPLE, WHERE AS BY CONTRAST TODAY IT TAKES NEARLY 2 DOZEN PEOPLE AND MANY COMPUTERS TO RUN THIS CLERK'S OFFICE, PROCESSING EACH AND EVERY DOCUMENT, THAT ARRIVES IN THE INSTITUTION, WHEREAS SHE STARTED WORKING AT THE COURT 34 YEARS AGO, HER GENERAL DUTIES INCLUDED DOCKETING MAIL, ANSWERING THE PHONE AND ASSISTING THE COURT AS NEEDED AND THOUGH SHE HAS RISEN IN RANK, SHE HAS NEVER CEASED FULFILLING ALL OF HER DUTIES AND THOSE DUTIES WHENEVER WE NEED SOMETHING YOU ARE ALWAYS THERE FOR ALL OF US.

ON JANUARY 12th, 1985 SHE BECAME CHIEF DEPUTY CLERK AND LATER SERVED AS ACTING CLERK FROM APRIL 1999 THROUGH APRIL 2000.

IN HER 34 YEARS AS THE -- AT THE FLORIDA SUPREME COURT SHE HAS WORKED FOR TWO CLERKS AND 27 JUSTICES.

SHE WAS NO MERE WITNESS TO THE TECHNOLOGY TRANSITION THAT TOOK PLACE IN THE CLERK'S OFFICE, AND WORKED CLOSELY WITH RETIRED CLERKS AND THE JUSTICE TO COMPILE THE INFORMATION NEEDED TO ADVANCE FROM THE AGE OF PAPER FILES TO AN ERA OF COMPUTERS.

SHE WAS ALSO AT THE EPICENTER OF PERHAPS THE MOST FAMOUS

COURT CASE IN MODERN TIMES, THE PRESIDENTIAL ELECTION CASES THAT MOVED THROUGH THIS COURT IN FIVE WHIRLWIND WEEKS IN THE FALL OF 2000 AND WE ALL KNOW YOU SPENT VIRTUALLY 24 HOURS A DAY HERE, TO SATISFY THE NEEDS OF THIS DEMOCRACY.

WHEREAS NO ONE CASE OR PERIOD CAN OVERSHADOW THE LONG PERIOD OF DEDICATED AND LOYAL SERVICE THAT SHE HAS RENDERED THIS COURT AND THIS STATED AND HER YEARS OF EXEMPLARY EMPLOYMENT HAVE HELPED THE COURT IN ITS MISSION TO SEE THAT WRONGS ARE RIGHTED AND THAT JUSTICE IS AVAILABLE TO ALL OF THE PEOPLE OF THIS GREAT STATE, WITHOUT AN KIND OICHL PED DIDN'T.

THEREFORE, FOR YOUR LONG AND FAITHFUL SERVICE, SHE IS RECOGNIZED FOR MORE THAN THREE DECADES OF CONTINUOUS ASSISTANCE TO THE JUSTICES OF THIS COURT, AND THE PEEL OF FLORIDA, AND A-- PEOPLE OF FLORIDA AND ACCORDINGLY THIS ENTIRE COURT EXPRESSES ITS ADMIRATION, RESPECT AND GRATITUDE FOR THE MANY YEARS OF WORK THAT YOU HAVE WELL DONE. DONE THIS 4th DAY OF JUNE, 2007.

[APPLAUSE],,,,

>> THANK YOU ALL FOR SHARING WITH US THIS VERY SPECIAL MORNING.

THE CASE ON OUR DOCKET FOR THIS MORNING IS HEART OF ADOPTIONS VERSUS JA, THE STATE, READY TO PROCEED?

>> YES, YOUR HONOR, MAY IT PLEASE THE COURT, I'M JEANNE STATED AND REPRESENT HEART OF ADOPTION AND HERE WITH ME IS AN AMICUS FOR THE FLORIDA ADOPTION COUNSEL I'M PROUD TO ADVOCATE ON BEHALF OF THE PUTATIVE FATHER REGISTRY, A LAW THE LEGISLATURE ENACTED IN 2003 TO PROVIDE STABILITY TO ADOPTIONS IN OUR STATE.

>> AND WE -- AS WE START, SORT

OF GET A HANDLE ON EXACTLY WHERE WE ARE GOING, THIS IS A VERY BROAD QUESTION THAT HAS BEEN POSED AND IT SPEAKS GENERALLY OF THE REGISTRY, AND APPEARS IN SOME OF THE CASE LAW, THAT THE VALIDITY OF THE RENING INDUSTRY AND HOW IT OPERATES MAY VERY WELL RELATE TO THE STATUS OF A BIOLOGICAL FATHER. AND WHAT STATUS THAT FATHER MAY BE IN AS WE LOOK TO THE U.S. SUPREME COURT CASES AS WE LOOK TO OTHER STATES.

AND SO, COULD YOU ADDRESS IT IN THAT CONTEXT AS TO WHAT RELATIONSHIP DOES THAT INDIVIDUAL HAVE?

BECAUSE -- AND MAY BE MORE THAN ONE QUESTION WRAPPED INTO ONE, BUT AS WE SEE THE SECOND DISTRICT HAS INTERPRETED THE STATUTE THESE PEOPLE MAY NOT EVEN BE INVOLVED AND THEN LOOK AT THE OTHER CASES AND SOME ARE FATHERS ATTEMPTING TO BECOME INVOLVED TWO YEARS LATER, SOME -- THIS ONE I UNDERSTAND WAS ON THE DAY OF THE BIRTH.

DOES THAT MAKE A DIFFERENCE AS WE LOOK AT THIS AREA AND COULD YOU ADDRESS THAT, PLEASE.

>> YES, YOUR HONOR AND IT ABSOLUTELY MAKES A DIFFERENCE BECAUSE AS THE UNITED STATES SUPREME COURT TEACHES US IN LAYER --

LAIR AN UNMARRIED BIOLOGICAL FATHER HAS AND IN CO HATE OPPORTUNITY AND HAS NO INTEREST IN THE CHILD UNLESS HE EXERCISES AND CONVERTS THAT INTEREST PARENTAL RIGHT AND ITS UP TO THE STATES TO DEFINE THE STATUTORY FRAMEWORK TO DEFINE THAT INTEREST IN TO A PERFECTED RIGHT.

>> CAN I ASK THE QUESTION, IS AN INDIVIDUAL, WHO FILES THE PATERNITY ACTION TO BECOME INVOLVED ON THE DAY OF THE CHILD'S BIRTH AND THE IDENTICAL STATUS AS SOMEONE WHO MAY TRY TO FILE IT FIVE YEARS AFTER THE

BIRTH?

>> I WOULD NOT SUBMIT THEIR UNDER THE IDENTICAL STATUS, ITS BROKEN DOWN INTO BIRTH FATHERS PARENTS OF CHILDREN PLACED FOR ADOPTION LESS THAN 6 MONTHS OLD AT THE TIME OF BIRTH, 63062A AND THOSE PLACED FOR ADOPTION AT OR BEFORE THE SIX MONTHS EXPIRATION TIME AND DEFINES WHAT AC ARE REQUIRED TO ESTABLISH THE RIGHT AND THE FILING OF A P TERN ACTION, NOWHERE APPEARS IN CHAPTER 63 AS A MECHANISM TO PERFECT THAT IN CHOT INTEREST.

>> BUT WE CAN'T -- BUT WE CAN'T IGNORE THAT THAT ESTABLISHED THE PATERNITY, IS THAT THE WAY IT IS DESIGNED?

IT TALKS IN TERMS OF IT BEING THE PRIMARY WAY TO ESTABLISH FATHER HOOD.

>> YOU CAN LOOK AT THAT IN THE PROPER CONTEXT BUT AS YOU NOTED IT IS A PRIMARY METHOD TO ESTABLISH PATERNITY.

THIS IS ONE OF THE WAYS THE SECOND DISTRICT FAILED IN ITS ANALYSIS, NOTHING IN 742 DATES INDICATES IT IS THE EXCLUSIVE METHOD TO ESTABLISH PA TERN AND IF YOU LOOK AT 742.10 IN ITSELF IT RECOGNIZES OTHER WAYS TO ESTABLISH PATERNITY.

THE FIRST DISTRICT IN THE BB CASE HAD YOU A LITANY OF WAYS TO ESTABLISH PA TERN AND IN CHAPTER 63, IT REQUIRES AN UNMARRIED BIOLOGICAL FATHER THAT IS THE SUBJECT OF AN ADOPTION MUST ESTABLISH HIS RIGHTS IN ACCORDANCE WITH THE CHAPTER, I.E. 63, NOT 742.

SO IS ONE OF THE MEASURES AND IF HE ESTABLISHES PATERNITY BY HAVING AN ADJUDICATION OF THAT PRIOR TO THE TIME, THE PETITION FOR TERMINATION --

>> LET'S GO BACK AND BE CERTAIN WE ARE STARTING FROM THE RIGHT STARTING POINT AND I WANTED TO BE ABSOLUTELY CLEAR WHAT YOUR POSITION IS WITH REFERENCE TO

THE INTERPRETATION OF THE STATUTORY TERM, IF I UNDERSTAND YOUR INTERPRETATION, ITS ANY MALE THAT HAS A SEXUAL RELATIONSHIP -- HAS INTERCOURSE, OKAY WITH A FEMALE, AND DOESN'T GO AFTER HAVING THAT INTERCOURSE, AND REGISTER WITH THE STATE WAIVES ANY RIGHTS THAT MAY SUBSEQUENTLY OCCUR IF THAT FEMALE THAT HE HAD SEXUAL INTERCOURSE WITH BECOMES PREGNANT WITH HIS CHILD. IS THAT CORRECT.

>> JUDGE, THERE ARE ACTUALLY FIVE THINGS THAT A BIRTH FATHER CAN DO TO HAVE HIS CONSENT REQUIRED TO --

>> LET ME JUST -- IN OTHER WORDS, WHAT I HAVE STAYED, IS THAT CORRECT OR NOT CORRECT?

>> THAT IS CORRECT.

IF HE DOESN'T DO --

>> IF THAT IS CORRECT --

>> IF HE DOESN'T DO ANY OF THE OTHER FOUR.

>> IF AFTER HAVING SEXUAL INTERCOURSE, OKAY WITH A FEMALE, THAT IF THAT PERSON, THAT MALE DOES NOT REGISTER, OKAY, THAT IN ESSENCE THAT MALE HAS WAIVED ANY RIGHTS TO CLAIM PATERNITY, THE SUBS -- OF THE SUBSEQUENT CHILD SHOULD THE FEMALE HAVE A CHILD AND ELECT TO PUT IT UP FOR ADOPTION.

>> THE ANSWER IS YES, IF HE HAS NOT DONE ANY OF THE OTHER FOUR THINGS THAT WOULD ENTITLED TITLE HIM TO CONSENT TO THE ADOPTION AS SET FORTH IN 062.

>> AND HOW DOES THE SECOND DISTRICT INTERPRET IT.

>> THEY INTERPRET IT WRONGLY BY FOC -- FOCUSING ON 089 AND LOOKING AT GROUNDS TO TERMINATE PARENTAL RIGHTS INSTEAD OF LOCKING AT 062 WHICH STATES THAT YOU CAN TERMINATE THE RIGHTS OF AN UNMARRIED BIOLOGICAL FATHER AS LONG AS YOU HAVE GIVEN NOTICE TO OR OBTAINED CON ISN'T FROM THE FIVE LISTED CATEGORIES OF BIRTH

FATHERS.

AND 062, AGAIN NOT THE FOCUS OF THE SECOND DISTRICT'S ANALYSIS DOES NOT SAY YOU MUST BE A PARENT TO TERMINATE PARENTAL RIGHTS.

062 DOES NOT SAY THAT YOU CANNOT TERM THAT A BIRTH FATHER WHO HAS NOT DONE WHAT THE LEGISLATURE MANDATED HE DO HAVE HIS RIGHTS DETERMINED AS A MATTER OF LAW.

THIS IS ABOUT INCHOATE RIGHTS.

AND --

>> BUT THE SCHEME IF I UNDERSTAND CORRECTLY, REALLY WOULD SAY TO ALL MALES OUT HERE THAT ENGAGE IN SEXUAL INTERCOURSE WITH A FEMALE, THAT YOU BETTER GO AND REGISTER WITH THE STATE RIGHT NOW, OKAY? OR YOU RISK LOSING ANY PARENTAL RIGHTS THAT YOU MAY SUBSEQUENTLY POTENTIALLY HAVE GAINED IF THAT FEMALE SHOULD HAVE A CHILD.

IS THAT -- IN OTHER WORDS, THE SAFE THING TO DO --

>> ABSOLUTELY.

>> FOR A MALE OF WHATEVER AGE, OUT HERE, IS TO GO AFTER HAVING IN COURSE, INSTEAD OF SMOKING THE CLASSIC CIGARETTE, IS GET OUT OF WHATEVER CIRCUMSTANCES THEY ARE IN, AND GO DOWN AND FILL OUT A FORM WITH THE STATE AND SAY, I WANT THE STATE TO KNOW THAT I HAVE JUST HAD SEXUAL INTERCOURSE WITH A FEMALE, AND SHOULD SHE BECOME PREGNANT WITH MY CHILD, I DON'T WANT TO LOSE MY PARENTAL RIGHTS AND WANT NOTICE -- THAT IS THE EFFECT OF THIS, IS THAT CORRECT.

>> YES, JUDGE, HE HAS NINE MONTHS OF THE PREGNANCY TO REGISTER AND THE EFFECT OF THE REGISTRY IS TO PUT THE KEYS IN HIS POCKET.

HE HAS 100% CONTROL.

>> OTHER THAN THE LAW ON THE BOOKS, OKAY, AND WE HAVE THIS PHRASE BANDIED ABOUT, ABOUT

IGNORANCE OF THE LAW, NOT BEING AN EXCUSE, WHICH IS TO A GREAT DEGREE, IS A MYTH, BECAUSE IT DEPENDS ON THE INDIVIDUAL CONTEXT, BUT TELL ME -- BUT TELL ME WHAT NOTICE IS PROVIDED TO ALL OF THESE MALES THAT THEY ARE REQUIRED TO GO AND SIGN UP, YOU KNOW, WITH A REGISTRY.

>> OKAY.

THE STATUTES IN ADDITION TO THE GENERAL RULE, JUDGE, THAT IM PUTS KNOWLEDGE THAT THE LAW IS TO A PERSON, THIS STATUTE IM PUTS KNOWLEDGE TO A BIRTH FATHER THAT I THINK ALL RESONATE WITH, IF YOU HAVE SEX

--

>> SO -- THE EXISTENCE OF THE STATUTORY SCHEME.

>> NO, SIR, 65054 THERE IS A PANOPLY OF THINGS DONE BY THE DEPARTMENT OF HEALTH TO PROVIDE NOTICE TO BIRTH FATHERS INCLUDING PUTTING PAMPHLETS AT THE DEPARTMENT OF HEALTH, CLERK OF THE COURT, DEPARTMENT OF MOTOR VEHICLES AND TEACH SCHOOLS IN THE HEALTH SCHOOL CURRICULUM CLASSES, REQUIRED TO BE GIVEN TO EVERY PERSON THAT REGISTERS, ON THE WEB SITES OF ALL OF THE AGENCIES, CLERK OF THE COURT AND DEPARTMENT OF HEALTH AND CHILD OF FAMILIES AND MADE AN EFFORT TO PUBLICIZE THIS LAW AND LET ME ASK YOU ABOUT NOTICE.

>> LET ME ASK YOU ABOUT NOTICE, 62.0632A, SAYS ADOPTION MAY SERVE UPON A -- UNMARRIED BIOLOGICAL FATHER NOTICE OF THE IMPENDING ADOPTION PLAN AND ONCE, IF THEY MAY DO THAT, ONCE THEY DO THAT, THE PLAN SHALL NOTIFY THE UNMARRIED BIOLOGICAL FATHER THAT HE MUST FILE A CLAIM OF PATERNITY FORM WITH THE OFFICE OF VITAL STATISTICS. NOW, WHAT IS THE PURPOSE OF THAT SECTION OF 63.062?

>> IT ALLOWS THE ADOPTION ENTITY TO SERVE ON THE BIRTH FATHER A NOTICE OF INTENDED

ADOPTION PLAN, IT IS AN  
OPTIONAL THING --

>> WHY -- MY CONCERN IS, IF I  
UNDERSTAND THE FACTS IN THIS  
INDICATION, UNLIKE ANDS., THE  
KLEIN YOU REPRESENT, DID SERVE  
OR SENT A COPY OF THE NOTICE --  
CLIENT YOU REPRESENTATIVE, DID  
SERVE A PETITION FOR THE  
TERMINATION OF PARENTAL RIGHTS  
BUT DIDN'T SERVE WITH A NOTICE  
OF THE ADOPTION PLANNED AND  
THEREFORE DID NOT HAVE TO  
COMPLY WITH THE REQUIREMENT  
THAT THEY NOTIFY HIM THAT HE  
MUST FILE A CLAIM OF PA  
INTERPRET WITH THE OFFICE OF  
VITAL -- PATERNITY WITH THE  
OFFICE OF VITAL STATISTICS AND  
ESSENTIALLY THIS STATUTE ALLOWS  
AN ADOPTION ENTITY TO DO AN END  
RUN BY SERVING A FATHER WHEN IT  
IS TOO LATE.

AND I'M TRYING UNDERSTAND, WHAT  
THE LEGISLATURE WOULD HAVE  
INTENDED WITH THAT ASPECT OF  
THE NOTICE IF IT WASN'T TO MAKE  
SURE THAT WHEN -- WHEN THE  
ADOPTION AGENCY KNOWS THE  
EXISTENCE OF THE FATHER, THERE  
HAS TO BE A REQUIREMENT THEY  
NOTIFY THE FATHER OF HIS RIGHT  
TO FILE A CLAIM OF PATERNITY.

>> JUDGE, I THINK THAT YOU ARE  
MISTAKEN THAT THE ADOPTION  
AGENCY IN THIS CASE SERVED A  
NOTICE OR FILED A NOTICE OF  
INTENDED ADOPTION PLAN.  
THAT STATUTE AND THE OPTIONAL  
USE OF A NOTICE OF INTENDED  
ADOPTION PLAN WAS NOT DONE IN  
THIS CASE.

>> I THOUGHT THERE WERE TWO  
LETTERS --

>> THEY WROTE A LETTER INFORM  
HIM THAT THE BIRTH MOTHER WAS  
PLANNING AN ADOPTION BUT IT  
WASN'T A NOTICE OF INTENDED  
ADOPTION --

>> WHAT I'M SAYING, THOUGH, IT  
SEEMS TO ME WHAT HAPPENED HERE  
IS THEY TOLD HIM OF THE  
ADOPTION PLAN BUT, BECAUSE THEY  
DIDN'T SERVE HIM THEY DIDN'T

HAVE TO THEN COMPLY WITH THAT PART OF THE STATUTE.

>> JUDGE --

>> LIKE A -- WELL, WHAT ADOPTION AGENCY IS GOING TO FILE OR SERVE IT IF IT REQUIRES THEM TO ALSO TELL THEM ABOUT THE NOTICE AND YOU ARE SAYING, NO, THEY DIDN'T HAVE TO DO IT BECAUSE THEY DIDN'T SERVE HIM AND WHAT I'M SAYING IS THAT IT SEEMS THAT IT MAKES A MOCKERY OF THAT PROVISION OF THE STATUTE.

>> JUDGE, 63.085 CONTAINS AN ADOPTION DISCLOSURE THAT OBLIGATES THE ADOPTION ENTITY TO PROVIDE TO BIRTH FATHERS. THE ADOPTION AGENCY SENT A LETTER TO THE BIRTH FATHER, WITH THAT ADOPTION DISCLOSURE AND THE LETTER WAS NOT A NOTICE OF INTENDED ADOPTION PLAN. IT SIMPLY ADVISED THE BIRTH FATHER THE BIRTH MOTHER WAS WORKING WITH THE ADOPTION AGENCY AND --

>> IF WE ARE TRYING TO MAKE SURE THAT FATHERS THAT ARE INTERESTED IN ASSERTING THEIR RIGHTS -- BECAUSE THAT IS PERHAPS A RARE BIOLOGICAL FATHER WHO IS HAVING AN OCCASIONAL SEXUAL RELATIONSHIP BUT THOSE THAT WANT TO MAKE SURE THAT THEY KNOW OF THEIR RIGHTS TO FILE WITH THE REGISTRY, WHY ISN'T A BETTER INTERPRETATION OF THE STATUTE THAT THE ADOPTION ENTITY DOES HAVE TO ALSO NOTIFY THE UNMARRIED BIOLOGICAL FATHER THAT HE HAS TO FILE A CLAIM.

>> THAT IS CLEARLY NOT WHAT THE STATUTE SAYS.

AND I BELIEVE THE LEGISLATURE WAS WITHIN THE PREROGATIVE OF FOLLOWING LAIR THAT SAYS A LIT GAPT IS CAPABLE OF PER -- LIT BEGAN IS CAPABLE OF PERFECTING HIS OWN RIGHT AND NEITHER THE TRIAL COURT OR PARTIES ARE REQUIRED TO GIVE HIM --

>> IT IS A GOTCHA.

>> IT'S NOT.

>> PLEASE, MANAGEMENT.

>> SORRY.

>> WHAT WAS THE PURPOSE OF FILING A -- SERVING HIM WITH THE PETITION FOR THE TERMINATION OF PARENTAL RIGHTS, BY THAT POINT HE HAD NOTHING THAT HE COULD DO?

>> JUDGE, BY THAT POINT HE COULD HAVE REGISTERED AND WE DON'T KNOW IF HE IS REGISTERED UNTIL WE CHECK THE DEPARTMENT OF HEALTH SUBS DEFEND TO THE -- SUBS QNT TO THE FILING OF THE PETITION FOR TERMINATION OF PARENTAL RIGHTS AND THE AGENCY CHECKED THE REGISTRY BEFORE BIRTH AND AFTER BIRTH. BUT IT TAKES SOME TIME TO GET THAT BACK FROM THE DEPARTMENT OF HEALTH.

IT WAS CHECKED AND ALL THE WAY UP TO THE FINAL HEARING IN THIS CASE, NO REGISTRATION HAD BEEN PERFECTED.

>> MS. TATE I HAVE A PROBLEM HERE, BECAUSE YOUR POSITION SEEMS TO BE PRETTYICS STREAM. I MEAN, THERE IS NO ROOM FOR THE DIFFERENT SCENARIOS THAT MAY TAKE PLACE, SUCH AS, IN AS -- ANDS., WHERE THE DEFENDANT, PUTATIVE FATHER, HAD NO IDEA THE WOMAN WAS PREGNANT UNTIL HE WAS SERVED WITH THE PAPERS AND THEN TOOK STEPS TO TRY TO PROTECT HIS PARENTAL RIGHTS. NOW HE HAD -- HE COULD NOT HAVE REGISTERED BEFORE THAT, NOT KNOWING THE LADY WAS PREGNANT AND THAT'S THE VIEW I WOULD TAKE SO WHY ISN'T THERE ROOM IN THE STATUTE TO ACCUMULATE SOMEONE LIKE "AS" WHO HAD NO IDEA THE LADY WAS PREGNANT UNTIL HE SERVED WITH THE PAPER, THAT THE COURT ENDS UP GETTING THE INFORMATION OUT OF THE MOTHER, OF WHO THE FATHER IS, SO HOW DO WE DEAL WITH THAT KIND OF SITUATION? SURELY THIS STATUTE DID NOT INTEND TO TERMINATE SOMEONE'S

RIGHTS WHEN THEY, AT NO POINT,  
HAD A CHANCE TO PROTECT THEIR  
RIGHTS.

>> JUDGE AS YOU KNOW, THAT IS  
NOT THE SITUATION HERE.

--

>> WELL, I'M -- BUT THE WAY YOU  
ARGUE THIS, IT COVERS EVERYONE.  
BUT WE START WITH SOMEONE LIKE  
"AS" WHO HAD NO IDEA ABOUT HIS  
RYE AND YOU CAN CONTINUE ONTO  
SOMEONE LIKE LEAR, WHO TWO  
YEARS LATER AND HE KNEW HE HAD  
HIS RIGHTS.

>> CERTAINLY.

>> THAT THIS WAS HIS CHILD.  
I MEAN, THERE HAS GOT TO BE  
SOME KIND OF ROOM IN THERE TO  
ACCOMMODATE ALL OF THESE PEOPLE  
WITHOUT THROWING -- LUMPING  
THEM IN, AND SAYING IF YOU DID  
NOT REGISTER, THAT IS THE END  
OF IT.

THAT CAN'T BE WHAT THE  
LEGISLATURE REALLY INTENDED  
HERE, IS IT?

>> JUDGE, THE LEGISLATURE  
INTENDED TO BALANCE THE  
INTERESTS OF THE BIRTH FATHER,  
THE CHILD, THE BIRTH MOTHER,  
AND THE ADOPTIVE PARENTS AND  
THIS IS A STATUTORY FRAMEWORK  
IT CREATED, ALONG WITH A  
NATIONAL MOVEMENT TO ESTABLISH  
PUTATIVE FATHER REGISTRIES IN  
2/3 OF THE STATES ACROSS THIS  
COUNTRY.

WE ARE TRYING OVER-- AVOID  
PROTRACTED LITIGATION IN  
ADOPTION CASES --

>> WHY --

>> I HAVE NO IDEA OF -- THE MAN  
HAS NO IDEA THE WOMAN WAS  
PREGNANT.

AND HAD A CHILD, HOW CAN THIS  
STATUTE REALLY BE PROTECTING  
HIM?

>> THE STATUTE IMPUTES  
KNOWLEDGE TO HIM, JUDGE AND AS  
I SAID THAT IS NOT OUR FACT  
PATTERN, THIS GENTLEMAN KNEW OF  
THE PREGNANCY FOR THREE MONTHS,  
PRIOR TO DELIVERY AND KNEW THAT  
SHE WAS PLANNING AN ADOPTION

AND DIDN'T DO ANYTHING, THERE IS NO EVIDENCE --

>> THE PATERNITY ACTION BEFORE THE TERMINATION, CORRECT.

>> NOBODY KNEW THAT, JUDGE.

THIS ISN'T A RACE TO THE COURTHOUSE, THIS IS ABOUT FAIRNESS, THIS BIRTH MOTHER SIGNED A PERMANENT AND IRREVOCABLE CONSENT FOR ADOPTION.

>> LET ME TALK ABOUT FAIRNESS YOU, AGREE THE BIRTH MOTHER AND THE BIOLOGICAL FATHER HAD SOME RIGHTS OR INTERESTS IN THE CHILD, CORRECT.

>> NO, I DO NOT, YOUR HONOR, THE BIRTH FATHER HAD AND IN CHOT OPPORTUNITY.

HIS RIGHTS DO NOT BUMPER EFFECTED UNTIL HE FOLLOWS THE THIS STATUTORY FRAMEWORK.

>> AS LONG AS THE BIOLOGICAL -- BIRTH MOTHER KEEPS IT A SECRET AND HER PLANS AS SECRET AS SHE CAN AND WAITED UNTIL THE LAST MINUTE, GIVE BIRTH, AND THE PETITION TO TERMINATE, FILED THE NEXT DAY, AND IF THE GUY HAS NOT FILED ANY PAPERS, HE HAS NO RIGHT.

>> THAT WHAT IS THE STATUTE SAYS, JUDGE BUT THESE AREN'T THESE FACTS.

>> BUT YOU TALK ABOUT FAIRNESS AND THAT IS MY CONCERN, TALKING ABOUT FAIRNESS, BECAUSE IT USED TO BE NEW KNEW WHO THE BIOLOGICAL FATHER WAS YOU WOULD DO THE SAME THING IN THE CASE, GETS THIS WRITTEN CONSENT TO THE ADOPTION FROM THE BIOLOGICAL MOTHER, THE BIRTH MOTHER AND BIOLOGICAL FATHER, WHAT USED TO BE DONE.

BUT YOU SAY BECAUSE OF THE STATUTE AND THE TRAP LAID YOU DIDN'T EVEN CONSIDER IT NECESSARY TO GET THE SAME CONSENT YOU GOT FROM THE BIOLOGICAL, BIRTH MOTHER FROM BIOLOGICAL FATHER AND WHY IS THAT?

>> JUDGE THAT IS NOT HOW THE

PREDECESSOR STATUTE OPERATED.  
THE PREDECESSOR STATUTE HAD A  
SIMILAR LIST OF BIRTH FATHERS

--

>> I'M GOING BACK 20 YEARS WHEN  
I USED TO PRACTICE THIS LAW AND  
DO ADOGSES AND MY UNDERSTANDING  
WAS WHEN YOU HATED BIRTH MOTHER  
COME IN, IF THEY KNEW WHO THE  
BIRTH FATHER WAS YOU ATTEMPTED  
TO GET THE CONCEPT FROM BOTH OF  
THEM.

>> CERTAINLY YOU ALWAYS ATTEMPT  
TO DO THAT AND THE ANALYSIS  
BECOMES, IF YOU PROVIDE NOTICE  
TO THE BIRTH FATHER, TELL HIM  
ABOUT THE ADOPTION AND  
PREGNANCY AND HE VOICES NO  
OBJECTION, THERE IS NO EVIDENCE  
IN THE REPORT CONTRARY TO THE  
BRIEF THAT HE EVER VOICED AN  
OBJECTION TO THE ADOPTION AND  
WHAT HE FILED THE PATERNITY  
ACTION HE DIDN'T NOTIFY THE  
AGENCY OR THE BIRTH MOTHER, SO  
AT THE TIME OF PLACEMENT NOBODY  
KNEW THIS BIRTH FATHER WAS  
OBJECTING TO THE ADOPTION AND  
THE BIRTH MOTHER SIGNED A  
PERMANENT AND IRREVOCABLE  
CONTENT FOR ASOPTION --  
ADOPTION RELYING ON FLORIDA LAW  
SAYING IT WAS TOO LATE TO COME  
IN AND DISRUPT THE PERMANENCY  
AND STABILITY OF THIS CHILD'S  
LIFE.

HER RIGHTS ARE GONE AND SHE HAD  
A RIGHT TO RELY ON THE FLORIDA  
LAW, PARTICULARLY WITH THE  
BIRTH FATHER WHO DIDN'T SUPPORT  
HER DURING THE PREGNANCY AND  
DIDN'T MAKE AN OBJECTION TO THE  
ADOPTION AND DIDN'T DO ANYTHING  
DO PERFECT THAT INCHOATE  
INTEREST.

>> THAT IS YOUR VIEW.

>> SOME MAY ARGUE THE FILING OF  
THE PATERNITY ACTION WAS A STEP  
IN THAT DIRECTION, THOUGH YOU  
MAY ARGUE IT IS WRONG, SOME MAY  
ARGUE IT IS A STEP IN THAT  
DIRECTION.

BUT WITH OUR ASSISTANCE, YOU  
WANT TO SAVE SOME TIME FOR

REBUTTAL AND ALMOST USED IT ALL WITH OUR HELP.

WE'LL GIVE YOU A COUPLE OF MINUTE.

>> THANK YOU, SIR.

>> MAY IT PLEASE THE COURT, I'M RHONDA PORTWOOD AND REPRESENT JA AND JOINING ME AT THE TABLE, HER NAME IS SUSAN STOCKHOLM AND REPRESENTS UNITED BIRTH PARENTS AND FILED AN AMICUS BRIEF.

>> LET ME START WITH YOU ON THE OTHER SIDE OF THIS.

CERTAINLY, WE WERE TALKING ABOUT THE RIGHTS OF A BIOLOGICAL FATHER BUT CERTAINLY, THERE IS AN INTEREST THE STATE HAS, AN EXTREME INTEREST IN MAKING SURE THESE CHILDREN THAT ARE CHILDREN, ARE PLACED -- AND HAVE PERMANENCY AND CERTAINLY THIS CAN'T GO ON FOREVER, THIS INCHOATE RIGHT OR WHATEVER IS OUT THERE.

SO THERE MUST BE SOME MECHANISM THAT PERMITS THE STATE, THIS CHILD, THE BIRTH MOTHER, TO BE ABLE TO BRING FINALITY TO THESE CIRCUMSTANCES, AND WHY IS IT NOT THE PLAN -- DOESN'T IT DO THAT?

>> WELL, FOR ONE THING, IT VIOLATES DUE PROCESS.

UNDER LEAR, LEAR ACTUALLY SAYS AND HELD A PUNITIVE FATHER'S INCHOATE INTEREST FOR A PUNITIVE FATHER -- HIS INCHOATE INTEREST TO ACQUIRE CONSTITUTIONAL PROTECTION, HE HAD TO DEMONSTRATE TIMELY AND FULL COMMITMENT.

NOW, THE QUESTION IS HOW DO WE DO THAT PRIOR TO THE BIRTH AND WHEN THE MOTHER IS CONCEALED FOR SIX MONTHS, THE ACTUAL PREGNANCY.

>> WELL, SOME STATES SAYS THEY HAVE BEEN WITH THEM AND I'VE LOOKED AT CASES ALL WEEKEND -- READING ALL THESE AND RUNS THE GAMUT, ALL OF THEM ARE DIFFERENT, BUT THERE ARE SOME WHERE THEY ARE BY THEIR SIDE DURING THE PREGNANCY AND THERE

-- AND THAT IS CONSIDERED ONE ASPECT AND THERE ARE WAYS TO DO IT.

>> WELL, THE PROBLEM WITH THE FLORIDA PUTATIVE FATHER REGISTRY IS IT DOESN'T PROVIDE THE FATHER WITH ANY KIND OF NOTICE.

FOR ONE THING IT VIOLATES DUE PROCESS BECAUSE THE PUTATIVE FATHER REGISTRY WAS NEVER, EVER PROMOTED, NEVER FUNDED, DIDN'T GET ON THE WEB UNTIL 2005 AND EVEN THOUGH THE PUTATIVE FATHER REGISTRY -- REGISTRY WAS ENACTED IN 2003.

>> MY CONCERN, THE CONSTITUTIONAL CHALLENGE YOU ARE RAISING AS TO THE ADVOCACY, ESPECIALLY OF THE PUBLICATION, I MEAN, WE ARE NOW LOOKING AT THE CONSTITUTIONAL ISSUE FOR THE FIRST TIME.

MY QUESTION BEFORE YOU GET TO THE CONSTITUTIONAL ISSUE, ARE YOU -- YOUR BRIEF SEEMS TO CONCEDE THAT THE SECOND DISTRICT'S INTERPRETATION WHICH IS THAT UNDER 0612, THE COURT HAS NO AUTHORITY TO TERMINATE THE RIGHTS OF THOSE THAT ARE NOT LISTED AS REQUIRING CONSENT, IT IS NOT A CORRECT INTERPRETATION.

ARE YOU CONCEDED THAT THE INTERPRETATION IS THAT JUSTICE AM STEAD HAD -- ANSTEAD ASKED THE FIRST PART OF THE ARGUMENT, THAT IS THIS INTENT OF THE LEGISLATURE REALLY IS TO SAY THAT IF A PUTATIVE FATHER, BIOLOGICAL FATHER DOES NOT REGISTER PRIOR TO THE TIME THAT THE CONSENT IS OBTAINED OR THE PETITION IS FILED, THAT HE -- SEEMS TO HAVE WAIVED THOSE RIGHTS AND ARE YOU CONCEDED THAT INTERPRETATION OF THE STATUTE.

>> NO.

ARE YOU SAYING THAT THE SECOND DISTRICT'S INTERPRETATION IS CORRECT, THAT UNDER 062 THE LEGISLATURE DID NOT INTEND TO

ALLOW A COURT TO TERMINATE THE RIGHTS OF A FATHER WHOSE CONSENT WAS NOT REQUIRED? YOU THINK THAT IS WHAT THE LEGISLATURE INTENDED.

>> I BELIEVE THE LEGISLATURE INTENDED THAT FATHERS BE CONTACTED.

THEY GET NOTICE AND AN OPPORTUNITY TO BE HEARD, A MEANINGFUL OPPORTUNITY.

>> YOU SEE, THE THING IS, I MIGHT WISH THAT IS WHAT THE LEGISLATURE WAS TRYING TO PUT TOGETHER, WHEN I LOOKED AT LIKE 0623A BECAUSE IT WOULD MAKE SENSE TO ME, WHEN -- YOU KNOW, THAT THAT BECOME THE REQUIREMENT, BUT I THINK WE ARE REINVENTING THE STATUTE AND THAT IS -- MY CONCERN IS THIS SECOND DISTRICT BY SAYING THAT THERE WAS NO AUTHORITY TO TERMINATE RIGHTS, IS NO STANDING THAT THAT PUTATIVE FATHER EVEN HAS TO OBJECT IN THAT PROCEEDING.

WAS REALLY TRYING TO IGNORE THE PLAIN INTENT OF THE STATUTE. AND SO YOU ARE NOT -- TELL ME NOT WHAT YOU THINK THE LEGISLATURE MIGHT HAVE THOUGHT BUT BASED ON THE STATUTORY LANGUAGE, IS IT CORRECT THAT THAT IS WHAT THIS LEGISLATURE INTENDED?

NOW WHETHER THEY THOUGHT THAT IT SHOULD HAVE BEEN ADVERTISED MORE OR THAT ASHES DOMTION ENTITIES WOULD PROVIDE THAT NOTICE -- ADOPTION ENTITIES WOULD PROVIDE THAT NOTICE BUT THEY INTENDED THESE RIGHTS BE CUT OFF IF THEY DID NOT FILE --

>> I DO NOT BELIEVE SO.

AND THE REASON IS, BECAUSE THERE ARE PROTECTIONS THROUGHOUT THE STATUTE FOR FATHERS.

FATHERS WHO ARE DETERMINED TO BE FATHERS.

NOW, IF YOU ARE NOT DETERMINED TO BE A FATHER YET, IN THE YOU ARE NOT INCLUDED IN ANY OF THE

NOTICES OR CONSENTS.

HOWEVER, THE PROBLEM WITH THAT IS YOU THEN -- IF YOU ARE ESTABLISHED TO BE A FATHER LATER OR FIND OUT YOU ARE A FATHER YOU HAVE NO RECOURSE. BECAUSE THE NOTICE OF CONSENT IS IMPLIED AND YOU SURRENDER ALL OF YOUR RIGHTS.

SO IN -- ARE YOU FOLLOWING?

>> NOT -- AS FAR AS THE FATHER IN THIS POSITION, I AGREE THAT -- AND THIS IS WHAT IS, AGAIN, SCREWY ABOUT THE STATUTE, THAT IF YOU GO THROUGH WITH THE STATE TERM -- AND THE STATE TERMINATES RIGHTS THE FATHER GETS A LAWYER AND THERE IS ACTUALLY A WHOLE PROCEEDING, WHERE THE FATHER IS REPRESENTED.

>> RIGHT.

>> IF -- BUT IN THIS SITUATION IT DOESN'T SEEM TO ME THAT THE LEGISLATURE INTENDED THAT IF THE FATHER DID NOT REGISTER, THAT THE FATHER WOULD RECEIVE NOTICE UNLESS ADOPTION ENTITY DECIDE -- DECIDED TO SERVE THE BIOLOGICAL FATHER WITH THE NOTICE OF THE INTENDED ADOPTION PLAN.

>> RIGHT.

AND ANOTHER PART OF MY ARGUMENT IS THAT --

>> THE FACT THAT YOU ARE SAYING NO, THAT IS NOT WHAT THE PLAIN LANGUAGE OF THE STATUTE NICE I THINK THE PLAIN LANGUAGE IS THAT THEY INTENDED TO NOTIFY FATHERS AND GET CONSENT FROM FATHERS, PARENT, AND THAT IF YOU ARE NOT ESTABLISHED TO BE A FATHER, THEY ARE SORT OF EXCLUDING THAT -- THE PUTATIVE FATHER IS WHAT THEY ARE DOING.

>> BECAUSE THEY SAID IF THE FATHER DOESN'T -- PUTATIVE FATHER DOESN'T FILE A NOTICE OR DOESN'T REGISTER WITH THE REGISTRY, HE IS DEEMED TO HAVE WAIVED HIS RIGHTS.

>> CORRECT.

>> SO THEY DON'T NEED TO GET

HIS CONSENT.

>> THAT'S RIGHT.

>> LET ME ASK YOU A QUESTION ABOUT THE BACKGROUND BEHIND THESE AMENDMENT AND THIS REGISTRY.

IT SEEMS LIKE THE LEGISLATURE WAS CONCERNED ABOUT THE DELAY IN ADOPTION PROCEEDINGS.

SOMETIMES THE BIOLOGICAL FATHER COULD NOT -- WAS KNOWN BUT COULD NOT BE LOCATED, SOMETIMES HE WAS UNKNOWN, AND THEN HE CAME FORWARD MANY MONTHS LATER, AND THE ADOPTIONS WERE DELAYED AND DELAYED AND IN THE MEANTIME THE BABY WAS BORN, THE BABY WAS GROWING, THE BABY WAS 2, 3, 4 YEARS OLD AND THE BABY WAS IN LIMBO AND THE LEGISLATURE, IN ITS LEGISLATIVE INTENT IN THE STATUTE SEEMS TO SAY, WE CARE MOST ABOUT THE INTEREST OF THIS CHILD.

AND THAT THIS CHILD BE PLACED PERMANENTLY, SOMEWHERE, AS SOON AS POSSIBLE.

>> AND I DON'T DISAGREE WITH THAT AT ALL.

THE PROBLEM IS -- HOW DO YOU FIX IT.

>> THE STATE -- I'M SORRY.

>> THAT'S OKAY.

ASSUMING WE ALL AGREE THAT THAT SHOULD BE A CONSIDERATION.

>> YES.

>> HOW DO YOU FIX IT IN A WAY OTHER THAN THIS PUTATIVE FATHER REGISTRY?

>> WELL, WITHIN THE CONTEXT OF THE REGISTRY, THE REQUIREMENT FOR NOTIFICATION OF THE REGISTRY WHEN THERE IS AN INTENDED ADOPTION PLAN SERVED ON A PUTATIVE FATHER, COULD -- YOU KNOW, MANDATE THAT THEY -- THE PUTATIVE FATHER BE NOTIFIED OF THE REGISTRY.

THAT WAY, -- AND IF THEY DO THAT, IF YOU LOOK AT THE STATUTE, THAT IS IN 02623A.

>> WHO NOTIFIED THE PUTATIVE FATHER.

>> THE ADOPTION ENTITY.

I DON'T --

>> NOW, THEY AN --

>> WHAT IF THEY DON'T KNOW THE FATHER.

THAT IS MY POINT.

BECAUSE, BEFORE THERE WAS A LOT OF SITUATIONS WHERE THE FATHER WAS UNKNOWN OR THE FATHER COULD NOT BE LOCATED.

THAT IS REALLY WHAT WE ARE DEALING WITH.

IF WE KNOW THE FATHER AND CAN BE LOCATED THERE IS NO PROBLEM, THE PROBLEM WE ARE DEALING WITH IS UNKNOWN FATHERS OR FATHER WHOSE CANNOT BE LOCATED.

HOW DO YOU INFORM THOSE PEOPLE OF THE REGISTRY?

>> WELL, THAT IS ALWAYS A PROBLEM.

>> GETS BACK TO MY QUESTION, HOW DO YOU FIX THAT PROBLEM WITHOUT USING A REGISTRY?

HOW DO WE DO THAT?

>> WELL, YOU HAVE THE PATERNITY STATUTE WHICH IS THE PRIMARY JURISDICTION AND I UNDERSTAND THAT IF SOMEONE DOES NOT COME FORWARD, THEN THEIR RIGHTS CAN BE TERMINATED.

AFTER A CERTAIN PERIOD OF TIME. BUT IT IS UNCONSTITUTIONAL TO DO THAT TO A FATHER WHO HAS ALREADY COME FORWARD AND WHO -- IS TRYING TO ASSERT HIS RIGHTS AS A PARENT.

>> I'M CONFUSED.

YOU'RE SUGGESTING THAT WE INTERPRET 0623A THAT SAYS THE ADOPTION ENTITY MAY SERVE UPON IT ANY UNMARRIED BIOLOGICAL FATHER THE NOTICE OF THE INTENDED ADOPTION PLAN, WHO -- SAY, THE ADOPTION ENTITY SHALL SERVE.

>> YES.

>> AND MY PROBLEM WITH THAT, I WOULD CERTAINLY LIKE TO DO THAT, IS THAT WOULDN'T WE BE DOING THE QUINTESSENTIAL LEGISLATING FROM THE BENCH?

AND TELL ME HOW WE WOULD -- YOU KNOW, YOU SAY, WELL, THE LEGISLATURE SHOULD FIX IT.

NOW, WHAT YOU -- WHAT YOUR ARGUMENT WOULD BE, IT IS UNCONSTITUTIONAL, BECAUSE THE PERSON DOESN'T HAVE NOTICE. THE PROBLEM IS, IN THIS CASE, THE STIPULATED FACTS ARE THAT YOUR PARTICULAR FATHER, AT LEAST HAD NOTICE FOR THE LAST THREE MONTHS OF THE PREGNANCY. SO WE DON'T HAVE ONE -- AN "AS" IN THIS CASE, YET YOU ARE MOUNTING A FACIAL CHALLENGE.

>> HE DID NOT KNOW ABOUT THE REGISTRY, HE KNEW ABOUT THE PREGNANS THE LAST PART OF THE PREGNANCY.

>> YOU ARE INTO YOUR TIME. IF YOU NEED TO --

>> THANK YOU.

>> MAY THE PLEASE THE COURT, I'M STUCHB STOCKCAM, FOR CONCERNED UNITED BIRTH PARENTS AND WANT TO ADDRESS THE QUESTION, YOU CAN DO IT BY HARMONIZING THE STATUTE, LOOK AT 63062 AND LISTS WHOSE CONSENT IS REQUIRED, IF A FATHER REGISTERED IT DOESN'T PROVIDE PROTECTION, IT ONLY PROVIDES NOTICE AND HE MUST FILING IN 630622.

AND ONE OF THOSE SAYS THAT UPON BEING SERVED WITH THE NOTICE OF THE INTENDED ADOPTION PLAN HE HAS TAKEN THE APPROPRIATE STEPS IN THE NOTICE --

>> AND DO YOU AGREE, THAT THOSE ARE THAT PART OF THE STATUTE IS CONSTITUTIONAL AND THAT IS THIS LEGISLATURE CAN SAY WE WILL SPECIFY WHAT WILL CONSTITUTE AFFIRMATIVE, POSITIVE ACTIONS BY A SENATORS IF HE RECEIVED NOTICE OF THE ADOPTION PLAN WHICH NOTIFIES HIM OF THE EXISTENCE OF THE REGISTRY AND A FORM REGARDING THE REGISTRY AND TELLS HIM HE NEEDS TO FILE THE AFFIDAVIT OF CLAIM OF PATERNITY AND NEEDS TO FILE AN AFFIDAVIT OF SUPPORT AND THEN HE COMPLIED WITH 630622.

PROVIDING ALL OF THE STEPS THAT HE NEEDS TO REQUIRE AND IN

ADDITION TO THAT, AS THE LOWER COURT -- SAID IT ALSO REQUIRES GROUNDS OF TERMINATION OF HIS RIGHTS SHOULD HE FAIL TO DO SO

--

>> THE SECOND DISTRICT, THOUGH, DID NOT INTERPRET THE STATUTE AS I'M INTERPRETING.

>> I AGREE.

>> DO YOU THINK THE SECOND DISTRICT'S INTERPRETATION FOLLOWS THE LANGUAGE OF THE STATUTE?

>> I THINK WHAT THE SECOND DISTRICT WAS TRYING TO COME UP WITH WAS THE FACT THAT WE HAD A NAMED AND LOCATABLE FATHER WHO WAS NOT NAMED IN THE PETITION, SERVED OR PROVIDED NOTICE AND IN THOSE PARTICULAR CASES, HOW DO YOU TERMINATE SOMEONE'S RIGHTS WHEN YOU KNOW WHO THEY ARE AND DON'T MAKE THEM A PARTY AND A PARTY BY PROVIDING --

>> SECOND DISTRICT, DID IT NOT STATE THEY ARE TRYING TO FIND A WAY TO SAVE THE CONSTITUTIONAL VA LIDTY --

>> TRYING TO HARMONIZE THEM.

>> BUT THAT WON'T NECESSARILY FIT IN ALL CIRCUMSTANCES.

>> IT IS A ROUGH FIT, I WOULD AGREE AND I THINK THE BETTER FIT IS THE ONE UNDER 630623A, AS PROPOSED BY JUSTICE PA RAENT.

>> I'M NOT SURE I FOLLOW YOUR ARGUMENT, GIVEN NOTICE OF THE REGISTRY AT THE POINT WHEN THERE IS AN ATTEMPT -- INTENT TO ADOPT BECAUSE I THOUGHT THE STATUTE REQUIRED YOU REGISTER PRIOR TO THE TIME THAT THE MOTHER GIVES THE CONSENT FOR THE ADOPTION AND SO, ISN'T THAT -- WOULDN'T THAT STILL BE TOO LATE UNDER THE STATUTE TO REALLY PERFECT YOUR INTERESTS?

>> GOOD QUESTION AND AGAIN, WE ARE DEALING WITH STATUTES, HUGE INCONSISTENCY!!IES IN IT AND SAYS, UNDER 630623 WHERE YOU SERVE WITH THE NOTICE OF THE INTENDED ADOPTION PLAN, GOES WITH A SUMMONS AND SAYS YOU HAVE 30

DAYS FROM THE DATE YOU RECEIVE THE SUMMONS TO COMPLY AND OF COURSE THEN IT TELLS ABOUT THIS REGISTRY AND AGAIN I THINK YOU WILL HAVE A TIME DELAY.

I CAN SERVE AT ANY TIME PRIOR TO PLACEMENT, IF I SERVE THAT PRIOR TO PLACEMENT I THINK IT GETS THEM AN EXTENDED 30 DAYS TO FILE IN ACCORDANCE WITH THE SUMMONS AND SHOULDN'T BE TERMINATED BECAUSE THE PETITION HAS BEEN FILED.

>> AND HOW DOES -- A PATERNITY ACTION PLAY INTO ALL OF THIS? IF AT THE TIME THAT YOU RECEIVE SOME KIND OF NOTICE OF INTENT FOR ADOPTION, AND THEN YOU FILE A PATERNITY ACTION, WHAT WOULD THEN BE THE -- HOW DOES THAT INTERPLAY WITH CHAPTER 63.

>> WELL, 63 IS THE AVENUE FOR HIM TO BE ABLE TO PROTECT AND PRESERVE HIS PARENTAL RIGHTS AT LEAST THE RIGHT TO NOTICE AND YOU HAVE TO UNDERSTAND THAT CLEARLY.

THE REGISTRY IS NOT A METHOD OF ABSOLUTE PROTECTION FOR ANYTHING.

TO THE DAD, SIMPLY HIS RIGHT TO NOTICE AND IF YOU READ ACCORDING TO THE WAY THE ADOPTION ENTITY IS REQUESTING THAT YOU READ IT WHEN HE GETS THE RIGHT TO NOTICE HE SIMPLY WALKS INTO A COURTROOM WHERE THE JUDGE SAYS, HI, NICE TO MEET YOU, AND YOU HAVE A -- HAVE NOT COMPLIED WITH THE STATUTE AND ARE OUT OF HERE BECAUSE DIDN'T DO ALL OF 620622.

AND HE HAS NO NOTICE OF THOSE THINGS THAT EXISTS AND THAT IS WHY YOU NEED TO READ WITH 6303 A AS BEING MANDATORY AND IF YOU HAVE A NAMED AND LOCATABLE DAD YOU WANT TO KNOW BEFORE YOU MAKE THE PLACEMENT WHAT HIS ACTIONS WILL BE AND ALWAYS HAS BEEN THE WAY WE'VE PRACTICED FOR MORE THAN THE 200RS AND BACK TO ANSWER THE PATERNITY

ACTION IT GIVES HIM A SEPARATE COURTROOM TO SAY NOT ONLY DO I NOT WANT MY CHILD PLACED FOR ADOPTION BUT I'M ASSUMING PARENTAL RESPONSIBILITIES FOR THE CHILD AND WILLING TO PAY SUPPORT AND HERE TO ASSERT CUSTODY FOR THE CHILD.

>> LET ME ASK YOU A QUESTION, ONE ABOUT THE RECORD AND THE NECKED ONE ABOUT THE OTHER SIDE OF THIS ISSUE.

THE FIRST ABOUT THE RECORD. IS THE RECORD IN THIS CASE DEVELOPED TO THE EXTENT THAT WE ACTUALLY KNOW HOW MANY MALES HAVE REGISTERED IN THE STATE OF FLORIDA?

>> THAT IS A VERY GOOD QUESTION, IN THIS CASE I DON'T BELIEVE ANY EVIDENCE CAME IN AT ALL, BECAUSE HE SIMPLY WALKED INTO THE COURT ON THE DAY OF THE TPR HEARING AND WAS TOLD HE DIDN'T REGISTER AND HAD NO RIGHTS.

>> ISN'T THAT CONFIDENTIAL AS FAR AS WHO REGISTERED.

>> YOU CAN CONTACT VITAL RECORDS AND THEY'LL TELL YOU THE NUMBERS, THEY WON'T GIVE YOU NAMES, THEY'LL GIVE YOU BROAD NUMBERS OF HOW MANY ARE REGISTERED IN THE STATE OF FLORIDA.

>> -- IN THIS RECORD?

>> I DON'T BELIEVE WE KNOW ANYTHING MORE IN THIS RECORD THAN THAT HE DID NOT REGISTER.

>> I KNOW IT'S NOT A PART OF THE RECORD BUT DO WE KNOW WHETHER OR NOT THIS FATHER HAS CONTINUED WITH HIS PATERNITY ACTION, AND WHAT, IF ANYTHING HAS HAPPENED WITH THAT.

>> HE WAS PREVENTED FROM DOING SO BY THE FACT THE TERMINATION OF HIS PARENTAL RIGHTS OCCURRED.

>> THERE IS A STAY UNTIL THIS IS RESOLVED.

>> IF I COULD GO AND ADDRESS WITH THAI LEAR, YOUR HONOR, IT DOESN'T SAY THAT THAT FATHER'S PARENTAL RIGHTS WOULD HAVE BEEN

TERMINATED BY HIS FAILURE TO REGISTER, HAD LEAR COME INTO THE ADOPTION PROCEEDING EARLIER, I BELIEVE LEAR WOULD HAVE HAD A RIGHT TO HAVE AN OPPORTUNITY TO BE HEARD AND TO PRESENT EVIDENCE REGARDING BEST INTEREST, WHICH WAS --

>> WOULD LEAR ADDRESS THE FACIAL CONSTITUTION AT OF THE STATUTE.

>> DIDN'T UNDERSTAND.

>> WOULD THE COURT IN LEAR ADDRESS THE FASCIAL CONSTITUTIONALITY OF THE STATUTE IN NEW YORK.

>> I DON'T BELIEVE THEY DID, I BELIEVE THEY LOOKED AT UNDER LEAR WAS WHETHER OR NOT HE WAS -- WHETHER OR NOT HE HAD -- INTERESTS REACHED THE LEVEL TO PROVIDE CONSTITUTIONAL PROTECTION AND IF SO, UNDER NEW YORK'S FULL STATUTORY SCHEME, DID IT PROVIDE HIM AN OPPORTUNITY TO PROTECT HIS RIGHTS AND PARTICULARLY HIS RIGHT TO NOTICE.

BUT DIDN'T SPECIFICALLY ADDRESS THE CONSTITUTION AT OR -- OF THE REGISTRY AND ALL REGION INDUSTRIES ARE DIFFERENT, WHEN YOU HEAR THE NUMBER WE HAVE, 37 REGISTRIES AND THAT IS THE MAJORITY OF THE STATE, EVEN IN HARVARD LAW REVIEW ARTICLE, WRON IN 2002, FLORIDA IS LISTED AS HAVING A REGISTRY, WE'VE ALWAYS HAD ONE AND A MECHANISM WHERE A FATHER UNDER GUERRA VERSUS HRS COULD HAVE FILED AN ACKNOWLEDGMENT OF PA TERN AND WHEN YOU DO A PLACEMENT BACK IN THE OLD DAYS, YOU SEND \$9 TO VITAL RECORDS AND SAY, COULD YOU CHECK YOUR PATERNITY REGISTRY AND SO IF THERE IS ACKNOWLEDGMENT OF PATERNITY SO

--  
>> UNDER THE SECOND DISTRICT'S VIEW, AND THIS THING, THE CITRUS CAN IT PATERNITY ACTION FILED, WHAT CONCERNS ME IS, IF WE TAKE THE VIEW THAT IF A

PATERNITY ACTION IS FILED BEFORE THE PETITION FOR TERMINATION OF PARENTAL RIGHTS HAS BEEN CONCLUDED, PENDING ADOPTION, THAT THAT OPERATES AS IF THEY HAVE REGISTERED.

>> DOESN'T -- SHOULDN'T THE PATERNITY ACTION BE AT LEAST IN THE SAME COURT AS THE OTHER -- SHOULDN'T IT BE TRANSFERRED SO THAT ONE JUDGE LIKE IN THE AF -- "AS" CASE WHERE YOU HAVE THE UNIFIED FAMILY COURT IS HEARING BOTH ISSUES?

BECAUSE IF THE MERE FILING OF THE PATERNITY ACTION SOMEWHERE IN THE STATE WOULD BE ENOUGH TO HAVE PRESERVE THE RIGHT AS MS. TATE SAID, HOW WOULD THE MOTHER IN THAT SITUATION OR THE ADOPTION ENTITY KNOW OF THAT -- THE EXISTENCE OF IT.

SO --

>> AND AS ADDRESSED BY THE LEGISLATURE IN 63054 UNDER THE REGISTRY, I BELIEVE IT IS UNDER 5 -- I CAN'T RECALL WHERE IT SAYS THAT THE FATHER HAD THE RIGHT TO FILE AN ACTION IN ANY COUNTY IN THE STATE, SUBJECT TO THE MOTHER BEING ABLE TO PULL THAT VENUE BACK TO THE COUNTY WHERE SHE RESIDES.

>> SECOND QUESTION.

>> I'M SORRY.

>> SECOND QUESTION IS WHETHER OR NOT THIS STATUTORY SCHEME AFFECTS THE OBLIGATIONS OF THE PUTATIVE NATURAL FATHER TO THE CHILD.

IN OTHER WORDS, REGARDLESS OF REGISTER ORGAN WHATEVER, DO THE OBLIGATIONS OF -- OR WHATEVER, DO THE OBLIGATIONS OF THE NATURAL FATHER CONTINUE ABSENT THE EFFECT OF THE FINAL ADOPTION?

>> IF HE IS DEEMED TO HAVE REGISTERED, ARE YOU ASKING ME IN THAT RECORD?

IF DEEMED TO HAVE REGISTERED AND HE -- AND RECEIVES A NOTICE OF THE INTENDED ADOPTION PLAN, THE ONLY WAY HIS RIGHTS CAN

CONTINUE IS IF HE HAS PICKED UP THOSE OBLIGATIONS UNDER 630622. FILE THE AFFIDAVIT OF SUPPORT, FILE THE AFFIDAVIT SAYING HIS CHILD CUSTODY PLAN AND CONTINUE TO PRESENT AND WALK ALONG IN THOSE FACT.

OTHERWISE IF HE FAILED TO DO SO, NOT ONLY THE -- DOES 630893 GIVE GROUNDS TO TERMINATE HIS PARENTAL RIGHTS, WE HAVE THE ABANDONMENT LANGUAGE WHICH INDICATES HE DIDN'T FOLLOW THROUGH WITH THE OBLIGATIONS THAT HE SAID THAT HE WAS GOING TO FOLLOW THROUGH WITH.

>> I KNOW YOUR TIME IS ALMOST UP.

ARE YOU FAMILIAR WITH THE BABY EMILY CASE FROM THE SUPREME COURT?

>> I DON'T BELIEVE I AM.

>> I GUESS WHAT I AM ASKING IS ABANDONMENT --

>> OH, YES.

YES, MATCH I AM.

>> DOES THE REQUIREMENT OF THE STATUTE THAT THE FATHER DO ABRX KRRX D --

A, B, C, D, SUPERSEDE THE IDEA, ADAN BOMENT IS GOING TO BE SOME SORT OF YOU KNOW, GO ALONG AND FIGURE OUT UNDER THIS CIRCUMSTANCE HAS THE FATHER DOES THIS AND DOES IT ASSUMPTION SEED THAT HOLDING THAT IS, THAT WHAT WOULD CONSTITUTE ABANDONMENT, WOULD IT BE THE OPPOSITE OF NOT FULFILLING THE STATUTORY MANDATE?

IN OTHER WORDS, --

>> AGAIN IT SHAVES OFF SOME OF THE EDGES ON IT AND I'M NOT SURE IT NECESSARILY SUPERSEDES IT, FOR AN UNREGISTERED FATHER REGARDLESS OF WHAT OTHER STEPS HE HAS TAKEN TO BE A RESPONSIBLE -- AND YOU HAVE TO REMEMBER IT GOSS INTO THE AGE OF 6 MONTHS AND INCLUDING SHOULD THE FATHER BE LIVING WITH THE MOTHER, LIVING WITH THE CHILD, SUPPORTING THE CHILD,

UP UNTIL JUST PRIOR TO THE CHILD TURNING SIX MONTHS AND IF HE DOESN'T REGISTER HE'S OUT, PERIOD AND NO IFs ANDs OR BUTS AND TALKING ABOUT ABANDONMENT WE DON'T HAVE TO GET IT FOR ANY FATHER WHO HAS NOT REGISTERED FOR A CHILD UNDER THIS AGE OF SIX MONTHS AND WE ONLY USE IT WHEN YOU HAVE A FATHER WHOSE CONSENT IS REQUIRED ACCORDING TO THE STATUTE AND THEN LOOK AT WHETHER OR NOT HE'S CONTINUED TO FULFILL ALL OF HIS --

>> BUT YOUR -- YOU THINK THE STATUTE WOULD WITHHOLD -- WITH STAND SCRUTINY AS LONG AS TO KNOWN FATHERS, THERE IS ACTUAL NOTICE SERVED OF THE EXISTENCE OF THE REGISTRY?

I THINK THE REGISTRY HAS HUGE CONSTITUTIONAL PITFALLS.

I THINK THE BEST WAY TO HARMONIZE IT TO BE CONSTITUTIONAL IS TO REQUIRE WHEN YOU HAVE NAMED KNOWN LOCATABLE FATHERS YOU ARE SERVED WITH THE NOTICE OF THE INTENDED ADOPTION PLAN --

>> GIVES THE MOTHER AN INCENTIVE TO SAY, NO, I DON'T KNOW WHO THE FATHER IS.

>> AND THE STATUTE PERMENTS THAT, THAT IS ANOTHER THING THAT CHANGED.

>> LET'S GET TO -- YOUR DISCUSSION.

YOU SAY IF WE KNOW THE FATHER, SHOULD GIVE NOTICE, WHAT IF THE MOTHER SAYS, NO, I DON'T KNOW WHO IT IS WHEN SHE REALLY DID KNOW WHO THE FATHER IS.

>> IF WE CAN FIRST GET TO THE ISSUE OF WHEN SHE TRULY DIDN'T KNOW, WHICH IS EXACTLY WHAT THE GP CASE DID, STRIKING DOWN THE BROAD REQUIREMENT OF ALL OF HER SEXUAL PARTNERS AND WHERE SHE ENGAGE IN SEX AND EVERYTHING ELSE AND IT DEALT WITH THIS UNKNOWN FATHER AND THAT WHAT IS THE REGISTRY WAS INTENDED TO DO, DEAL WITH THE FATHER THAT WE TRULY DON'T KNOW ABOUT AND THE

FATHER THE MOM KNOWS ABOUT AND WILL FULLY REFUSES TO DISCLOSE, OR IS ADVISED IN THE "AS" CASE BY THE AGENCY NOT TO SDLOIZ, THAT FATHER ACCORDING TO 63063 IS CLOSED OUT.

IT SAYS, ANYONE -- FRAUD, ANYONE'S FRAUD CLOSES HIM OUT AND HE'S IN THE BEST POSITION TO BE ABLE TO ASSERT HIS RIGHTS, AND REGISTER AND NOT IF HE DOESN'T KNOW ABOUT THIS REGISTRY AND THAT IS WHERE YOU GET INTO THE, I'D LIKE TO TELL YOU HARMONIZING IT MAKES IT COMPLETELY CONSTITUTIONAL AND I THINK WE HAVE UNDERPINNINGS, STILL THAT ARE VERY SHAKY.

>> WITH OUR ASSISTANCE WE HAVE EXHAUSTED YOUR TIME AND THEN EXTRA TIME.

>> THANK YOU.

>> AS I INDICATED, GIVE YOU A COUPLE OF MINUTES THOUGH YOU ARE ABOUT INTO THE LAST MINUTE, WE'LL GIVE YOU A COUPLE EXTRA MINUTES.

>> THANK YOU.

>> COULD YOU ADDRESS THE -- ASSUMING WE ACCEPT YOUR INTERPRETATION OF THE STATUTORY SCHEME, ONE OF THE IMPORTANT CASES OUT OF THE U.S. SUPREME COURT DEALT WITH DUE PROCESS, AND IN ESSENCE, WHAT THE OPINION SAID WAS THAT THE AMOUNT OF PROCESS THAT IT IS DUE, LARGELY DEPENDS ON THE WEIGHT OR IMPORTANCE OF THE RIGHT THAT IS AFFECTED AND SORT OF A SCALE, THEN.

IF YOU HAVE REALLY SORT OF AN INCONSEQUENTIAL RIGHT AND YOU ARE NOT GOING TO BE ALLOWED A WHOLE LOT OF PROCESS, SORT OF LIKE THE SCHOOL SITUATION, WHERE A CHILD MAY GET A ONE-DAY SUSPENSION FOR SOMETHING -- OR SOMETHING THE COURT ESSENTIALLY SAID, WELL, YOU'VE GOT T TALK TO THE PRINCIPAL, YOU KNOW, BEFORE HE SUSPENDED YOU FOR A DAY AND THAT IS ENOUGH PROCESS, YOU KNOW, IN THAT CONTEXT.

WOULD YOU AGREE, HERE, THAT THE RIGHT OF THE NATURAL PARENT SHOULD BE WAY UP ON THE SCALE IN TERMS OF THE PROCESS THAT IS DUE.

>> YES, URINE BUT -- YOUR IMPORTANT BUT THE FUNDAMENTAL ISSUE IS NOT WHO IS A PARENT BUT WHAT IS A PARENT.

UNDER LEAR, THE GEN IS NOT A PARENT.

HE DOESN'T HAVE -- GENTLEMAN IS NOT A PARENT AND DOES NOT HAVE PARENTAL RIGHTS, HE HAS AN INCHOATE OPPORTUNITY.

>> HOW CAN YOU WAIVE THE RIGHT TO SOMETHING BEFORE YOU EVEN KNOW ABOUT IT.

>> JUDGE, THERE ARE LOTS OF OPPORTUNITIES UNDER THE STATUTE TO WAIVE RIGHTS THAT YOU DON'T KNOW ABOUT, BECAUSE YOU ARE CHARGED WITH KNOWLEDGE OF THE LAW AND THIS GENTLEMAN KNEW HE WAS THE FATHER AND KNEW HE HAD INTERCOURSE AND KNEW SHE WAS PREGNANT AND KNEW SHE WAS PLANNING AN ADOPTION AND HE KNEW THAT HE HAD PARENTAL RIGHTS OR AT LEAST THE PARENTAL OPPORTUNITY.

AND LEAR TEACHES US, JUDGE IT THE STATE THAT HAS THE RIGHT TO DETERMINE THE PROPER FRAMEWORK AND NO CONSTITUTIONAL ISSUE IS RAISED IN THIS CASE.

>> THE WAY YOU ARE INTERPRETING THE STATUTE, IF I UNDERSTAND IT, IT SAYS ALL THAT THE PUTATIVE FATHER NEEDS TO KNOW IN ORDER TO HAVE HIS RIGHTS WAIVED IS THAT THAT HE HAD INTERCOURSE. THAT HE DOESN'T -- THERE IS NO REQUIREMENT IN THE STATUTE IF I UNDERSTAND YOUR INTERPRETATION THAT HE KNOW ANYTHING ABOUT THE -- HIS PARTNER BECOMING PREGNANT OR ABOUT THE BIRTH OF THE CHILD, THAT NONE OF THEM IS REQUIRED UNDER THE STATUTE, THAT THE ONLY INFORMATION IN ORDER FOR THERE TO BE AN EFFECTIVE WAIVER IS THIS FACT OF INTERCOURSE, AM I CORRECT IN

YOUR INTERPRETATION.

>> FOR AN UNMARRIED BIOLOGICAL FATHER, YES, LEGISLATURE PUTS THE BURDEN ON HIM.

>> THAT IS ALL OF IT.

THE ACT OF INTERCOURSE IS ALL THE PROCESS THAT THAT PERSON RECEIVES.

>> BUT THAT IS NOT ALL THIS BIRTH FATHER RECEIVED AND WE HAVE BEEN CLEAR ABOUT THAT.

>> THE CERTIFIED QUESTION WE ARE HERE ON, THOUGH, AND THE SECOND DISTRICT'S OPINION DOESN'T CONTAIN ANY FACT, IT SIMPLY SAYS IS FAILURE TO REGISTER WITH THE REGISTRY, A WAIVER OF THE PARENTAL RIGHTS OR SOMETHING OF THAT EFFECT. IT DOESN'T EVEN SAY IN THE OPINION THAT HE FILED THE PATERNITY ACTION.

SO YOU ARE TALKING A LOT ABOUT FACTS.

THE SECOND DISTRICT IS ASKING A PURE QUESTION OF LAW, WHICH IS, UNDER ANY CIRCUMSTANCES, WHETHER THE "AS" CASE OR THIS CASE WHERE THE -- THEY LIVED TOGETHER, SAY FOR THREE MONTHS, THAT THE FAILURE TO FILE WITH THE REGISTRY OPERATES AS A WAIVER.

DO YOU AGREE THAT THAT IS WHAT THE SECOND DISTRICT'S ASKING US AND ARE YOU ASKING US NOT TO ANSWER THAT QUESTION BUT APPLY IT TO THE FACTS OF THIS CASE TO SAY WHETHER UNDER THE FACTS OF THIS CASE, IT IS CONSTITUTIONAL, OR APPROPRIATE TO HAVE TERMINATED HIS RIGHTS.

>> I THINK THE PARTIES TO THIS CASE ARE CERTAINLY ENTITLED TO THAT AND THAT IS WHY YOU HAVE A STIPULATED VERSION OF FACTS BECAUSE THESE FACTS ARE DIFFERENT FROM "AS" AND THE FINAL JUDGMENT DIDN'T LINCOLN CONCLUDE THE BIRTH FATHER'S RIGHTS WERE TERMINATED, IT ALSO HAD A SEPARATE DETERMINATION CONSENT WAS NOT-YEAR-OLD AND SEPARATE AND INDEPENDENT

DETERMINATION HIS RIGHTS WERE  
WAIVED AND SURRENDERED AND IF  
YOU DETERMINE THEY CAN'T BE  
TERMINATED, THOSE TWO FACTS  
SHOULD STAND TALL AND IF THE  
COURT WANTS TO GO AHEAD AND  
ADDRESS THIS AS IT RELATES TO  
OTHER CASES, CERTAINLY AND  
ANSWER THE CERTIFIED QUESTION  
AS POSED, IT HAS THE  
OPPORTUNITY DO --

>> AS POSED IS WHAT BRINGS US  
TO THE CONSTITUTIONAL ISSUE.  
AS APPLIED YOU MAY HAVE A  
DIFFERENT SITUATION.

THAT IS WHY CONCERN.

WE ARE SAYING, YES, CONSIDER  
THE STIPULATED FACTS AND DON'T  
ANSWER THE CERTIFIED QUESTION?

>> NO, JUDGE, I'M ASKING YOU TO  
ANSWER IT AS IT RELATES 0 OUR  
FACT AND IF YOU WANT TO --

>> THEN WE HAVE TO REPHRASE IT.  
BECAUSE IT ASKS A PURE QUESTION  
OF LAW.

>> I AGREE.

>> I NEED ASK A QUESTION ABOUT  
THE CHILD.

THIS COURT, AS IT DOES ON A --  
ALL CHILD CASES, EXPEDITED  
REVIEW.

BECAUSE THE CASE CAME UP TO US  
AFTER AN OPINION ABOUT TWO  
MONTHS AGO.

BUT I SEE THAT THE ORDER OF  
TERMINATING THE RIGHTS WAS FROM  
'05.

ARE WE TALKING ABOUT A  
SITUATION WHERE A CHILD NOW HAS  
BEEN IN LIMBO SINCE AUGUST OF  
2005?

WHICH IS THE DATE OF WHEN THE  
CHILD WAS BORN.

>> YES, YOUR HONOR AND THAT  
THIS IS FUNDAMENTAL PROBLEM  
THAT I HAVE.

>> WAS THE CASE IN THE SECOND  
DISTRICT JUST DELAYED THERE,  
BECAUSE -- DO WE KNOW WHAT  
CAUSED THE DELAY OF TWO YEARS  
IN THE SECOND DISTRICT.

>> I CAN SPECULATE ON THAT,  
JUDGE --

>> I DON'T WANT YOU TO

SPECULATE.

>> YOU HAD, FACTUALLY I CAN SPECULATE BECAUSE AS AND JCJ AND A TRILOGY OF CASES ADDRESSING THE REGISTRY AND TOOK A WHILE FOR THEM TO WORK THROUGH THE SYSTEM.

>> NOBODY TRIED IN ALL THIS TIME, EVEN THOUGH WE HAVE THE LEGAL ISSUES, TO TRY TO RESOLVE THIS CASE, TO THE BEST INTEREST OF THE CHILD.

>> WE ABSOLUTELY HAVE, JUDGE AND WE HAVE TRIED FROM THE DAY ONE, TO MEDIATE THE CASE AND RESOLVE THIS CASE AND THIS IS THE PROBLEM I HAVE, THE FUNDAMENTAL PROBLEM, IT IS A GOTCHA FOR THE ADOPTIVE PARENTS AND THAT CHILD, WHEN THE BIRTH FATHER DOESN'T TIMELY DO WHAT THE STATUTE REQUIRES HIM TO DOCUMENT AND WE --

>> OUR SYSTEM SHOULD NOW EXHAUST AN ADDITIONAL --

>> THANK YOU, WE HAVE --

>> THANKS FOR YOUR POSITIONS AND WE UNDERSTAND THE IMPORTANCE AND THE COURT WILL TAKE THE CASE UNDER ADVISEMENT.

>> THANK YOU VERY MUCH.

>> THANK YOU.

>> ALL RISE.,,

>> COURT IS IN RECESS.,.,.,

[INAUDIBLE CONVERSATIONS