

**IN THE
SUPREME COURT OF OHIO**

State of Ohio ex. rel. JOSEPH RICHARD : CASE NO. 2012 - 1590
And CYNTHIA HUTTON SARACINO :

Petitioner :

vs. :

Hon. JOHN WILLIAMS, Judge
Hamilton County Court Of Common Pleas :
Juvenile Division :

**ORIGINAL ACTION IN
MANDAMUS**

Respondent

SUGGESTION OF MOOTNESS

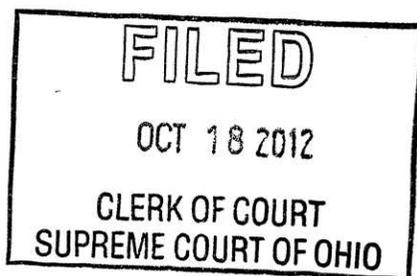
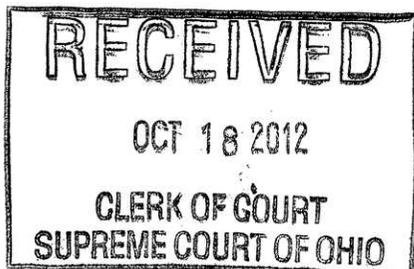
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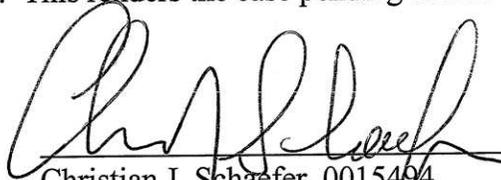


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SUGGESTION OF MOOTNESS

On October 12, 2012, the Magistrate Carla Guenther of the Hamilton County Court of Common Pleas, Juvenile determined that the case should be dismissed at the request of the Hamilton County Department of Job and Family Services. (See exhibit #1). The child had been placed in foster care with Relators, the Saracinos and both biological parents consented to the adoption. Since both foster parents have consented to the adoption and the Hamilton County Department of Job and Family Services requested dismissal of the dependency case, there is no one to object to the Magistrate Guenther's order. This renders the case pending before the Ohio Supreme Court moot.



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ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by regular U.S. Mail this

17th day of October, 2012 on:

Michael R. Vorhees
VORHEES & LEVY LLC
11159 Kenwood Road
Cincinnati, Ohio 45242



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ATTORNEY FOR RESPONDENT

HAMILTON COUNTY JUVENILE COURT

Case No. F/12/001458 X

CERTIFIED COPY

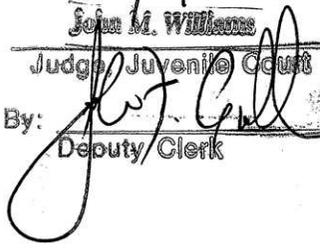
IN RE:
THE LLOYD CHILD.
REGARDING
BABY GIRL LLOYD
ONLY

Decision of Magistrate

I hereby certify that this document is a true copy of the original on file in the Hamilton County Juvenile Court.

Date: 10/15/12

John M. Williams
Judge Juvenile Court

By: 
Deputy Clerk

On October 12, 2012, an EXPEDITED HEARING hearing was conducted.

THE MAGISTRATE FINDS:

The following parties appeared before the Court:

DAVID WILLIAMS (PETITIONER of BABY GIRL LLOYD) was properly served
NATASHA LLOYD (MOTHER - BIOLOGICAL of BABY GIRL LLOYD) was properly served
DOUGLAS LLOYD (GRANDFATHER of BABY GIRL LLOYD) was properly served
ASHLEY WILLIAMS (PETITIONER of BABY GIRL LLOYD) was properly served

The following parties did not appear before the Court:

PAUL WILLIAMS (FATHER - ALLEGED of BABY GIRL LLOYD) was properly served
JOSEPH SARACINO (PARENT - FOSTER of BABY GIRL LLOYD) was properly served
CYNTHIA SARACINO (PARENT - FOSTER of BABY GIRL LLOYD) was properly served
Roxann Dieffenbach (Attorney for DOUGLAS LLOYD)

The following attorneys and parties also appeared:

Christopher Kapsal (Attorney for NATASHA LLOYD)
Mark Resler (Attorney representing Hamilton County Prosecutors Office for Kim Fightmaster)
Michael Voorhees (Attorney for JOSEPH SARACINO, CYNTHIA SARACINO)
Susan Basler (Attorney for PAUL WILLIAMS)
William Mikita (Attorney for DAVID WILLIAMS)
Kim Fightmaster (Case Worker representing Hamilton County Job and Family Services for BABY LLOYD)
Scott Ball (GAL representing Hamilton County Public Defender GAL Division for BABY LLOYD)
Miranda Tavares (GAL/Attorney representing Hamilton County Public Defender GAL Division for Scott Ball)

THEREFORE, THE DECISION OF THE MAGISTRATE IS AS FOLLOWS:

On July 9, 2012, Natasha Lloyd gave birth to Baby Girl Lloyd, also known as Gabrielle Saracino. At or near the time of the child's birth, the Hamilton County Department of Job & Family Services [hereinafter HCJFS] received an allegation that the child tested positive for opiates at birth and also that Ms. Lloyd would be incarcerated on pending criminal matters. On July 12, 2012, Ms. Lloyd executed a Consent to Adoption of the child by Joseph and Cynthia Saracino, residents of South Carolina, through a private arrangement that did not involve a child placing agency. Further, Ms. Lloyd refused to identify the biological father of the child. On July 13, 2012, Mr. and Mrs. Saracino filed a complaint in the Family Court of the Thirteenth Judicial Circuit in Greenville, South Carolina requesting the following: a grant of custody pending a final hearing for adoption; an order incorporating the surrender executed by Ms. Lloyd; an order terminating the rights of an unknown birth father identified as "John Doe;" an order sealing the record; and an order directing the birth certificate to be amended to reflect the child's name as Gabriella Rose Saracino. A hearing has not been conducted on the Complaint filed in South Carolina and no orders have been issued by the court in South Carolina. An initial hearing is scheduled in the Greenville County Family Court on October 15, 2012. After the child's discharge from the hospital, the infant resided with Mr. and Mrs. Saracino in a hotel pursuant to an arrangement agreed to by Ms. Lloyd.

Paul Williams and Ms. Lloyd resided together in the home of both the maternal grandfather and the paternal grandmother during Ms. Lloyd's pregnancy with this child. In January of 2012, Paul Williams registered through the Ohio Putative Father Registry indicating he may be the child's father and requested notice of any adoption proceeding. Furthermore, Paul Williams requested and submitted to genetic testing through the Hamilton County Child Support Enforcement Agency at or near the time of the child's birth in an effort to establish a father and child relationship with the infant. Shortly after the child's birth, Mr. and Mrs. Saracino discovered that Paul

October 12, 2012

Williams was the alleged father of the child, and they participated in a meeting with him to discuss placement planning. Mr. and Mrs. Saracino began to question their decision to adopt the child when Paul Williams came forward claiming paternity; however Mr. and Mrs. Saracino eventually reconsidered and decided to proceed with their plan to adopt the child.

On July 16, 2012, Ms. Lloyd executed a Voluntary Agreement for Care authorizing the child's placement in foster care through the HCJFS due to her incarceration on pending criminal charges. Ms. Lloyd also consented to the placement of her two other children with their maternal aunt. On July 16, 2012, the Interstate Compact for the Placement of Children approved Mr. and Mrs. Saracino for placement of the child in their care at their residence in South Carolina. When Mr. Saracino attempted to board a plane with the infant to take the child to South Carolina, he was stopped by authorities. Due to the Voluntary Agreement for Care executed by Ms. Lloyd, HCJFS arrived at the airport and succeeded in securing the child for placement in foster care. Baby Girl Lloyd is currently placed in foster care through the HCJFS.

A Writ of Habeas Corpus was filed by Mr. and Mrs. Saracino on July 20, 2012, and HCJFS filed a complaint alleging dependency that contained a prayer for relief of temporary custody on the same date. On July 23, 2012, the Writ of Habeas Corpus was denied by Judge Hendon and an order of interim custody was awarded to HCJFS. The Court approved placement with Mr. and Mrs. Saracino. The child remains in South Carolina pursuant to the placement with Mr. and Mrs. Saracino.

The law is well settled that birth parents have a fundamental and constitutionally protected right to make decisions concerning the care, custody and control of their child over non-parents. *Troxel v. Granville*, 530 U.S. 57, 66 (2000). This includes the right to develop an adoption plan for their child. Before a child can be adopted, Ohio Revised Code section 3107.06 requires the consent of certain persons and entities for an adoption. This includes the consent of the mother and father. The consent of father was required in this action because Paul Williams took the following steps: 1. Paul Williams registered as the putative father in accordance with 3107.062 approximately six months (January of 2012) prior to the birth of the child; 2. Paul Williams commenced a parentage action through the Hamilton County Child Support Enforcement Agency in an effort to establish a parent/child relationship at or near the time of the child's birth; 3. Paul Williams participated in genetic testing and established he is the biological father of the child; and 4. Paul Williams filed a Petition for Custody in Hamilton County Juvenile Court on July 23, 2012.

Juvenile Court had original and exclusive jurisdiction to hear and decide the complaint filed by HCJFS alleging the child as dependent along with the parenting action filed by Paul Williams. While this matter was pending before this Court, Paul Williams executed a Consent for Adoption of the Child on October 2, 2012, in the presence of his attorney at the time, Mark Eckerson. A copy of the Consent for Adoption of the Child executed by Paul Williams is marked as Exhibit 1 and incorporated by reference herein. Further, Paul Williams executed a second document agreeing to submit to the jurisdiction of the South Carolina court for the purpose of finalizing the adoption petition and deciding any issues related to the right to revoke the Relinquishment. On October 11, 2012, Paul Williams appeared at the hearing before this Court and requested a new attorney through the Office of the Public Defender. Attorney Susan Basler was appointed to represent Paul Williams. The matter was continued in progress until today. Over the course of the last twenty-four hours, attorney Basler communicated with Paul Williams on three separate occasions. Paul Williams vacillated on his position regarding the adoption of the child by Mr. and Mrs. Saracino. Although Ms. Basler advised Paul Williams to appear for today's hearing, he declined to attend the hearing despite receiving personal notice of the hearing.

HCJFS is requesting termination of the interim custody order to the agency and seeking dismissal of the complaint. HCJFS maintains that Joseph and Cynthia Saracino (foster parents/prospective adoptive parents) and David and Ashley Williams (paternal uncle and aunt/petitioners) offer appropriate placements for the child. David and Ashley Williams and Joseph and Cynthia Saracino all demonstrate a desire to further the child's best interest and appear to be in a position to offer the child a loving and stable home environment. At the request of HCJFS, the Motion for Interim Custody is terminated and the Complaint filed on July 20, 2012, is dismissed.

In light of the decision by Paul Williams to execute the Consent for Adoption on October 2, 2012, his Petition for Custody is moot and therefore dismissed. It is not practical or logical for an adoption proceeding and custody proceeding between parents and non-parents to be decided concurrently between two separate courts in two different states. Since there are no further parenting actions pending in this Court, the Court declines to exercise jurisdiction to hear and decide the custody petition filed by David and Ashley Williams on September 20, 2012. The consent of David and Ashley Williams is not required to the adoption as set forth in Ohio Revised Code section 3107.07. Further, both Natasha Lloyd (mother) and Paul Williams (father) executed a Consent to the Adoption of the Child by Joseph and Cynthia Saracino.

The best interest of Baby Girl Lloyd, also known as Gabrielle Rose Saracino, is served by this Court relinquishing jurisdiction and allowing the South Carolina court to proceed on the petition for adoption. The South Carolina court is in a position to determine the standing and rights, if any, of David and Ashley Williams if they seek to intervene in the adoption proceeding. Therefore, the Petition for Custody filed by David and Ashley Williams is dismissed.

October 12, 2012

The Motion to Order Drug Testing is dismissed. The Motion to Dismiss the Proceedings is granted based upon the findings contained herein and not on the grounds set forth in the Motion.

THE MAGISTRATE FURTHER DECIDES:

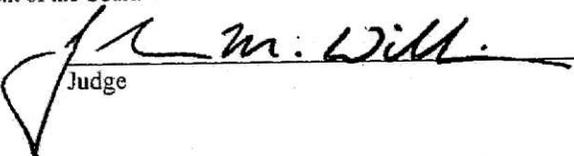
The hearing set for 11/02/2012 at 08:30 AM Magistrate Carla Guenther. 10/24/2012 at 01:00 PM Magistrate Carla Guenther is vacated.

CD # 612


Magistrate Carla Guenther
October 12, 2012

I have received a copy of the Decision of Magistrate and therefore waive service by the Clerk.

The Magistrate's Decision is hereby approved and entered as the judgment of the Court.


Judge

Objection of Magistrate's Decision

Any party may file written objections to a Magistrate's Decision within 14 days of the filing of the decision. A party shall not assign as error on appeal the Court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40 (D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Juv. R. 40(D)(3)(b).



J7637376

CONSENT OF BIRTH FATHER

STATE OF OHIO)
)
COUNTY OF CLERMONT) CONSENT FOR ADOPTION OF CHILD

PERSONALLY appeared before me, Paul Williams, who, after being duly sworn says:

PW 1. I am Paul Williams; a resident of Cincinnati, Ohio. I am Caucasian, single, and twenty-four (24) years of age. My date of birth is 12-21-87. My permanent address is 7436 BUENA VISTA DR. CLEVELAND OH. 45002

PW 2. I am the biological father of a Caucasian female who was born to Natasha Lloyd on July 9, 2012, at Good Samaritan Hospital, Cincinnati, Ohio. I know the child as Gabrielle Rose Saracino.

PW 3. I believe it is in the best interest of this child to be placed for adoption.

PW 4. I hereby forfeit all rights and obligations with respect to this child, including any future child support obligation. I understand that giving this Consent does not relieve me from the obligation to pay a child support arrearage unless approved by the Court.

PW 5. I consent to the adoption of the child by a couple approved by the Family Court.

PW 6. I waive my right to receive further notice of any adoption proceedings unless the proceedings are contested by another person or agency.

PW 7. I am not under the influence of any drugs or intoxicants. I execute this consent freely and voluntarily, without duress or through coercion of any nature or description, and I know that the child will be placed for adoption. I have not received any fee, compensation or anything else of value in exchange for giving this consent to adoption.

PW 8. I understand that this Consent must not be given if counseling or legal advice is needed. I do not need or desire counseling or legal advice at this time.

PW 9. I understand that this consent is final and cannot be withdrawn except by a Court Order which finds that the consent was not given voluntarily or was given under duress or through coercion and that it would be in the best interest of the child to allow the consent to be withdrawn. I also acknowledge that the entry of the final adoption decree renders this consent irrevocable.

10. I UNDERSTAND THAT THERE ARE ALTERNATIVES TO PLACING MY CHILD FOR ADOPTION. I HAVE CONSIDERED THESE ALTERNATIVES AND I BELIEVE THAT ADOPTION IS IN MY CHILD'S BEST INTEREST. I ALSO UNDERSTAND THAT ONCE I SIGN THIS DOCUMENT, I CANNOT CHANGE MY MIND.

IN WITNESS WHEREOF, I have signed this instrument of this 2ND day of October 2012, at 5:00 A.M. at 11111111111111111111, in MILFORD, Ohio.

Paul Williams
Paul Williams, Birth-Father

SWORN to before me this 2ND day of October, 2012.

[Signature]

Notary Public for Ohio
My Commission Expires: MARK E. EDWARDS, Notary at Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date. Section 147.09 R. C.



We the undersigned witnesses, sign our names to this instrument and we hereby declare, affirm and certify that the Deponent signed and executed this instrument in the presence of each of us and that prior to the signing of the document, the provisions of the document were discussed with the Deponent. Based upon this discussion, it is each of our opinion that the Consent was given knowingly, intentionally, voluntarily, and freely.

[Signature]
WITNESS #1

Nancy King
WITNESS #2

I, MARK ECKHARTSON, Esq., one of the witnesses to the signing of this document, hereby affirm that I am a licensed Certified Investigator approved by the Department of Social Services or an Attorney licensed to practice law in the State of Ohio and I do not represent the prospective adoptive parents.

[Signature]

Bar No.: 0022098

SWORN to before me this 2nd day of October, 2012.

Nancy K. Seng
Notary Public for Ohio
My Commission Expires: 6-1-2015



NANCY K. SENG
Notary Public, State of Ohio
My Commission Expires June 1, 2015

I acknowledge that I have been provided a copy of the consent signed by me on 2nd day of October, 2012.

Paul Williams
Paul Williams, Birth-Father

SWORN to before me this 2nd day of October, 2012.

[Signature]

Notary Public for Ohio
My Commission Expires: _____

MARK EL ECKHARTSON, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date. Section 147.03 R. O.



STATE OF OHIO
COUNTY OF Clermont

)
)
)
CONSENT TO JURISDICTION
AND
CHOICE OF LAW

IN THE ADOPTION OF BABY GIRL LLOYD (GABRIELLE ROSE SARACINO)

The undersigned, being first duly sworn, says:

I, Paul Williams, being duly sworn, depose and say that:

1. I am the birth-father of Baby Girl Lloyd (Gabrielle Rose Saracino), a female child born on July 9, 2012 at Good Samaritan Hospital in Cincinnati, Ohio. I make this affidavit in support of the petition of the Adoptive Couple.
2. I understand the Adoptive Couple resides in the State of South Carolina and have filed a petition to adopt my child in South Carolina. I have consented to the adoption of my child and understand that my Relinquishment will be accepted by the South Carolina Court.
3. I understand that as an Ohio resident I am entitled to sign a document known as a Consent to Adoption with all its rights and privileges. However, knowing that the adoption will be finalized in South Carolina I am choosing to sign South Carolina surrender documents.
4. I have also been advised that under South Carolina law, my Relinquishment can be signed anytime after the birth of the child and that my Relinquishment is irrevocable upon signing. I have been advised that I may challenge the validity of my Relinquishment only by filing a petition in South Carolina alleging fraud, coercion, duress, or that I did not sign the Relinquishment voluntarily and that my child's best interest would be served by being removed from the care of the adoptive parents.

