

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2004-094987

01/24/2007

HONORABLE LISA DANIEL FLORES

CLERK OF THE COURT
K. Smelser
Deputy

IN RE THE MARRIAGE OF
ROCHELLE MARIE WALTERS

ROCHELLE MARIE WALTERS
8320 E BROADWAY
MESA AZ 85208

AND

MARTY A LAWS

MARTY A LAWS
9966 E BIRCHWOOD AVE #4
MESA AZ 85208

GREGORY A RIEBESEHL
STEPHANIE A STROMFORS
ATTORNEY GENERAL
COUNTY ATTORNEY-SE
DREAMY DRAW JUSTICE COURT
US ATTORNEY -PHOENIX
CHAIRMAN GENE BAGWELL
CHEROKEE RIVER INDIAN
COMMUNITY
1050 COUNTY ROAD 67
DEPARTMENT 10
MOULTON AL 35650
JUVENILE JUDGE PROTEM
CHARLES T BRANDLE 602-354-5051

MINUTE ENTRY

This Court held an evidentiary hearing on October 4, 2006 and determined that Mother should be given custody of the child, Raven Laws. See this Court's ruling dated November 14, 2006. The child has remained with Mother since that order. The non-relative Third-Party Intervenors, Jacob and Anita Bessinger, were given visitation rights with the child. The child is four years old.

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On January 22, 2007, at 10:30 a.m., this Court held an evidentiary hearing on Mother's motion to terminate visitation rights accorded to the Bessingers. At the conclusion of the hearing, an order was entered appointing a psychologist to assist the Court in determining whether visits with the Bessingers continued to be in the child's best interests.

Approximately an hour after the conclusion of the hearing, the Court's staff received a phone call from Mother, stating that during the evidentiary hearing, someone acting on behalf of the Cherokee River Indian Community, an Alabama tribe, had gone to her residence and taken custody of the child, removing her from the home. The person or persons who took the child were accompanied by a deputy of the Maricopa County Sheriff's Office.

When Mother's call was received, the only information available to this Court about the Cherokee River Indian Community was a letter that was delivered earlier that morning, signed by Charles T. Brandle, "Juvenile Judge Protem." In the letter, Juvenile Judge Protem Brandle stated that the tribe "is intervening to take custody of minor child Raven Rochelle Laws who is an enrolled member of the Cherokee River Indian Community."

Seeking to talk to the tribal Juvenile Judge Protem, this Court called the only number listed on the letterhead and the phone was answered by Gene Bagwell, who identified himself as the Chairman of the tribe. When the Court explained the reason for the call, Chairman Bagwell stated that he did not know much about the case and had relied on Dr. Steve Bison, who is the tribe's director of safety, to tell him what needed to be done. Chairman Bagwell stated that there had not been a meeting of the tribal council on this matter. Chairman Bagwell stated that he had signed a document appointing Charles Brandle as a juvenile judge pro tem to take care of this matter because Mr. Brandle lives in Arizona. Chairman Bagwell said several times that someone should have filed something with this Court to explain where the child was. The Court asked Chairman Bagwell to talk to Dr. Steve Bison and ask him to call the Court.

Dr. Steve Bison called this Court and explained that the CRIC has a "Western Division" in Arizona with a tribal council member in this state, as well as a spokesperson. Dr. Bison could not, or would not, say where the child was being held. The only information provided about the child's location was that she is in a "safe house." Dr. Bison gave this Court additional names and phone numbers of tribal representatives in Arizona, as well as the phone number for Juvenile Judge Protem Brandle. The Court left a message on Juvenile Judge Protem Brandle's voice messaging system and requested a return call. No return call has been received.

The tribal Juvenile Judge Protem's letter of January 22, 2007 refers to the Indian Child Welfare Act and the tribe's right to intervene. This Court acknowledges that, according to 25 USC §1911(c), part of the federal Indian Child Welfare Act, the tribe has a right to intervene in

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cases where a child may be placed in foster care, or in which parental rights may be terminated. However, neither is possible in this matter. This matter is a child custody and visitation proceeding brought pursuant to Chapter 4, Title 25, Arizona Revised Statutes, and this Court has no authority under Arizona law to place a child in foster care or terminate parental rights. The Indian Child Welfare Act does not apply to this proceeding, and the tribe's assertion of a right to intervene and its decision to act unilaterally and remove the child from her mother's custody are without foundation in state or federal law. (For the benefit of the non-parties who are endorsed on this minute entry, an action to place a child in foster care can only be done through a filing of a dependency petition in the juvenile court. Similarly, an action to terminate parental rights can only be done through the filing of a petition to terminate parental rights in the juvenile court. The judge who authored this minute entry is assigned to family court, not juvenile court.)

Even if the tribe had a right to intervene, the tribal court of a tribe in Alabama has no jurisdiction in Arizona, and any tribal court order entered by a non-Arizona court is not valid in Arizona. (The Court presumes an order of some type was entered but no copy of an order of any kind has been provided to date.) An order of another state or of an Indian tribe may be enforceable in Arizona under the provisions of A.R.S. § 25-1051 et seq.; however, no order of a tribal court was registered in Arizona and no one sought or obtained an Arizona order that the tribal court order be enforced. In other words, the tribal representatives took custody of the child without legal authority, and with knowledge that their actions violated the custody order of this Arizona court. For that reason, this minute entry will be endorsed to the Maricopa County Attorney's Office, the Arizona Attorney General's Office and the U.S. Attorney's Office for their consideration of whether to pursue criminal kidnapping charges against the tribal representatives. According to Mother, the tribal representatives who took custody of the child are named "Brenda Byers" and "Maria Badoni." (The Court is unsure of the spelling of either person's name.)

The tribal representative acted without notice to the child's mother or this Court of the tribal court's intention to take immediate custody of the child. The tribal court gave Mother no opportunity to be heard before executing an order to remove the child from Mother's home. The tribal court representatives went to Mother's home to take the child at a time when the representatives knew Mother would be in court on the visitation matter and not available to object or call law enforcement for assistance.

The Cherokee River Indian Tribe would not have become involved in this case but for the activities of Jacob and Anita Bessinger. Prior to this Court's evidentiary hearing in October 2006, the Bessingers sought intervention by the Cherokee Nation; the Cherokee Nation declined to become involved. It appears that after this Court denied the Bessingers continued custody of the child by order dated November 14, 2006, the Bessingers sought intervention by the Cherokee

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River Indian Tribe of Alabama. According to Mother, the Bessingers did not inform her that they had filed any documents with the Cherokee River Indian Tribe seeking intervention. The Bessingers' actions are the direct cause of the child being removed from Mother's home.

As specified in this Court's order of November 14, 2006, the Bessingers have made many efforts to gain custody of the child, and all have been unsuccessful. Although the Bessingers would have been well within their rights to appeal this Court's November 14, 2006 decision, they chose not to. Instead they pursued yet another avenue to attempt to get custody of Raven, another "end run" as the child's Best Interests Attorney put it at the October 4, 2006 hearing. The Bessingers have proven themselves again to be unwilling to abide by this Court's orders. The tragic result of this latest effort is that the four year old child was taken from her home by complete strangers, and is being held in a "safe house," the location of which is unknown to all the people who love and care about her.

On the Court's own motion,

IT IS ORDERED setting a Status Conference on **January 24, 2007 at 4:00 p.m. (time allotted: 30 minutes)**. Counsel may appear telephonically, but the parties must appear in person.

IT IS FURTHER ORDERED appointing Stephanie Stromfors as Best Interest Attorney, to be fully set forth by separate minute entry.

IT IS FURTHER ORDERED that the Intervenors, Anita Mobley and Jacob Bessinger, shall bring to court on January 24, 2007 at 4:00 p.m., three (3) complete copies of all documents the Bessingers filed with the Cherokee River Indian Community (including any tapes, photographs, etc.), as well as any documents provided to the Bessinger by the tribe. This order was communicated to the Bessingers in advance of the entry of this order and gives the Bessingers time to comply.

On the Court's own motion,

IT IS ORDERED transferring the Injunction against Harassment in the Dreamy Draw Justice Court, Case No. CC2007-011553, to the Maricopa County Superior Court Southeast Facility. The Dreamy Draw Justice Court is instructed to send all original documents to the Southeast Superior Court.

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This order shall be endorsed to the Cherokee River Indian Community, attention: Chairman Gene Bagwell, at the address on the letter dated January 22, 2007. In addition, a copy will be faxed by court staff to (256) 292-3470 on January 24, 2007.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81(D), Arizona Rules of Family Law Procedure on this the 24th day of January, 2007.

JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.