

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED

2013 AUG -5 PM 1:11
JULIE J. ARMSTRONG
CLERK OF COURT

IN THE FAMILY COURT
NINTH JUDICIAL CIRCUIT

Adoptive Parents,

Plaintiffs,

vs.

Baby Girl, a minor under the age of
fourteen years, Birth Father, and the
Cherokee Indian Nation,

Defendants.

**ENFORCEMENT
ORDER**

Case No. 2009-DR-10-3803

Date:
Judge:

August 5, 2013
The Honorable Daniel E. Martin, Jr.

This matter was last before this Court on July 31, 2013, wherein the Plaintiffs Matthew Joseph Capobianco and Melanie Marie Duncan were adjudged the adoptive parents of Baby Girl Veronica, and any parental rights of the birth father, Dusten Brown, were terminated by virtue of that Decree of Adoption. (July 31, 2013 Decree of Adoption.) This adoption decree also held that "the South Carolina courts shall retain exclusive jurisdiction over this child and any action dealing with the child, including, but not limited to issues of custody, control, support, parental rights, adoption, and over any other matter which may have an effect upon the same." (July 31, 2013 Decree of Adoption at 7.)

The Decree of Adoption also ordered that "sole and exclusive legal custody of Baby Girl is hereby vested in Matthew Joseph Capobianco and Melanie Marie Duncan." Id. The Decree of Adoption ordered that transfer of physical custody and control of the child shall be addressed in a subsequent order of the Court. Id.

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On the same date, July 31, 2013, this Court entered an Order (Transition Order) addressing the manner by which the child would be transferred from Mr. Brown to the adoptive parents. The first visit in the transition plan was ordered to be on Sunday, August 4, 2013, and to last from 3:00 p.m. to 7:00 p.m. (Transition Order at 4.) The transition order also provided as follows:

If, at any time during the transition of the child as called for in this order, any party or other person does not comply with the terms of this order and transition plan set out herein, such non-compliance shall immediately be brought to the attention of the undersigned Judge by way of affidavit. This case shall remain under my control and continuing jurisdiction, and this Court reserves jurisdiction to issue any and all orders needed to protect the interests of the child, to complete the transition of the child to the Adoptive Parents, and to carry out the provisions of this Order. (Transition Order at 4.)

The Court has received an affidavit dated August 4, 2013, from Anna Johnson, MSW, LISW-CP, who is the South Carolina Certified Adoption Investigator ordered by this Court to mediate the transition of the child. Ms. Johnson declares in her affidavit that she and the adopting parents were present with their attorney at the time and place ordered by this Court on August 4, 2013. Ms. Johnson further declares that she remained at this location until the end of the transition visitation period, 7:00 p.m., and at no time did Mr. Brown, Baby Girl Veronica or any person claiming to have any association with Mr. Brown appear at the appointed date, time and place.

Having now been provided with a sworn statement attesting to the fact that Mr. Brown has violated the terms of this Court's July 31, 2013, Transition Order, this Court holds as follows:

1. The adopting parents, Matthew Joseph Capobianco and Melanie Marie Duncan, are hereby vested with sole and exclusive physical custody of Baby Girl Veronica and the transfer of that physical custody shall occur immediately. This Court's

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earlier transition schedule is hereby superseded due to Mr. Brown's violation of its terms.

2. Mr. Brown, or any other person having physical custody of the minor child, Veronica, shall immediately transfer physical possession of the minor child directly to the adoptive parents or representatives of the adoptive parents.

3. Pursuant to S.C. Code Ann. § 63-15-378, this Court holds that there is an existing child custody determination in this case. As of the entry of this Order, Baby Girl Veronica is being unlawfully withheld from her lawful parents, Matthew Joseph Capobianco and Melanie Marie Duncan. This Court hereby refers this matter to the Charleston County Solicitor's Office and the United States Attorney's Office, and requests these offices promptly take any lawful action to locate Baby Girl Veronica and obtain the return of this child to the adoptive parents or their representative. See also S.C. Code Ann. § 63-15-380 (empowering law enforcement, at the request of a prosecutor, to take any lawful action reasonably necessary to locate a child or a party . . .). A copy of this Order is being transmitted to the Charleston County Solicitor's Office and the United States Attorney's Office.

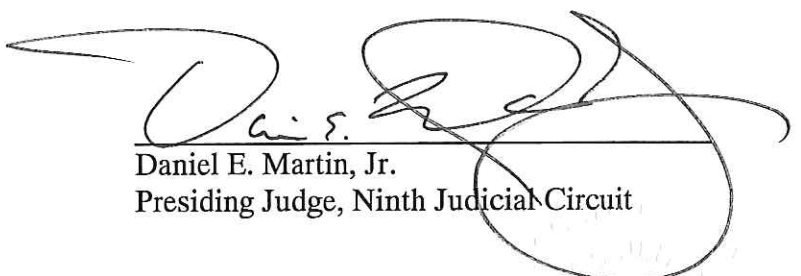
4. Mr. Brown has represented to the courts of South Carolina that he is a member of the Army National Guard. Accordingly, this Court also refers Mr. Brown's violation of the Court's transfer order in this matter to Mr. Brown's commanding officer. This Court respectfully requests the assistance of Mr. Brown's commanding officer in effectuating the order of this Court – that Dusten Brown, personally or by and through his proxy, immediately transfer Baby Girl Veronica

to her adoptive parents or their representative. A copy of this Order is being transmitted to the appropriate officials within the Army National Guard.

5. To assist in the enforcement of this order, this Court respectfully requests the appropriate court in the State of Oklahoma to order Dusten Brown, or any person having physical custody of the minor child, Baby Girl Veronica, to appear in a proceeding in Oklahoma with the minor child. (See S.C. Code Ann. § 63-15-322.)
6. Attorneys Shannon Jones and John Nichols, who represent Mr. Brown, shall submit a letter to the Court by 9:30 A.M. on August 6, 2013, addressing (1) their personal knowledge of Baby Girl Veronica's current whereabouts; (2) their personal knowledge of Mr. Brown's whereabouts; (3) their personal knowledge of Mr. Brown's intent to comply with this Court's orders; and (4) their personal efforts to ensure compliance with this Court's orders.
7. This Court reserves exclusive and continuing jurisdiction in this matter to impose additional remedies and sanctions for the violation of this order.

IT IS SO ORDERED.

Dated: Aug 5, 2013
Charleston, South Carolina


Daniel E. Martin, Jr.
Presiding Judge, Ninth Judicial Circuit

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.P., S.S. & F.C.
By 
DEPUTY CLERK