

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
DOMESTIC RELATIONS BRANCH – ADOPTION**

EX PARTE IN THE MATTER OF)	ADOPTION CASE NO. A-001-02
)	
THE PETITION OF)	
)	
A.B.C.)	JUDGE RONNA LEE BECK
)	
FOR ADOPTION OF)	
MINOR CHILD(REN))	

LIMITED CONSOLIDATION WITH

IN THE MATTER OF)	NEGLECT CASE NO. N-XXX
)	
JONNY DOE)	SOCIAL FILE NO. YYY
DOB:)	
)	NEGLECT REVIEW CALENDAR
)	JUDGE TURNER
RESPONDENT(S))	
)	

SAMPLE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came before the court on _____, for a Show Cause hearing pursuant to D.C. Code Ann. § 16-304(d) and (e) (2001). The issues before the court are whether the consent to adoption of the mother and father of Johnny Doe should be waived because: 1) the biological parents have abandoned the prospective adoptee and voluntarily failed to contribute to his support for a period of at least six months next preceding the date of the filing of the petitions on _____; or 2) the biological parents are withholding their consents to A.B.C.'s petition contrary to the best interests of the child.

The following persons were present at the hearing: (1) petitioner, A.B.C.; (2)

counsel for the petitioner, Patty Black; (3) guardian *ad litem*, John Rose; (4) counsel for the biological mother, Mary Green; (5) counsel for the biological father, Jack Blue; (6) Child and Family Services Agency (“CFSA”) social worker, Joan Purple; and (7) investigator for the Diligent Search Unit of CFSA, Allan White.

The court heard testimony from A.B.C., the petitioner, and Joan Purple, the social worker. The following exhibits were admitted into evidence: four pages from a Contact Report.

After assessing the credibility of the witnesses, evaluating all of the evidence, and considering the arguments of counsel, the court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Johnny Doe was born January 1, 1996. His biological mother is Susan Doe. His biological father is John Smith. A signed and notarized Biological Mother’s Affidavit of Paternity in which Ms. Doe identified John Smith as Johnny’s biological father is filed in the court jacket.

2. The Order directing Ms. Doe to Show Cause stated:

If there is reliable proof that you have received a copy of the Notice to Mother of Adoption Proceeding and Order to Show Cause and you fail to appear, this court may infer or conclude that you have abandoned your interest in this child and waived your consent to the adoption. This action by the Court would have the effect of terminating your parental rights.

3. Ms. Doe was personally served with the Notice to Mother of Adoption Proceeding and Order to Show Cause on December 1, 2002. An affidavit of service is filed in the court jacket. She did not appear at the Show Cause hearing, and

counsel made no representations regarding her absence.

4. John Smith was properly served with a Notice of Adoption Proceeding and Order to Show Cause by posted notice after diligent efforts to locate and personally serve him were unsuccessful. Pursuant to the court's order, notice was posted in the Domestic Relations Clerk's Office for a period of at least 14 days, beginning February 24, 2003. Despite the above-referenced notice, no one purporting to be Mr. Smith responded to the notice or appeared at the hearings.

5. The court takes judicial notice that the petition for adoption was filed on April 1, 2002.

6. Johnny Doe was placed in the care of the petitioner in November 1997 and has remained with her continuously and without interruption since then.

7. The petitioner testified that Johnny is in good health. He receives regular medical care. The social worker has visited the petitioner's home and has seen Johnny. She testified that he appears stable and healthy, that the home is appropriate, that petitioner can provide a loving and nurturing home, and that the petitioner is fit and proper to adopt Johnny. The social worker supports the adoption.

8. Ms. Doe has had very little contact with Johnny since he came into petitioner's care in November 1997. Ms. Doe has visited Johnny twice since November 1997. She has not otherwise attempted to contact Johnny by letter, telephone, or through the social worker. She has not provided financial assistance, other support, or gifts and she has not acknowledged birthdays or other special occasions.

9. No one purporting to be the biological father of Johnny has ever visited

him or provided financial or other support or gifts, or acknowledged Johnny's birthday or other special days. No one claiming to be Johnny's biological father has ever contacted the petitioner or the social worker.

10. John Smith has not visited Johnny; Mr. Smith has not provided financial assistance, other support, or gifts, and he has not acknowledged Johnny's birthday or other special days. He has not contacted the petitioner or the social worker.

CONCLUSIONS OF LAW

1. Although the consent of each biological parent is ordinarily required prior to an adoption, D.C. Code Ann. § 16-304(a) (2001), the consent of a biological parent is not required when the parent “has abandoned the prospective adoptee and voluntarily failed to contribute to his support for a period of at least six months next preceding the date of the filing of the petition.” D.C. Code Ann. §16-304(d) (2001).

2. With respect to abandonment:

It is well established that an adoption will be granted without parental consent on grounds of abandonment only when the parent's conduct manifests an intention to be rid of all parental obligations and to forego all parental rights. Abandonment does not, however, require that a parent "leave her child on a doorstep." Nor does it require that she cease to feel concern for the child. In determining whether there has been an abandonment, a court must consider the totality of circumstances, including the degree of parental love, care and attention.

In re C.E.H., 391 A.2d 1370, 1373 (D.C. 1978) (citations omitted). “In order to show a termination of an abandonment, the conduct of the parent must demonstrate a genuine desire to care and provide for the child. A mere expression of desire by a delinquent parent for return of the child . . . will not suffice.” *Id.* at 1374 n.2 (citations omitted).

3. There is clear and convincing evidence that Ms. Doe abandoned Johnny Doe and voluntarily failed to contribute to his support since over six months next preceding the date of the filing of the petition for his adoption on April 1, 2002. Furthermore, since November 1997, Ms. Doe visited Johnny only twice. She has not otherwise attempted to contact Johnny by letter, telephone, or through the social worker. After considering the totality of the circumstances, the court concludes Ms. Doe's conduct demonstrates that she has no interest in parenting Johnny and has not taken the necessary steps to develop or maintain a parental relationship with Johnny. Therefore, Ms. Doe's consent to the adoption is not required and will be waived.

4. There is additional independent evidence of Ms. Doe's abandonment of Johnny: She failed to appear at the Show Cause hearing despite having been served with formal notice that her failure to appear could result in the court inferring or concluding that she had abandoned her interests in the child and waived her consent to his adoption.

5. There is clear and convincing evidence that John Smith abandoned his child, Johnny Doe, and voluntarily failed to contribute to his support since over six months next preceding the date of the filing of the petition for his adoption on April 1, 2002. Since Johnny has been in the care of petitioner, Smith has not visited or provided financial or other necessary support to Johnny. Indeed, neither the petitioner nor the social worker have been contacted by Mr. Smith while Johnny has been in the petitioner's care. After considering the totality of the circumstances, the court concludes Mr. Smith's conduct clearly demonstrates that he is not interested in parenting the child and has not taken the necessary steps to develop or maintain a

parental relationship with the child. Therefore, the court concludes that his consent to the adoption is not required and will be waived.

6. A court may also grant a petition for adoption without the consent of the biological parents when the court finds, after a hearing, that consent is withheld contrary to the best interest of the child. D.C. Code Ann. § 16-304(e) (2001). A determination as to whether Ms. Doe and Mr. Smith are withholding their consents contrary to the best interest of the children requires weighing the factors considered in termination of parental rights proceedings pursuant to D.C. Code Ann. §16-2353(b) (2001). *In re P.S.*, 797 A.2d 1219, 1223 (D.C. 2001); *In re A.W.K.*, 778 A.2d 314, 325 (D.C. 2001):

(a) The children's need for continuity of care and caretakers and for timely integration into a stable and permanent home, taking into account the differences in the development and the concept of time of children of different ages: Johnny is eight years old. He has lived with the petitioner since 1997, over six years, and has developed a loving and caring relationship with the petitioner. Since 1997, Johnny has had contact with his mother on only two occasions and has had no contact with his father.

(b) The physical, mental, and emotional health of all individuals involved to the degree that such affects the welfare of the child, the decisive consideration being the physical, mental, and emotional needs of the child: the petitioner appears to be in good health. The petitioner is attentive to the child's medical needs and she ensures that he receives regular medical and dental care. The child is stable and healthy in petitioner's home.

(c) The quality of the interaction and interrelationship of the child with his or her parent, siblings, relative, and/or caretakers, including the foster parent: The petitioner and the child have a loving and nurturing relationship. The child has had no contact with his biological father and very little contact with his biological mother for years.

(d) To the extent feasible, the child's opinion of his or her own best interests in the matter. The child is happy about being adopted by petitioner.

(e) Evidence that drug-related activity continues to exist in a child's home environment after intervention and services have been provided. There is no evidence pertaining to drug-related activity.

8. Having weighed the relevant factors and considered the best interest of the child, the court concludes there is clear and convincing evidence that Ms. Doe and Mr. Smith are withholding their consents to A.B.C.'s petition for adoption contrary to the best interest of the child. The petitioner is a fit, able, and willing caretaker, and the child is continuing to thrive in her care. Both the social worker and the guardian *ad litem* support her petition for adoption. Adoption by the petitioner is in the best interest of Johnny Doe; accordingly, the consents of Susan Doe and John Smith are not required and will be waived.

WHEREFORE, it is this _____ day of _____, 2004

ORDERED, that this court's oral findings of fact and conclusions of law made at the conclusion of the fact-finding hearing on January 1, 2004, are hereby incorporated by reference; and it is

FURTHER ORDERED, that the requirement that the biological mother, Susan

Doe, consent to the adoption of Johnny Doe is hereby **WAIVED** pursuant to § 16-304(d) and (e);

FURTHER ORDERED, that the requirement that the biological father, John Smith, consent to the adoption of Johnny Doe is hereby **WAIVED** pursuant to § 16-304(d) and (e).

JUDGE RONNA LEE BECK
(Signed in Chambers)

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