

We are Matt and Rita Moss.

On Friday, February 5th, 2010 we received a phone call at work that we had been chosen to be the parents of a 5 lb. 8 oz. two-day-old baby girl. We left work immediately and drove through the snow to the hospital stopping along the way to pick up a car seat and two pacifiers. We arrived at the hospital and burst into tears of joy at the sight of our beautiful daughter. We were told that the birth father was out of town but had agreed to sign the adoption consent paperwork on Monday. We brought our daughter home from the hospital that evening. It was the best day of our married life.

Our happiness soon turned to constant worry when we learned that the birth father's mother had decided that she would like to raise the child. We were told that the birth mother would have to file for a termination of the birth father's rights. We hired, by many accounts, the best adoption law trial attorney in the state. Our attorney said we had a very strong case because the birth father had made no attempts to support the birth mother during the pregnancy. He chose, instead, to concentrate his efforts on another woman whom he had a six year relationship with that was also pregnant by him.

Depositions were taken in preparation of the May trial. The birth father, by his own testimony, admitted that the birth mother told him of the possible pregnancy by July 2009. He asked her if he could be the birth father. She said yes.

After months of preparation, the May 2010 district court trial occurred. We rejoiced in the news that the district court had ruled to terminate the birth father's parental rights for failure to support the birth mother during the last six months of her pregnancy without reasonable cause, and for abandoning her during her pregnancy. The court also found clear and convincing evidence that the baby's best interests favor termination of the birth father's parental rights. Our trial lawyer assured us that, even if the opposition appealed the decision, he had never seen a strong ruling like this overturned in thirty years.

The opposition did appeal and eight months later, in March 2011, we were in the appellate courtroom. The appellate judges sympathized with the birth father's attorney even helping to make excuses of why the birth father had not followed up with the birth mother or offered any type of support. When we left the courtroom, we knew in our hearts how the judges presiding that day would rule based upon the 15 minute lawyer's testimonies unless they took the time to review the evidence and depositions used in the previous district court ruling. On appeal, as at trial, the birth father primarily argued that his failure to act is excusable because he did not know the birth mother was pregnant. However, he acknowledges she told him she thought she was pregnant by July 2009 and then again in December 2009 with a confirmed pregnancy test and never suggested she had had an abortion or miscarriage.

Our fears came true in July 2011. The appellate court ruled that the trial court erred in ruling that the facts in this case justified a finding that clear and convincing evidence existed for the birth father to have abandoned and failed to support the birth mother, this ruling represented a misunderstanding a father's duties under the statute which arise when he is aware the mother is pregnant, by ruling both abandonment and a failure to support, the court took two mutually exclusive statutes and eclipsed the reasonable cause exception afforded in failure to support mother. They concluded that there was not substantial and competent evidence that the birth father knew of the pregnancy before the birth. They went on to say that even if he knew the birth mother discovered she was pregnant in December, six months after the relationship ended, substantial and competent evidence existed that he would reasonably believe the child could not be his (even though she had told him twice that the baby could be). The efforts (or lack thereof) he undertook were considered reasonable under the circumstances by the appellate judges.

We, on the other hand, did not need several months to assume parental responsibilities as the appellate court suggested the birth father needed. Instead, we left for the hospital within a couple of minutes of learning our daughter was born with no prior notice. She has been our world for the past 23 months.

We will never get over the pain that the ambiguities of the Kansas law have caused our family. It is especially disheartening that the appellate court would not take into consideration the best interest of our child. We were told that judges are apprehensive to interpret this vague area of the law. We will have to live with their lack of research and follow through for the rest of our lives.

Our daughter has been traumatized by a brisk transition period (only 9 days from start to finish). She is now being told that she was calling us by the wrong names when she mentions us as her "Momma and Daddy". We have not been allowed to see her since November 29, 2011. When our daughter had to leave our home, it was the worst day of our lives. The social worker overseeing her transition recommended that she be cut off from seeing us for approximately 3 months while her screaming and crying for us subsides.

The appellate court has sentenced our daughter to an unstable life of constantly going back and forth between two homes that do not get along. The birth father is unemployed and stays at his parents' home. The birth mother chose adoption to provide a better life for her child but, when we unable to finalize the adoption, she could not bear for her child to be raised by the family of the birth father who had not provided any support or concern for her and her baby.

We do not wish this pain and sadness for any other couples desperately seeking adoption or for the innocent children who are not protected because of the poorly written or vague Kansas laws. Please make the necessary changes to the law to prevent these tragic circumstances from happening again.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Moss and Rita Moss". The signature is written in a cursive, flowing style.

Matt Moss and Rita Moss