

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

APRIL DEBOER, individually and as parent
and next friend of N.D.-R, R.D.-R., and J.D.-R,
minors, and JAYNE ROWSE, individually and as parent
and next friend of N.D.-R, R.D.-R., and J.D.-R,
minors,

Plaintiffs,

ED Mi No. 12-10285
Honorable Bernard A. Friedman
United States District Judge

-vs-

Honorable Michael J. Hluchaniuk
United States Magistrate Judge

BILL SCHUETTE, in his official capacity as
Michigan Attorney General,

Defendant.

DECLARATION OF JAYNE ROWSE UNDER 28 USC §1746

I, Jayne Rowse, do hereby declare as follows:

1. The statements made in this declaration are based on personal knowledge, I am competent to testify to them and, if called as a sworn witness, my testimony would be consistent with them.

2. I am one of the Plaintiffs in the above-captioned case.

3. I met April DeBoer in 1999 through a mutual friend, and fairly quickly we developed a close and supportive friendship, and dated for a period of time. I found April to be an honest and kind person. We made a mutual decision in 2002 not to be involved in a serious relationship at that time in order to focus on school and our careers. We both chose nursing as a career because of our desire to help people, because it would afford us a stable income, and because it would allow for the flexibility required for raising a family. April and I went through nursing school at the same time, we found we had much in common, and we were able to share the trials and tribulations of nursing school together, although we studied at different schools.

4. In 2005, with nursing school behind us, April and I began a serious relationship and April moved into my home in late 2006. April and I had always discussed our desires to have children, and we were prepared to start a family in late 2006. April was artificially inseminated in the winter of 2007. We were overjoyed to learn that she had conceived triplets because we both wanted multiple children and this seemed like a blessing. We were devastated when April

miscarried all three children in the first trimester.

5. After months of grieving our lost children, we discussed trying again to conceive, and we opted instead to pursue adoption because the physical and emotional strain of trying to conceive and carry another biological child to term was too much for April.

6. During this time period, we decided that it was important to have a commitment ceremony in front of family and friends to honor our relationship, and to provide a more stable home for any child brought into the family. In February of 2007, our friends and both families attended the ceremony to support us, including my family who traveled from Indiana to witness our commitment to each other.

7. April and I each completed an adoption home study in the fall of 2007 (see ¶15, *infra*), and in the winter of 2008, we were matched with a California birth mother, however, that adoption was not successful. In June of 2008, we were matched with another mother, we were present at the birth, the baby was given to us, and we began to bond with the baby. Sadly, the birth mother changed her mind after eight hours and we had to return the child to the birth mother.

8. After our experiences with trying to conceive through insemination, a miscarriage, two failed adoptions, and dwindling funds as a result, we then decided to pursue a license as foster care parents.

9. Following nursing school and through to the present, I have been employed as a nurse in the emergency room at Henry Ford Hospital in Detroit, Michigan. April has been employed as a nurse in the neonatal intensive care unit ("NICU") at Hutzel Hospital in Detroit, Michigan.

10. In January of 2009, while waiting for the approval of our foster care license, April received a call from a coworker at Hutzel Hospital indicating that she had a birth mother looking to give her child up for adoption and asked if April was interested. April and I met the birth mother a week later, and three weeks later, we coached the birth mother during labor and watched as our son, N, was born. First I and then April held him, with April's mother arriving at the hospital shortly thereafter. N was greeted at home by the rest of the family in the days that followed. I became N's adoptive parent on November 2, 2009.

11. We cared for N full time by coordinating our nursing work shifts and by receiving help from April's mother and father. A colicky baby, N cried constantly. He always had someone to sooth him, but it was a challenge.

12. We both continued to pursue our foster care licenses even after N's birth because we both loved being parents and we wanted more children. On November 9, 2009, April helped admit and care for a premature infant (J) in the NICU at Hutzel. J weighed one pound, nine ounces at birth, he had many medical complications, and struggled to live, in and out of the NICU, with April as his primary caregiver for much of that time while he was in her unit at Hutzel. April grew to love this child and I was supportive of her as she told me about him.

Three months after his birth, in February 2010, the foster agency offered to have J placed with us as a foster child. Despite his many challenges, April and I both accepted the responsibility of becoming J's foster parents (certified by the State), and I later adopted him.

13. In February, 2010, an infant girl, "R", was birthed at home and was brought by the mother into the NICU for observation on April's shift. The mother indicated to hospital staff that she wanted to give the baby up for adoption under Michigan's "safe haven" law. A doctor on call that evening knew that April and I were looking to adopt a little girl, and the doctor arranged for April to meet with the birth mother and grandmother. The birth mother agreed to allow April to adopt the child. April cared for R for the remainder of her shift, and I met and fed R within 48 hours of R's birth. April became R's adoptive parent.

14. By March of 2010, with the help of our families, we were caring for and parenting three children under the age of two, two of them infants.

15. Before April or I could adopt any of the children, (a) we had to file a petition the circuit court for permission to adopt, (b) both April and I were interviewed extensively for each adoption, (c) we were screened by the State for criminal history and, through the Department of Human Services, for any history of abuse or neglect, (d) an assessment was done through the county where the adoptions were to take place, (e) our home was inspected, (f) a temporary placement of each child was made in our home, (g) we were monitored by the State in our home with visits by social workers and, in Jacob's case, nurses, and (h) a determination was made by the circuit court of applicable jurisdiction that we were suitable parents and that the child being adopted was being properly cared for while in the temporary placement. As to two of our children, R and N, at the time of the adoption, the circuit court also had to make "best interest" findings in order to terminate the rights of the birth parents.

16. April and I have always shared equally in the responsibility for chores and for household expenses. We share equally in raising all three children. We continue to schedule work so that one parent is home with the children most of the time. The few instances in which April and I are both working, the children are cared for by April's mother and other family members.

17. April and I share in the responsibility of caring for J's continuing special needs, and for R's need for physical therapy, with both of us rotating and bringing the children to their various medical appointments, and physical and occupational therapy appointments. We both share in carrying out their prescribed therapies in the home.

18. Because our three children have many special needs, it continues to be problematic for our family that April is not recognized as N and J's legal parent by medical personnel and other care givers, and conversely, I am not recognized as R's legal parent. This becomes an issue as we approach each new treating facility or care giver if April is unable to accompany R, or if I am unable to accompany N and J. Especially in the unexpected emergency medical care situation, where time is of the essence, and decisions have to be made quickly, I have no legal authority with respect to R's care, and April would have no legal authority with respect to N and

J's care.

19. If I were to die while the children are still minors, April would be treated as an unrelated adult to N and J in the eyes of Michigan's legal system, she would have to start from scratch to either be their foster or adoptive parent. She would have no legal right to visitation or custody of N and J without pursuing legal action.

20. If I died, R has no automatic legal rights of inheritance. If April dies, N and J have no automatic right of inheritance .

21. If I die or become disabled, R is not eligible for social security benefits through me, and if April dies, N and J are not eligible for social security benefits through April.

22. April and I have made a commitment to each other, and I fully intend to honor that commitment, but if, for whatever reason, we separated as a couple, under Michigan law, I would have no lawful right to custody or even visitation for R, a fact that was made painfully evident in the case of Harmon v Davis, MSCt No. 141888, COA No. 297968,

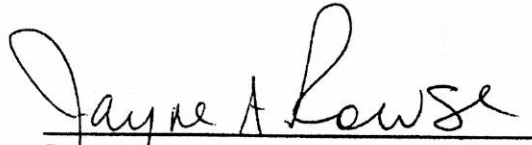
23. We have contemplated all of these circumstances, along with all of the rights, privileges and protections that we lack and that heterosexual married parents take for granted, and this situation create unnecessary stress and anxiety in our lives, and unnecessary risk and instability to our children.

24. April and I have worked very hard to keep our family together and healthy in the face of, at times, overwhelming obstacles. We have made a home for our children. They love both their parents and each other. I feel that we should have the right to be a family in every sense of the word, and that our children should have the full benefits, rights and protections associated with having two lawful parents.

25. If we were legally able, we would choose to be married in the State of Michigan. We have been advised that, as enunciated in the Harmon case, the Michigan courts have declined to allow second parent adoptions by single persons in this state. We have been advised that the Michigan Court of Appeals and the Michigan Supreme Court have refused even to consider constitutional challenges to the Child Custody Act., MCL 722.21. See Harmon, (Kelly, J., dissenting, *4). We have also been advised that the Michigan Attorney General has issued an opinion that same sex couples are not allowed to adopt a child as second parent in Michigan regardless whether or not they are legally married in a state that permits same-sex marriages. See OAG, 2004, No 7160 (September 14, 2004). We have also been advised that following instruction from "members of the [Michigan] Supreme Court" petitions for adoption filed by unmarried second parents are not processed by county clerks. See C. Jones, "The Rise and Fall of Second Parent Adoption in Washtenaw County, Michigan", Michigan Child Welfare Law Journal, pp 6-7. For these reasons, we believe that any attempt by April and myself to adopt each others' children, as second parent, would be futile in the State of Michigan.

26. I declare under penalty for perjury under the laws of the United States that the foregoing statement is true.

Dated: 3-10-12


Jayne Rowse