

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)
couple and L.W.C.H., by his parent and next)
friend Ruby Henderson, *et al.*,)

Plaintiffs,)

vs.)

No. 1:15-cv-220-TWP-MJD

DR. JEROME M. ADAMS, in his official capacity)
as Indiana State Health Commissioner, *et al.*,)

Defendants.)

AFFIDAVIT OF
NIKKOLE McKINLEY-BARRETT & DONNICA BARRETT

Nikkole McKinley-Barrett and Donnica Barrett, being of lawful age and being duly sworn state as follows:

1. We are over the age of eighteen, competent to testify in these proceedings and have personal knowledge of the facts and matters contained within this affidavit.

2. We were lawfully married on June 25, 2014 in Vigo County, Indiana and have been together since 2003.

3. Both Donnica and Nikki are registered nurses. Donnica is a cardiac nurse and Nikki works exclusively with those needing nursing home care.

3. Since the day they met, Donnica and Nikki shared the dream of raising a child together. They planned and saved to make a home for their family. First, they put themselves through nursing school, wanting

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to have solid jobs so they could support their children. Then Nikki and Donnica bought a home to which they could then bring their child.

4. Conception was not easy and it was not inexpensive. Nikki and Donnica estimate it cost them \$20,000.00 to conceive their first child. Like all married couples, they used their pooled resources to buy their home and pay the costs associated with conception. It took them approximately two years to conceive their child who was born on April 3, 2015.

5. While at the hospital, Donnica completed the electronic birth certificate worksheet and listed Nikki as a parent. A true and accurate copy of the worksheet is attached hereto as Attach. 1. When the birth certificate was issued, it listed only Donnica as parent. A true and accurate copy of the birth certificate is attached hereto as Attach. 2.

5. Nikki and Donnica wanted a child together because they love children and they wanted to have a family. "It just took us longer than other families that could conceive naturally and during those times when money was tight because we knew we have to save to pay for our education, our home and conception services, we would just look forward to the day when we would be bringing our baby home," said Donnica.

6. Because the couple knew they would be married when the baby was born, they just assumed that both of them would be listed as parents on the birth certificate. It was only after Donnica conceived that

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the couple learned Nikki would not be included on the birth certificate. The news left them sad but determined.

7. "First we fought to be legally recognized as a couple and now we are fighting to be recognized as a family," said Nikki. The reason why there are fighting is for the future of their child because if something happens to Donnica, they want to make certain that their child will go with Nikki and no one else.

8. "After all that we went through to have our family, we were exhilarated when Donnica conceived but then came the day when we learned that I would not be recognized as the parent to our child and that I had no right to make the simplest of decisions regarding our child," said Nikki. "On that day our joy turned to terror and heartbreak."

9. Nikki and Donnica also believe there is a stigma imposed upon children born out of wedlock. "Society says children should be conceived and born into a marriage," said Donnica. "We married and our marriage is legally recognized but they are punishing our child because our baby has two mothers so therefore our baby was born out-of-wedlock. They are not punishing us, they are punishing him."

10. Right after birth, Donnica and Nikki's child was in the neonatal intensive care unit for eight days and Donnica had had emergency surgery to deliver their child. "I was terrified," said Nikki. According to Nikkim "I just kept wondering what would happen if

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something happened to Donnica. Would they take my son from me? Would they let me make his medical decisions? Would they even let me continue to see him? Here we had worked so hard to have this baby and then they yank our baby away from us to take our baby to the NICU and at the same time tell us that I have no legal rights and I would not be put on the birth certificate. For eight days I lived at the hospital and constantly worried about what might happen. I do not want any parent to have to go through something like this ever again."

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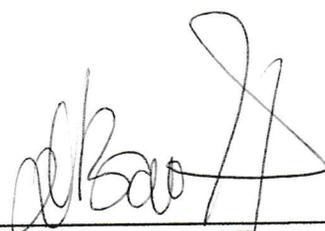
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I declare under penalty of perjury that the foregoing is true and correct. Executed
on December 4, 2015.



Nikkole McKinley-Barrett, Affiant

I declare under penalty of perjury that the foregoing is true and correct.
Executed on December 4, 2015.



Donnica Barrett, Affiant