

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 ELIZABETH AND TONYA BUSH-SAWYER

Elizabeth "Nicki" and Tonya Bush-Sawyer, 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 April 12, 2010 in Washington, D.C.

3. Nicki is a scientist employed at Eli Lilly and Tonya is a stay-at-home mom.

4. Together, Nicki and Tonya decided they wanted a family. Utilizing a third-party sperm donor and artificial insemination to assist in conception, it took five attempts before the couple was able to conceive. Out-of-pocket costs for the conception and related expenses

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totaled approximately \$9,000.00 to \$11,000.00. Nicki and Tonya shared these costs together. Nicki's pregnancy was covered by Nicki's health insurance. Neither Nicki nor Tonya were ever informed of the identity of the donor.

5. On January 10, 2014, I.J.B. a/k/a I.J.B-S ("I.J.B-S") was born at Indiana University Health Methodist Hospital. The child is the first child born to their marriage.

6. While at the hospital, Nicki completed an Indiana Birth Worksheet ("Worksheet"), a true and accurate copy of which is attached hereto as Attach. 1. On the Worksheet, wherever information was requested regarding the father of I.J.B-S, Nicki supplied information regarding Tonya. She also listed the child's name as I.J.B-S.

7. Within a few weeks after returning home from the hospital, the couple received a birth confirmation letter from Indiana University Health, a true and accurate copy of which is attached hereto as Attach. 2. The letter listed Nicki as the mother and Tonya as the father. It also listed the child's name as I.J.B-S. Shortly after receiving the letter, Nicki and Tonya also received a social security card for their child. The couple happily moved forward with their family.

8. In March of 2014, Nicki went to pick-up their child's birth certificate from the Marion County Health Department. She was told there was a problem and that she should return the next day.

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9. Upon returning the next day, Nicki was presented with the new birth certificate which she discovered listed her as the only parent. Further, the child's name of I.J.B-S was changed to I.J.B. At the time of giving birth, Nicki's last name was Bush (as at the time of their marriage, Indiana did not recognize their marriage so the couple had to legally have their names changed to Bush-Sawyer). Attached hereto as Attach. 3 is a true and accurate copy of the birth certificate provided by MCHD for I.J.B-S. Weeks later, without any consent by either Nicki or Tonya, a new social security card arrived for their child bearing the name I.J.B.

10. Nicki said the couple was disheartened to see the subsequent change on the birth certificate. "Not only had they removed Tonya completely, they changed I.J.'s last name to 'Bush' (Nicki's last name at the time she delivered) from Bush-Sawyer—which is the name we put on the form." Tonya and Nicki have since changed their names to Bush-Sawyer, but I.J. is still officially Bush until the adoption is finalized. Tonya says, "So now, I.J. has two social security cards (with two different numbers): one for I.J.B-S and one for I.J.B."

11. In addition to the cost of conception, the couple is incurring the expense of an adoption of approximately \$4,200.00. Attached hereto as Attach. 4 is a true and accurate copy of the informational document provided Nicki and Tonya by Adoptions of Indiana which is conducting the home study that the couple is required to complete. Among many

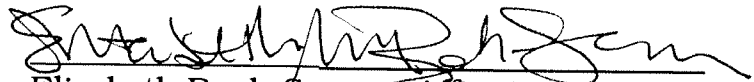
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other things, Tonya is required to undergo fingerprinting and a criminal background check in addition to submitting her driving record, her financial profile and the veterinary records for any pet living with she and Nicki. The home study examines the relationship history of Nicki and Tonya, requires them to write an autobiography and to discuss their parenting philosophy and requires them to open their home for inspection. "A third party is going to come into our home and judge me as a parent - just because we are a same sex couple," said Tonya. "If I had been a man and married to Nicki, then I would not have to adopt my child even though Nicki was impregnated by a third party."

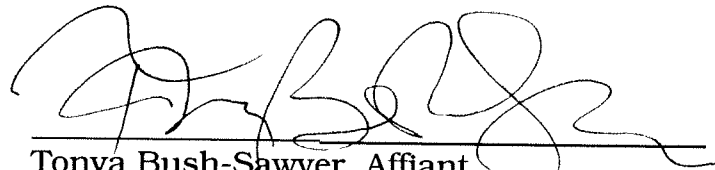
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I declare under penalty of perjury that the foregoing is true and correct. Executed on December 3, 2015.


Elizabeth Bush-Sawyer, Affiant

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 3, 2015.


Tonya Bush-Sawyer, Affiant