

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No.: 99-10058-CIV-KING  
Magistrate Judge O'Sullivan

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STEVEN LOFTON, et al.,

Plaintiffs,

vs.

KATHLEEN A. KEARNEY, et al.,

Defendants.

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AFFIDAVIT OF STEVEN K. LOFTON

I, Steven K. Lofton, state the following under penalty of perjury:

1. I am 44 years old and a registered nurse by training.
2. My partner is Roger Croteau. Roger, who is 46 years old, has been a registered nurse for 17 years and currently works in the pediatric immunology unit at a children's hospital. We have lived together in a committed relationship for 18 years.
3. In 1988, when Roger and I still lived in Florida, we began to care for HIV-positive children. I was licensed as a foster parent by the Department of Children and Families ("DCF"). Four Florida children have been in long-term foster care with me.
4. Frank joined our family in August 1988 when he was 8 months old. He is now nearly 14.
5. Tracy came home in September 1988 when she was one year old. She will turn 14 this month.
6. Ginger joined us in the Spring of 1989 when she was 6 months old. She died of AIDS in 1995 at age 6.
7. John Doe was the last Florida child to join our family. He came home in July 1991 when he

was 2 months old. While he had tested positive for HIV shortly after birth, he sero-reverted as a young child and remains HIV-negative. He is now 10 years old and a healthy, active young boy.

8. In 1998, Roger and I decided to move our family to Oregon in order to be closer to my parents, who are getting older, and because we felt that Portland is a good environment in which to raise children.
9. Shortly after we arrived in Oregon, I was contacted by a caseworker from Oregon's Services for Children and Families. I was asked if I would take care of two brothers, then aged 5 and 2, who have AIDS. I was told the children had no one else to take care of them. I agreed and Wayne and Ernie came home in February 1999. They are now 8 and 5.
10. John Doe became free for adoption in 1994. At that time, I applied to adopt him. Frank and Tracy are not free for adoption, and Wayne and Ernie are under the supervision of Oregon. Since it is only John who is at issue in this case, I will focus the remainder of this affidavit on him.
11. John is my son. I am committed to caring for him and providing for all his needs. I have been his parent in every way. For example, every day, I wake him up in the morning and help him get dressed and ready to go to school; I help him with his homework when he comes home from school; we have a family dinner together every night, cooked by Roger; and we spend our evenings engaged in a variety of family activities. I take care of John when he is sick. I make sure all his vaccinations are up to date. I am a parent volunteer in John's class once a week and an active P.T.S.A. member. I try to expand his horizons by taking him on trips. I encourage him to pursue the positive, healthy activities that he enjoys, such as swim team and drama. I provide a child-friendly home. I include John's friends in our family, inviting them over for dinner and having them join us on family outings to the beach or park. Roger and I teach John household responsibilities such as yard work, car maintenance and cooking. I discipline him appropriately when he misbehaves. I hug and comfort him when he is upset. I teach him manners, respect and other values that I consider important. I make sure he is safe. He calls me "Dad."
12. John is also close with Roger and with his brothers and sister.
13. My family is the only one that John has ever known.
14. Attached as Exhibit 1 are some family photos that were taken over the years.
15. Attached as Exhibit 2 is Ginger's Book, which is a book about our family.
16. I have long understood that John would be my son and stay with me forever. DCF has fostered

this belief.

17. DCF has acknowledged that John's placement with me was permanent. Citizen Review Panel Reports, copies of which are sent to me, have stated that John's placement with me was a "permanent placement plan." See Citizen Review Panel Report dated September 13, 1995, attached hereto as Exh. 3. See also December 11, 1996 Citizen Review Panel Report ("DCF must submit a new plan for custody on a permanent basis with foster parent with legal guardianship or a permanent agreement in lieu of case plan."), attached hereto as Exh. 4; and July 21, 1999 Citizen Review Panel Report ("Panel commends foster father for providing a permanent home to [John]."), attached hereto as Exh. 5.
18. DCF did not recruit other adoptive families for John so that he could remain with me. See July 10, 1996 Addendum to Citizen Review Panel Report (HRS reports that it "will not seek another adoptive family as [it] intends to pursue permanency for [John] with his foster father."), attached hereto as Exh. 6.
19. DCF gave me permission to relocate to Oregon with John, finding that it was in his "manifest best interest" to go with me. See Order granting permission to relocate, attached hereto as Exhibit 7; see also June 2, 1998 Interstate Compact memo to Oregon, copy attached hereto as Exh. 8.
20. DCF corresponded with me about alternatives for John to be able to achieve legal permanency with me. See, e.g., June 30, 1998 letter from Ali to Lofton discussing guardianship, attached hereto as Exh. 9. In May 2000, John's permanency goal was changed to "long-term foster care." See July 19, 1999 Judicial Review ("the goal of adoption will change to long-term foster care pending change in Florida statute"), attached hereto as Exh. 10; see also April 17, 2001 Citizen Review Panel Report (noting that goal had been changed to long-term foster care so that Doe could continue to reside with Lofton). DCF wrote a letter to me advising that the goal was changed to long-term foster care "in order to allow you to keep [John] on a long-term/permanent basis until you are allowed to adopt." Copy attached hereto as Exh. 11.
21. John is eager to be adopted. For the last couple of years, he has been asking me when his adoption will be complete. It's important to him to be adopted. I want him to have the emotional security that comes with being adopted.
22. On June 21, 2001, I received a shocking phone call from a DCF caseworker, advising me that John's permanency goal had been changed from long-term foster care to adoption, and that she was recruiting other adoptive families for John. She asked if I knew anyone who might be interested in adopting him.
23. I am deeply concerned that DCF will remove John from his family. This family is the only one

he has ever known. It is unthinkable that DCF would even consider taking him away. I can't even imagine how being separated from his parents and brothers and sister would affect him.

24. I love John deeply and want to protect him. But I cannot protect him unless I can adopt him.

I declare under penalty of perjury that the foregoing is true and correct.

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Steven K. Lofton