

VIRGINIA: IN THE JUVENILE & DOMESTIC RELATIONS COURT  
OF STAFFORD COUNTY

JOHN MAXWELL WYATT III

Petitioner

v.

EMILY COLLEEN FAHLAND

Respondent

In Re: EMMA ZAREMBINSKI

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Case Nos.: JJ040710-01-00  
JJ040710-02-00

ORDER

THIS CASE came upon Petition for Custody of the infant child EMMA ZAREMBINSKI, brought by the natural father and Petitioner, JOHN MAXWELL WYATT III, the Court proceeding to hear evidence and argument thereupon.

And the Court, having considered said evidence and argument, makes the following findings:

1. That this matter was properly brought before the Court as a custody matter and as such, Virginia is the appropriate jurisdiction as the "home state" of the child pursuant to both the UCCJEA and the PKPA (Parental Kidnapping Prevention Act 28 U.S.C. 1738(A) in that the Commonwealth of Virginia was the home state of the child on the date of the commencement of this proceeding and the child's later absence from this state was because the child was removed while Petitioner JOHN MAXWELL WYATT, III was and remains a resident of this state.



THE LAW OFFICES OF  
T. JAMES BINDER  
13512 Minnieville Road  
Suite 260  
Woodbridge, Va. 22192  
Phone: 703-897-8302  
Fax: 703-583-0992  
VSB #21006

2. That the PKPA applies to both custody and adoption proceedings and that the Commonwealth of Virginia has exclusive jurisdiction to determine custody of this child, this Court properly exercised subject matter jurisdiction and no other state has the authority to exercise jurisdiction during the pendency of these proceedings pursuant to section 1738(A)(g) of the PKPA. Utah cannot be considered the home state of the child under the PKPA. The child was less than six months of age when she was removed to Utah and clearly did not live with the prospective adoptive couple from birth in Utah. Any exercise of jurisdiction by Utah would be inconsistent with the provisions of the PKPA.

3. That both THOMAS ZAREMBINSKI, CHANDRA ZAREMBINSKI and A ACT OF LOVE, a Utah child placing agency, have been properly noticed of these proceedings pursuant to section 1738(A)(e) of the PKPA and each of them failed to appear either in person or by counsel.

4. That the Petition for Custody filed on February 18, 2009 included a claim by the Petitioner JOHN MAXWELL WYATT, III that he was the natural father of the child. By making a claim of paternity, he brought that issue before this Court for adjudication. That allegation was never disputed.

5. That the filing of the Petition for Custody was filed prior to any petition to acceptance, consent, or waiver in the Juvenile and Domestic Relations District Court and prior to the date of any known filing of a Petition for Adoption therefore this



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Court finds that Petitioner JOHN MAXWELL WYATT, III has fully preserved his parental rights pursuant to Virginia Code section 63.2-1250(B)(2) to contest an adoption in the Commonwealth of Virginia. Pursuant to Virginia law, Mr. Wyatt was not required to register with the Virginia Putative Father Registry to preserve his parental rights in an adoption matter.

6. That Petitioner JOHN MAXWELL WYATT, III is also an “acknowledged father” of this child pursuant to Virginia Code sections 20-49.1 and 63.2-1202(C)(1)(a) in that he and the natural mother complied with the birth certificate affidavit. Virginia Code section 63.2-1202(A) provides that “No petition for adoption shall be granted, except as hereinafter provided...” Since Petitioner JOHN MAXWELL WYATT, III and the natural mother complied with the birth certificate affidavit prior to an adoption being granted, his consent is required before an adoption could be granted in the Commonwealth of Virginia.

7. That Virginia Code section 63.2-1000 Article V (a) empowers Virginia to be the appropriate jurisdiction to determine custody and have the authority to direct return of the child to this jurisdiction.

8. That no evidence has been presented to this Court to show that the birth father is unfit to have care and custody of the child.

9. That there has been clear and convincing evidence that the birth father has formulated a plan covering issues including health, welfare, daycare and other factors related to the best interests of the child.



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10. That an independent evaluation has been conducted on the birth father by a duly licensed and recognized Virginia child-placing agency providing depth to the birth father's plan and recommending that he receive custody of the child.

11. That the birth father has evinced his interest in the child both before and after the birth, showing an interest in the child and birth mother and demonstrating a full commitment to the responsibilities of parenthood by coming forward to participate in the rearing of the child.

12. That all the evidence indicates that the birth father did everything he needed to do to be both the biological and actual father of the minor child, wanting to raise, take care of, and support his minor child.

13. That the evidence shows that the birth father did not abandon or neglect the minor child or her mother either during the pregnancy or after the minor child's birth;

14. That all the evidence indicates that the birth father did all he needed to do to claim the paternity and custody of his minor child, and complied with all applicable Virginia statutes;

15. That the birth father did not consent to the adoption of the minor child, and he did not relinquish his parental rights to his minor child;

16. All the evidence indicates that the birth father is a good and decent person, and that Mr. Wyatt is a fit and proper person to have the care, custody and control of his minor child;



THE LAW OFFICES OF  
T. JAMES BINDER  
13512 Minnieville Road  
Suite 260  
Woodbridge, Va. 22192  
Phone: 703-397-8302  
Fax: 703-583-0992  
VSB #21006

17. That the evidence further shows Mr. Wyatt has a supportive mother committed to helping Mr. Wyatt raise his minor child;

18. That Mr. Wyatt has fully complied with the requirements to establish parental rights in his child, and to preserve his right to notice of a proceeding in connection with the adoption of his child.

And, in light of said findings, the Court doth

ORDER that JOHN MAXWELL WYATT, III's filing of his Petition for Custody contained a claim of paternity and was therefore a proceeding to adjudicate paternity and his paternity of EMMA ZAREMBINSKI be and hereby is established, it is further

ORDERED that custody of EMMA ZAREMBINSKI, also known as EMMA FAHLAND, be, and hereby is, awarded to the Petitioner, JOHN MAXWELL WYATT III, and it is further

ORDERED that said child be forthwith provided to Petitioner in accordance with this Order. And it is further

ORDERED, pursuant to Virginia Code section 20-124.5, that either party relocating shall provide the other parent and this Court 30-days written notice of said move, including their new address, unless relieved of said duty by this Court for good-cause shown.

And it is further ORDERED that Anthony Conyers, Jr. Commissioner of The Virginia Department of Social Services and the Compact administrator for the Interstate Compact for the Placement of Children for the Commonwealth of Virginia



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T. JAMES BINDER  
13512 Minnieville Road  
Suite 260  
Woodbridge, Va. 22192  
Phone: 703-897-8302  
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be, and hereby is, ORDERED to provide any available assistance within his authority to cause the immediate and forthwith return of the child to the Commonwealth of Virginia, and to the father.

ENTER: *Gerald F. Dalton*  
The Hon. GERALD F. DALTON

Date: *12/11/09*

ASKED FOR:

*[Signature]*  
T. JAMES BINDER  
Counsel for John Maxwell Wyatt III

SEEN AND

*Endorsement dispensed with in*  
SHARON FAST GUSTAFSON *compliance with*  
Counsel for Colleen Fahland  
*Rule 1:13 of the Rules of the*  
*Supreme Court of Virginia.*



THE LAW OFFICES OF  
T. JAMES BINDER  
13512 Mimmieville Road  
Suite 260  
Woodbridge, Va. 22192  
Phone: 703-897-8302  
Fax: 703-583-0992  
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STAFFORD COUNTY JUVENILE & DOMESTIC RELATIONS COURT  
I, THE UNDERSIGNED CLERK OR DEPUTY CLERK OF THE  
ABOVE-NAMED COURT, AUTHENTICATE PURSUANT TO VA  
CODE 11.01-381(C) ON THIS DATE THAT THE DOCUMENT  
TO WHICH THIS AUTHENTICATION IS AFFIXED IS A TRUE  
COPY OF A RECORD IN THE ABOVE-NAMED COURT, MADE  
IN PERFORMANCE OF MY OFFICIAL DUTIES.

12.11.09

DATE

  
CLERK / DEPUTY CLERK