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Did friendship play role in Holey custody battle?

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Did friendship play role in Holey custody battle?

The attorney for a local family that is fighting to adopt Jennifer Holey's two children suspects a friendship may have played an inappropriate and possibly illegal role in why custody of the children has been awarded to an Oakland County couple.

Attorney Stuart R. Shafer said the friendship is between a partner in the law firm representing the Oakland County couple and Nannette Bowler, the director of the state Family Independence Agency. Bowler took the apparently rare step of not defending in court the agency's recommendation that the children be awarded to a Dewitt couple that had been the children's foster parents.

Bowler is an appointee of Gov. Jennifer Granholm. The recommendation was made during the Engler administration.

"It's our information that one of the attorneys representing the (Oakland County couple), James J. Williams, is personal friends with the director of FIA, Nannette Bowler," said Shafer, a former assistant prosecutor in Ingham County.

"If it's true, it's probably criminal," Shafer said. "You're the head of a state agency and based on a friendship you're taking action or not."

A source close to Bowler said Bowler and Williams became friends in 1994, when Williams fought a legal battle for two children he would eventually adopt himself. Bowler was the founding director of the Children's Law Center, a nonprofit legal services organization that has represented children in guardianship, divorce custody, and neglect abuse cases in Kent County (Grand Rapids). In December, Granholm selected her to run the agency.

Bowler and Williams were unavailable for comment.

In her ruling, the judge wrote that a key reason she was giving custody of Holey's children to the Oakland County couple was that the Family Independence Agency was not present to defend the recommendation that the children be awarded to the Dewitt couple.

Nor were the foster parents on hand to defend their interests. Shafer said they were never informed of the custody fight in Oakland County. He said they had heard something may have been filed, but he said that efforts to find out more from the Oakland County clerk's office were unsuccessful.

Holey, 19, and her husband, Patrick, 20, both attempted suicide in April 2002 with the assistance of his mother after police said they wanted to interview the couple for the rape of a 14-year-old girl. The husband died but Holey survived. She was sentenced to prison for the sex offense.

The Dewitt couple, Chadd and Tammy Smith, began serving as foster parents of Holey's daughter Liliandra, 21 months, in April 2002. Another daughter, Pearl, 9 months, was born in August 2002 while Holey was serving her prison sentence of four to 15 years. The Smiths, who became foster parents of Pearl as well, sought to adopt both children.

An Oakland County couple, Jonathan and Donna Cromwell, who are distant relatives of Holey, have also sought to adopt the children. Mrs. Cromwell's aunt is Jennifer Holey's grandmother. In May 2002, they filed to adopt Holey's older daughter. They filed to adopt her sister shortly after her birth in August.

In September, Ingham County Circuit Judge Paula Manderfield took away Holey's parental rights and committed the children to the care of the Michigan Children's Institute. In March, Clinton Circuit Judge Marvin Robertson approved the Smiths as adoptive parents of both children.

Robertson acted after William J. Johnson of the Michigan Children's Institute, a branch of the Family Independence Agency, recommended the Smiths over the Cromwells. Johnson had been superintendent of the institute in the Engler administration. From court records, it appears he was relieved of the position shortly after Granholm was elected in November but remained at the institute.

On Dec. 5, 2002, Johnson wrote a "Consent to Adoption Decision" on Family Independence Agency letterhead. He said that the older sister "has already experienced parental neglect which has significantly increased the risk of emotional and devolomental harm. She has thrived while placed in her current foster home (the Smiths'). The care that she has received while placed in their home has resulted in her making remarkable progress and overcoming alarming developmental delays. The resulting emotional attachment which she has to the foster parents is a very important consideration in making a decision about adoption."

Johnson wrote that Holey's relatives were "suitable for adoption" but "do not provide a familiar environment for these children. □ The strength of the biological and emotional connection of the children to the relatives is not strong."

Johnson also said that while "it would be less traumatic to remove" the younger children from her foster home, "it would not be in the best interests of either child to be separated from her sister."

The Oakland County judge, Elizabeth Pezzetti, took strong exception to Johnson's arguments in a 54-page ruling in which she gave custody to the Oakland County couple and assumed jurisdiction over the children.

"In this Court's opinion, Mr. Johnson provided exaggerated statements regarding the severity of the effect of the neglect which Liliandra (the older child) suffered," the judge wrote in an April 15 decision. "There was no indication that Liliandra suffered from 'alarming developmental delays,' she also wrote.

Regarding Johnson's contention that the Oakland County couple "do not provide a familial environment for these children," the judge wrote that "if in fact that were true, which this Court does not believe that it is, it would only be because Liliandra and Pearl were not given the opportunity because of resistance" by the two private agencies that were involved, the Lutheran Social Services of Michigan and Lutheran Adoption Services, as well as the foster parents.

The judge said the Oakland County couple "encountered nothing but resistance" from the agencies and the Smiths "in their efforts, not only to obtain custody of the girls, but to even establish a relationship with them so they would become familiar" with them.

The judge also said that while "the part about the girls' emotional connection" to the Oakland County couple "is not strong may be somewhat accurate, the other reasons are irrelevant. The Court is specifically referring to Mr. Johnson's comment about the strength of the girls' biological connection" to the Oakland County couple, "which according to State law and FIA policy, should not have been an issue."

As for separating the sisters, the judge pointed out that the Oakland County couple opposed separating them and that they had been found suitable to adopt both children.

In her conclusion, the judge said that "the Court would mention again the fact that no one appeared on behalf of the FIA or Mr. Johnson." She also cited a letter from Musette A. Michael, director of legal affairs for the agency, that states the agency does not oppose granting the children to the Oakland County couple or intend to defend Johnson's decision.

"Keeping in mind that the MCI (Michigan Children's Institute) is a division of the FIA, this court gave the FIA's decision considerable weight in making its decision."

FIA spokeswoman Maureen Sorbet said that Bowler had ordered a review of the case before deciding not to defend Johnson's recommendation.

Kevin W. Cronin, a Hopkins (Allegan County) attorney and the Smiths' co-counsel with Shafer in this case, said he appreciated Bowler's great accomplishments with the Children's Law Center, where he himself had worked before its closing in 2001. However, in this case, he believes Bowler acted wrongly.

Added Cronin: "The FIA management manipulated this case so that the Michigan Children's Institute wouldn't have a lawyer and wouldn't attend the Oakland County legal proceedings on this adoption, to explain why they chose the Smiths over the Cromwells. That's sabotage. It's denying the Oakland County court the opportunity to review all of the relevant evidence." Cronin called Bowler's argument to leave the decision up to the court "dishonest" and "nonsense."

Cronin asked the state Office of Children's Ombudsman, Lynne Martinez, to investigate. He received a letter May 16, reading: "What occurred in this case was an anomaly and is not representative of FIA's policy or practice. [] Typically, if a decision by the MCI is appealed and a Section 45 [disputed adoption] hearing is convened, FIA or its representative will maintain its support for the decision."

Martinez said she will not conduct a full investigation, because it "would not benefit these children." The ombudsman also clarified that she had "no authority" over the court's decision. In response to this, Cronin commented: "Those are completely trashy, illogical rationalizations for their not investigating it. Every child in FIA custody is subject to court action. If they're not going to investigate matters argued about in court, what do we need their \$1.2 million budget for?"

Cronin said he suspects that the Granholm administration wants to radically change adoption policies. "They're trying to save money by doing placements with relatives, which don't require the expenditure of state money towards an adoption-support subsidy," he said.

The lawyer suspects that the Cromwells were probably asked if they would accept the children without taking monthly adoption support subsidy from the state. For the state, that would involve a savings of \$15 per day, every day from now until the children reach the age of 18. The Cromwells declined comment.

Shafer added that he doesn't think the adoption decision in favor of the Cromwells was the Oakland County judge's fault. "She was given only one side of the case, and she was given a letter that stated that the other side is not going to defend this case. So it was pretty obvious to her how to decide."

Meanwhile, on Tuesday a private initiative of foster parents expressed their concern by delivering a petition letter containing 2,100 signatures to 17 state senators.

The petition read: "In addition to the senseless trauma inflicted upon these children and their family, the impact of this decision on foster and adoptive parents statewide is profound. [] I strongly encourage you to investigate this case as well as the politics and practices of the Family Independence Agency that routinely violate both the state law and human decency."

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