

DISTRICT COURT  
DENVER COUNTY  
COLORADO  
1437 Bannock Street  
Denver, CO 80202

IN RE THE INTEREST OF  
UNBORN MANZANARES-TERRY,  
a Child,  
and Concerning  
ROBERT MANZANARES,  
Petitioner Father,  
and  
CARIE TERRY,  
Respondent Mother.

Case No. 08 JV 141  
Division 2

For Petitioner Father:  
Emily Berkeley, Esq.

For Respondent Mother:  
Pro Se

Guardian Ad Litem:  
Vivian Burgos, Esq.

The matter came on for hearing on February 27, 2008,  
before the HONORABLE D. BRETT WOODS, Judge of the  
District Court, and the following proceedings were had.

Transcript Prepared By:

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1 MS. BERKELEY: That's correct, Your Honor, and  
2 I'm prepared to proceed right now. I just was wondering  
3 if how -- how long do we have?

4 THE COURT: How long do you want and what is  
5 your intention?

6 MS. BERKELEY: Our -- well, let me just tell  
7 you first, the reason why we had an emergency -- we  
8 requested an emergency hearing you probably read is that  
9 we discovered -- and actually when we filed our motion,  
10 were not aware that the child at issue was actually --  
11 consent was signed for adoption in Utah and that happened  
12 -- we discovered that yesterday afternoon after we had  
13 filed our motion yesterday morning. So we're here to --  
14 on an emergency hearing to try to have this Court retain  
15 jurisdiction since we have jurisdiction over the parties  
16 here and I can -- and there's some other things that we  
17 would request. I don't know if you want me to proceed  
18 right now or --

19 THE COURT: Yes.

20 MS. BERKELEY: All right. I can do that. And  
21 then we've also consulted with Vivian Burgos. I didn't  
22 know if --

23 MS. TERRY: Your Honor, can I object to when  
24 they found out about --

25 THE COURT: Ma'am, I'll hear from you in a

1 moment.

2 MS. TERRY: Okay.

3 THE COURT: The way I do it is I hear from one  
4 person at a time and it is on their motion so that's why  
5 I started with them.

6 MS. TERRY: Great.

7 THE COURT: And then I just move down the line.

8 MS. BERKELEY: Your Honor, can I approach?  
9 I've got exhibits.

10 THE COURT: You may. Have you handed copies  
11 of --

12 MS. BERKELEY: Yeah, we've -- we actually had  
13 all of these prepared for the last hearing but Mom didn't  
14 come to it. Where -- where is the witness that --

15 THE COURT: Up there. First of all -- all  
16 right, you can put that up there. Let me just ask you  
17 some questions here preliminarily. What -- what is that  
18 you are asking to do today, and what is it that you're  
19 asking for the Court. I have the motion here for the  
20 emergency hearing, but I'm not exactly sure what you want  
21 me to do and what you're asking me to rule on today.

22 MS. BERKELEY: Okay. Sure. Basically today  
23 what we're asking for is for this Court to retain  
24 jurisdiction. We filed the case in January. Both  
25 parties were residents of Colorado at that time. The

1 child was conceived in Colorado. So we served Mom with  
2 the petition in -- on February 1<sup>st</sup> I believe. So  
3 jurisdiction is clearly in Colorado. Just so you know,  
4 Mom will tell you that jurisdiction should be in Utah  
5 because she gave birth there but because the paternity  
6 action had already been filed here, it would not make  
7 sense for us to file a paternity action in Utah therefore  
8 agreeing that Colorado is not the proper jurisdiction for  
9 the matter.

10 So we want the Court to retain jurisdiction.  
11 We would like the Court to please sign the final order of  
12 paternity which we filed with the Court previously  
13 declaring Petitioner to be the father, biological father.  
14 We would request that the Court allow the Father  
15 immediate access to medical information concerning the  
16 parties' child and to allow him to travel to Utah to see  
17 the child. We understand that the child was born  
18 prematurely, it's most likely in the hospital. We'd like  
19 this court to find that the Petitioner was entitled to  
20 notice of adoption under §19-5-200 and that entire Title  
21 -- entire section of that Title.

22 And then along with the final order of  
23 paternity, determine that there's a parent-child  
24 relationship between the child and the father and address  
25 allocation of APR and attorney's fees awarded -- award

1 attorney's fees and costs.

2 THE COURT: All right.

3 MS. BERKELEY: Oh, and also potentially we've  
4 got concerns about Mom's mental health depending on what  
5 the GAL -- the guardian ad litem says, perhaps consider  
6 addressing that as well.

7 THE COURT: All right. So I have the following  
8 things that you've appeared in court today that you're  
9 asking, number one, that this Court retain jurisdiction  
10 because the case was filed in January and that would be  
11 under the Colorado law, because the child was conceived  
12 in Colorado. Second that I sign the order of paternity  
13 declaring that your client is the father of the child;  
14 that I grant immediate access to medical records; that --  
15 you made a comment that the child was born premature in  
16 the hospital so you believe -- you're stating -- your  
17 offer of proof is that the child is in Utah; is that  
18 correct?

19 MS. BERKELEY: That's correct, Your Honor.

20 THE COURT: And did you have anything further  
21 than that or just that it's in Utah?

22 MS. BERKELEY: About that particular point you  
23 mean?

24 THE COURT: Do you know where the child is?

25 MS. BERKELEY: Yeah, we need -- we would like

1 to know where the child is.

2 THE COURT: All right. So you have --

3 MS. BERKELEY: We'd like to have information  
4 about her health, we believe it's a girl; and then also  
5 determine that there's a parent-child relationship, and  
6 yeah, if you can address APR at all today, that would be  
7 great. And then attorney fees.

8 THE COURT: Further that you're asking that the  
9 Petitioner Father was entitled to notice of any adoption  
10 and consent to that under the Uniform Parentage Act in  
11 Colorado, make a determination that there is a parent-  
12 child relationship between him and the minor child and  
13 award attorney's fees. Are those are the issues that  
14 you've raised?

15 MS. BERKELEY: Did you say enjoin the adoption  
16 from taking place? Because I don't think the family has  
17 -- if there is a family, the family has the baby right  
18 now.

19 THE COURT: So you're asking for an injunction  
20 to issue?

21 MS. BERKELEY: Yeah, just from our -- that's  
22 from our petition actually that was filed before the baby  
23 was born. But, yeah, enjoining the adoption from  
24 occurring. And I understand Utah will give full faith  
25 and credit to whatever happens here today.

1 THE COURT: All right.

2 MS. BERKELEY: I'm sorry, Your Honor, did -- I  
3 didn't hear, did you -- we also have concerns about Mom's  
4 mental health and --

5 THE COURT: You did raise that.

6 MS. BERKELEY: Okay. All right. Thanks.

7 THE COURT: All right. Thank you. And then  
8 let's proceed to the other side.

9 And, ma'am, this is Ms. Terry and you're here -  
10 - you appear today without an attorney; is that correct?

11 MS. TERRY: I do, Your Honor.

12 THE COURT: All right. Ma'am, what is your  
13 position then with respect to what the Petitioner has  
14 asked for?

15 MS. TERRY: I would like to ask the Court if I  
16 could address each of those individually. Now that I  
17 know the purpose of the hearing, Your Honor, you received  
18 the letter from my lawyer --

19 THE COURT: What letter?

20 MS. TERRY: Let me just take this up to you.  
21 May I approach the bench, Your Honor?

22 THE COURT: Is this --

23 MS. TERRY: From --

24 THE COURT: -- from --

25 MS. TERRY: -- Wood, Cracko, LLC (phonetic).



1 THE COURT: All right. So you've submitted  
2 this to the Court today. All right. It's dated February  
3 25<sup>th</sup>. All right. I have that, thank you.

4 MS. TERRY: Okay. And, Your Honor, I don't  
5 know if you've had a chance to take a look at it, but  
6 according to the statute in Utah Code and items 1, 2, 3,  
7 4(a) and (b), Utah has ruled and maintains jurisdiction  
8 over the child.

9 THE COURT: All right. So let me just ask --  
10 let me just try and -- you're objecting to the father's  
11 request; is that correct?

12 MS. TERRY: Your Honor, Father's request for --

13 THE COURT: That I maintain jurisdiction.

14 MS. TERRY: Correct. Correct.

15 THE COURT: That I sign the order of paternity?

16 MS. TERRY: Correct.

17 THE COURT: And all of the other requests  
18 regarding access to the medical record, location of where  
19 the child is, and so on, all of the things his attorney  
20 has brought to my --

21 MS. TERRY: Correct.

22 THE COURT: -- attention; is that correct?

23 MS. TERRY: Yes.

24 THE COURT: And you are basing that on the  
25 letter that you have submitted to me from an attorney in

1 Utah; is that correct?

2 MS. TERRY: Along with many other items, Your  
3 Honor, that I have to present to the Court.

4 THE COURT: What are those? That's what I'm  
5 trying to figure out.

6 MS. TERRY: Oh, okay. Well, I have a  
7 documentation that the Petitioner and his Counselor knew  
8 of my travel plans to see my ill father. I have  
9 documentation that I was not summoned legally nor did I  
10 sign a waiver of service for the February 20<sup>th</sup> that they  
11 had; that the Counselor said she didn't know why I wasn't  
12 there. I also have documentation, Your Honor, that they  
13 are claiming the child was conceived in Colorado, and I  
14 have documentation claiming that they need proof to claim  
15 the exact date of conception.

16 I also have proof to give to the Court that  
17 addresses -- object to their standing that my mental  
18 condition is in question.

19 THE COURT: All right. All right. Thank you.  
20 Anything else?

21 MS. TERRY: Not at this time, Your Honor

22 THE COURT: Thank you. All right. From the  
23 guardian ad litem?

24 MS. BURGOS: Your Honor, my immediate concern  
25 at this point in time and I've stated this to both Mother

1 and to Father is the well-being of the child. I would  
2 like to be made aware of where the child is and for her  
3 well-being. I do not know what is going to happen  
4 regarding the jurisdictional piece. I do believe it  
5 should be retained here in Colorado, but again, I don't  
6 know how the Court is going to handle that. I am asking  
7 the Court to inquire of Mother as to where the child is  
8 her well-being so that that can be further investigated.  
9 I don't know that this is a motion that can be heard just  
10 on an emergency basis at this point in time, because I  
11 believe it is quite lengthy and there's probably going to  
12 be numerous witnesses on either side.

13 But in the mean time I think that everyone  
14 should be put on the same page as far as the whereabouts  
15 and the well-being of the child. If Father would like to  
16 travel to Utah without removing the child to see the  
17 child and make sure that the child is fine, I think that  
18 that would be appropriate under the circumstances since  
19 we do not know what the outcome of this case would be. I  
20 would also like that information so that I may follow up  
21 on it.

22 THE COURT: Okay. Have you tried to get  
23 information in terms of where the child is?

24 MS. BURGOS: Your Honor, I did not inquire of  
25 Mother at this point regarding that information. I don't

1 know if she felt comfortable disclosing that so I did  
2 wait until we came before the Court.

3 THE COURT: All right. All right. One moment.  
4 (Pause in proceedings.)

5 THE COURT: Now, Counsel for the Father, are  
6 you asking to present evidence today?

7 MS. BERKELEY: I'm prepared to present evidence  
8 today if this -- if this Court needs evidence that  
9 jurisdiction should remain in Colorado and if this Court  
10 needs evidence that the adoption should at least be  
11 enjoined on a temporary basis until we can have a full  
12 hearing on the merits. Because again Utah will give full  
13 faith and credit to whatever you -- whatever you order.  
14 But I'm prepared to -- if you believe that you need  
15 evidence, that jurisdiction should remain here, I'm  
16 prepared to provide it. It's pretty straightforward. I  
17 could do an offer of proof if you'd like.

18 THE COURT: Why don't you do that at this point  
19 and then I may need to take a recess to consider some of  
20 this and I do have some specific questions that I do want  
21 to ask but go ahead and just tell me -- give me your  
22 offer of proof at this point.

23 MS. BERKELEY: Our offer of proof is -- first  
24 of all the child was conceived in Colorado, Mom has not  
25 given anything in her response stating that she had

1 sexual intercourse with anybody other than Dad. She in  
2 fact admitted in the -- in her response that Dad -- that  
3 Mr. Manzanares is the father. That's not in dispute. So  
4 -- and she has not -- neither has she alleged that the  
5 parties traveled to Utah, had intercourse, and came back  
6 or had been anywhere else.

7 She was personally served with the petition for  
8 paternity and a motion to enjoin adoption, she's aware  
9 that jurisdiction was here. We have emails and evidence  
10 that she was provided notice of the hearing on the 20<sup>th</sup>  
11 and in any case, she called up on the Magistrate Janski's  
12 clerk and asked the clerk and lied and said, Oh, I'm just  
13 out of town, but in reality she had given birth two days  
14 prior to the baby and the next day she signed the consent  
15 to adoption.

16 So basically under §19- -- Title §19-4-109(2) a  
17 person who has sexual intercourse in this state submits  
18 to the jurisdiction of the Courts of this state as to an  
19 action brought under this Article with respect to a child  
20 who may have been conceived by that act of intercourse.  
21 Again that's §19-4-109(2). And then under the Children's  
22 Code, §19-1-104, Colorado Juvenile Court has exclusive  
23 original jurisdiction over proceedings, there's several  
24 enumerated proceedings but specifically here to terminate  
25 the parent/child relationship, determinate parentage of a

1 child which we're asking happen today, to make order of  
2 support in connection therewith and for the adoption of  
3 for a person of any age which we did file a motion under  
4 the adoption statute which is -- we filed it under §19-5-  
5 200, that entire Title. So I mean jurisdiction is  
6 clearly here. Thank you.

7 THE COURT: All right.

8 MS. BERKELEY: Oh, and also, Your Honor, I  
9 forgot to say and I did say this earlier, Ms. Terry's  
10 lawyer is trying to say that although there was an active  
11 paternity action in Colorado that somehow we should have  
12 filed a corresponding action in Utah thereby depriving  
13 ourselves jurisdiction here when none of the parties  
14 lived there, Ms. Terry only just traveled there, had the  
15 baby, and came right back. She was even in work on a --  
16 on Monday.

17 So that's -- that's my understanding of her  
18 attorney's argument but clearly that's -- that doesn't  
19 make any sense why we would do that.

20 THE COURT: All right. So let me just make  
21 sure that I understand your position. Your position is  
22 that I have jurisdiction of the case under §19-4-109(2)  
23 and I have read that, I read that prior to coming out; is  
24 that correct?

25 MS. BERKELEY: That's correct.

1           THE COURT:  You're also saying that I have  
2 jurisdiction to enjoin an adoption or to issue an  
3 injunction prohibiting an adoption from taking place?

4           MS. BERKELEY:  Correct.  Under §19-5-200 and  
5 the remainder of that statute.  Also you have  
6 jurisdiction under §19-1-104.

7           THE COURT:  Hang on.

8           MS. BERKELEY:  So §19 --

9           THE COURT:  What in the statute under §19-5-  
10 200, where do I have the jurisdiction to issue an  
11 injunction?

12          MS. BERKELEY:  Well, because Father is entitled  
13 to notice and he is -- Mom is required to get his consent  
14 and I have it right here.  Hold on.  §19-5-203 basically  
15 she doesn't -- she doesn't have a right under §19-5-203  
16 to place the child -- basically a child is not available  
17 for adoption and --

18          THE COURT:  I know and I have read §19-5-203  
19 and I read that before I came out.  But it is rather  
20 lengthy and I just wondered in particular what you were  
21 looking at under §19-5-203 and does that me the authority  
22 to issue an injunction.

23          MS. BERKELEY:  Yes, it does.  You know, I don't  
24 have my statute book right here, but it's based on the  
25 fact that the child wasn't available for adoption.

1 THE COURT: Here.

2 MS. BERKELEY: Basically the child --

3 THE COURT: Why don't you just take a look, go  
4 ahead and take a minute, that's fine.

5 (Pause in proceedings.)

6 MS. BERKELEY: And, Your Honor, here I'm  
7 looking at subsection -- well, there's a couple different  
8 ones. Subsection E -- I'm sorry, Subsection F there  
9 needs to be written and verified consent of a parent or  
10 parents.

11 THE COURT: Okay.

12 MS. BERKELEY: Mr. Manzanares was not given  
13 written or verified consent. In fact, he has repeatedly  
14 denied giving his consent. And despite all that,  
15 Ms. Terry has assigned a consent to an adoption, her  
16 lawyer, himself says it. So I think that an injunction  
17 is in order in order to stop her from violating the  
18 statute.

19 THE COURT: All right. I guess my question is,  
20 is that statute refers to the written consent but does  
21 that give me the authority to issue an injunction?

22 MS. BERKELEY: Well, I think this Court does  
23 have the ability to issue an injunction because a  
24 statute's being violated as we speak. She's violating  
25 §19-5-203 as we -- I mean she's already violated it so I



1       can't -- I guess I'm not quite sure why you wouldn't have  
2       jurisdiction to do that.

3               THE COURT:  So is your argument to the Court  
4       that that statute because the father has not given  
5       written consent and has representing in papers filed with  
6       the Court that he would not give written consent or any  
7       consent to the adoption, that that gives me the authority  
8       to issue an injunction?

9               MS. BERKELEY:  Well, also under Colorado common  
10       law as well basically the other reason is that --

11              THE COURT:  Right.  Have you looked at the  
12       Rathke v. MacFarlane case.

13              MS. BERKELEY:  I believe I have it in here, in  
14       my --

15              THE COURT:  Because that's the case about  
16       injunctions.  That's the seminal case in Colorado  
17       regarding injunctions.

18              MS. BERKELEY:  I have a massive amount of  
19       research here, Your Honor.

20              THE COURT:  All right.  So we need to look at  
21       Rathke and I'm going to need to look at Rathke again  
22       because I haven't looked at it recently.  But that's the  
23       case that gives Courts that deals with injunctions.  So  
24       you're saying generally speaking under §19-5-203(f).

25              MS. BERKELEY:  And --

1 THE COURT: What else?

2 MS. BERKELEY: And also the fact that under  
3 Colorado law the natural parents are presumed to be the  
4 fit and proper parents. It is presumed that in the  
5 absence of showing the parents not fit and proper that  
6 obviously the best interests of a minor child to be  
7 placed with a natural parent over any other party  
8 including grandparents or unknown adoptive parents. And  
9 that is under -- that is under the Everett v. Barry case,  
10 127 Colo. 34, Wellbrink v. Walden --

11 THE COURT: Hang on. What's the cite?

12 MS. BERKELEY: It's Everett v. Barry.

13 THE COURT: Um-hmm.

14 MS. BERKELEY: And I can give you the Pacific  
15 cite. It's 252 P.2d 826. And that's a 1953 case and  
16 it's the pinpoint is page 829.

17 THE COURT: Okay.

18 MS. BERKELEY: And then the other is Wellbrink  
19 v. Walden and that is 349 P.2d 697, that's a 1960 case  
20 and the pinpoint is page 699. And then finally there's a  
21 case -- a case that says the interest and welfare of  
22 children are best observed when under care and control of  
23 the biological parents. That's Allen v. Huffman, and  
24 that is 307 P.2d 802, 1957. And the pinpoint is 805.

25 THE COURT: All right. Thank you. Just a few

1 other questions that I have at this point. Is there a  
2 uniform act that applies here in terms of child custody

3 MS. BERKELEY: Well, there's the UCCJEA that  
4 applies here.

5 THE COURT: What's the cite on that?

6 MS. BERKELEY: well, it's §14-13-100, et seq.

7 THE COURT: Okay.

8 MS. BERKELEY: And as I said, I don't -- I  
9 don't have my statute book here but basically  
10 jurisdiction was already here and the -- actually I do  
11 have another -- and I don't know if this applies because  
12 this is such a weird case that -- you know what I mean?  
13 There's -- there's the interstate compact and placement  
14 of Children Act.

15 THE COURT: Give me the cite.

16 MS. BERKELEY: It's §24-60-1801 through 1803.  
17 I don't really know if it applies here --

18 THE COURT: Title 24-60-1801?

19 MS. BERKELEY: Through 1803.

20 THE COURT: All right.

21 MS. BERKELEY: I don't know if it really  
22 applies here though because it would make --

23 THE COURT: Thank you. Anything else?

24 MS. BERKELEY: I think that's it. Are you  
25 talking about injunctions only? Anything else

1       regarding --

2                   THE COURT: Well, before I get to that, all  
3       right, can I have my statute book back? What type of  
4       evidence are you seeking to present?

5                   MS. BERKELEY: I'm thinking --

6                   THE COURT: Who did you call as a witness?

7                   MS. BERKELEY: I was going to call Dad and I  
8       was going to call Ms. Terry, and then if the Court needed  
9       any further evidence, that Dad's a fit parent, I have  
10      three other witnesses who are willing to testify that  
11      he's a fit parent.

12                  THE COURT: Okay. All right.

13                  MS. BERKELEY: Did you want to know --

14                  THE COURT: What I think I'm going to do is I  
15      need -- I'm going to take some -- many of the statutes  
16      you referenced I have looked at prior to this hearing,  
17      this file came in and I have not had an opportunity to  
18      look at everything. Do you have the cite on the Rathke  
19      case?

20                  MS. BERKELEY: No, I don't have it off hand  
21      but --

22                  THE COURT: That's fine, I'll get it. I need  
23      to --

24                  MS. TERRY: Your Honor, may I --

25                  THE COURT: Sure. Let me -- yes, ma'am, go

1 ahead, I'm sorry.

2 MS. TERRY: Thank you. I would just like to  
3 object to the Counselor saying that she is giving Utah --  
4 or Colorado jurisdiction when Utah in 78 v. 61.2 --

5 THE COURT: Based on your lawyer's letter you  
6 think she's wrong?

7 MS. TERRY: Yeah. That she is trying to  
8 overrule a ruling that already took place by the Utah  
9 Courts.

10 THE COURT: Okay.

11 MS. TERRY: As far as they have jurisdiction  
12 and their basis for jurisdiction are those -- are those  
13 points right there.

14 THE COURT: Well, you're not saying that  
15 there's a case in Utah involving this child?

16 MS. TERRY: No, no, no, Your Honor. I'm just  
17 saying that Utah has jurisdiction based on these key  
18 points right here; that the child -- that the child's  
19 mother resided on a temporary basis in the state; that  
20 the child -- the child has never been to Colorado; the  
21 child was not born in Colorado; therefore the child is a  
22 resident of Utah.

23 THE COURT: Right.

24 MS. TERRY: And also conception, Your Honor, I  
25 object to them saying conception occurred in Colorado and

1 I would require proof as to the date the conception  
2 occurred because we were in Florida and around about that  
3 time. And I have travel documents for that trip.

4 THE COURT: Okay. Thank you. All right.  
5 Here's what I'm going to do. I'm going to take a short  
6 recess, and I want to look at some additional law and  
7 then I will come back and try and bring some order to  
8 this in terms of how we would proceed, okay, in terms of  
9 what if any evidence needs to be received and whether or  
10 not this is also something that is decided as a question  
11 of law. It does appear that at a minimum some evidence  
12 is going to be necessary.

13 So we're going to be in recess for a few  
14 minutes. Thank you.

15 (Whereupon a recess was taken.)

16 (Whereupon the court reconvened and the following  
17 proceedings were entered of record.)

18 THE COURT: All right. I'm back on the record  
19 in 2008 JV 0141. This matter is here today on a verified  
20 petition for paternity pursuant to Title 19 which is our  
21 Children's Code in Colorado and also to enjoin the  
22 adoption which also apparently under the Children's Code  
23 and this petition was filed on January 16<sup>th</sup>, 2008. I  
24 have the return of service in the Court's file and the  
25 Court takes judicial notice of its files and the return

1 of service is February 1<sup>st</sup>, that's when the petition was  
2 apparently served on the Respondent Mother. The  
3 Respondent Mother had also filed a motion to continue a  
4 hearing, that motion was filed with the Court on February  
5 12<sup>th</sup>. The Respondent Mother also filed a response to the  
6 paternity petition that was on February 12<sup>th</sup> and then on  
7 February 26<sup>th</sup>, an emergency motion for the forthwith  
8 hearing was filed, that's the hearing I'm having at this  
9 time that's saying that -- and the first paragraph says  
10 that the Respondent Mother gave birth in Utah to the  
11 parties' baby daughter and that occurred within the last  
12 five days.

13 The question that I raised before I took a  
14 recess and I have discussed this and researched it some  
15 myself, I've discussed it with my colleagues, but I have  
16 a question and that obviously is the question related to  
17 jurisdiction of this Court and subject matter  
18 jurisdiction. And more specifically that is with respect  
19 to I understand this paternity case was filed but it was  
20 filed -- and there's no apparent disagreement that it was  
21 filed before the child was born and then there is  
22 representation that has been made to the Court that the  
23 child has now been born but the child was born in the  
24 state of Utah, not in the state of Colorado.

25 So while there are generally speaking two

1 components to jurisdiction, one is jurisdiction over the  
2 parties, that would include obviously the Mother and the  
3 father who are here today in court, have entered their  
4 appearances and no one has question as to jurisdiction  
5 over them as mothers and fathers. And in fact responses  
6 have been filed but then of course there's also the  
7 second question which is really the first which is  
8 subject matter jurisdiction over the issue of determining  
9 paternity. This case was filed before the child was  
10 born, the child has since been born and is in apparently  
11 another state and the child is apparently not in Colorado  
12 then at least according to the information that has been  
13 submitted to me has never been in Colorado.

14 So what I need to have guidance from the  
15 parties on and I'll direct that in just a moment is the  
16 parties are going to need to brief to me do I have  
17 subject matter jurisdiction in this case. And I  
18 understand that the parties -- both parties are concerned  
19 and feeling that time is critical to them and I  
20 understand that. So I will obviously be researching that  
21 issue myself but I would order that the parties brief  
22 that issue and have to me by 5 o'clock tomorrow, a brief  
23 as to whether or not I have subject matter jurisdiction  
24 rather the subject matter jurisdiction is here in the  
25 juvenile Court in Colorado or is it with some court



1 perhaps in the state of Utah.

2 (Whereupon the Court and the clerk had a discussion  
3 regarding scheduling and was not herein transcribed.)

4 THE COURT: So I'll reschedule this for Friday  
5 afternoon then and if the parties then can argue to me  
6 that I have subject matter jurisdiction and if you do  
7 argue to me that I have subject matter jurisdiction, you  
8 also need to be able to brief to me what authority I  
9 have, you know, to issue this decree of paternity over a  
10 child that is apparently not in the state of Colorado and  
11 apparently has never been in the state of Colorado.

12 My question is, you know, obviously I don't  
13 think I need to say much more but obviously it's coming  
14 up in my mind, you know, is this a case that is -- needs  
15 to be in Colorado or does it need to be in Utah?

16 MS. TERRY: Your Honor? I apologize. Earlier  
17 I was hoping to be able to present some exhibits to you,  
18 I didn't know if I should do that before we convene today  
19 or if I should bring those on Friday.

20 THE COURT: If we need to have an evidentiary  
21 hearing where exhibits and testimony is necessary then I  
22 can do that on Friday. But I need to know what the law  
23 is first because the law sets up the framework, what I  
24 call the framework for analysis and if I don't have  
25 subject matter jurisdiction, then there's no -- I have no

1 authority to even have an evidentiary hearing.

2 All right. Actually by 4 o'clock tomorrow is  
3 when I would need that -- those briefs because that's  
4 when the clerk's office closes. You can file a copy with  
5 the clerk's office but if you would hand-walk something  
6 down to my chambers as well, that would be fine.

7 MS. TERRY: Just right here, just knock on the  
8 door there?

9 THE COURT: Yes.

10 MS. TERRY: And what time on Friday are we  
11 having the --

12 THE CLERK: 1:30.

13 THE COURT: 1:30.

14 MS. TERRY: Thank you.

15 THE COURT: So I hope I've been sufficiently  
16 clear.

17 MS. BERKELEY: I think so.

18 THE COURT: All right. And I would also then  
19 just urge the people to perhaps be looking to other  
20 venues other than this one if they believe they should be  
21 so looking. Thank you.

22 MS. BERKELEY: Thank you.

23 MS. TERRY: Thank you, Your Honor.

24 (Whereupon these proceedings were concluded.)

25

TRANSCRIBER'S CERTIFICATION

STATE OF COLORADO     )  
                                  )     SS.  
COUNTY OF JEFFERSON )

I, Tami S. Ondik, do hereby certify that I have listened to the electronic recording of the foregoing; further that the foregoing transcript pages 1 through 25, were reduced to typewritten form from an electronic recording of the proceedings held February 27, 2008, in the Denver County District Court, in the matter of In Re the Matter of Unborn Manzanares-Terry and concerning Robert Manzanares and Carie Terry; and that the foregoing is an accurate record of the proceedings as above transcribed in this matter on the date set forth.

DATED this 28<sup>th</sup> day of March, 2008.

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Tami S. Ondik, AAERT CET\*\*D-301