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Final Hearing Delayed

Father Wins Temporary Custody

by Deborah Gregg

In the most recent development of the Tina Fishman child custody case, in which Tina has been branded an unfit mother because of her radical politics, the court granted Tina's ex-husband Ted Fishman an additional six months of physical custody. This extension of what Tina calls a "legal kidnapping" will make it more difficult for Tina to eventually win back physical custody of Riva.

Tina's legal assistance team called Judge Ragan's ruling "a very slick legal maneuver aimed at continuing the kidnapping." Ragan ruled that there was no legal basis for Commissioner Browning's August 1981 emergency order which temporarily removed physical custody of Riva from Tina, who had had sole custody since her divorce seven years before. (Browning had found that Tina's "interests other than parenting," i.e. radical politics, constituted an emergency justifying such an order.)

"You people question authority. You sit in the back of the court snickering and acting out of order"

Under the Uniform Child Custody Jurisdiction Act (UCCJA), designed to prevent legal kidnapping, only "extreme circumstances" of physical abuse or abandonment would give a court jurisdiction to issue an emergency order over-riding the custody ruling of the child's home state (in Riva's case, Illinois). Ragan ruled that such circumstances were not present in 1981, when Browning found Riva "unquestionably well-cared for" by Tina.

On the other hand, after chiding Browning for making up an emergency where none existed, Ragan admitted in his ruling that he was "resorting to somewhat imaginative and innovative interpretations" of the UCCJA. The "emergency" which he used to justify jurisdiction and a ruling in Ted's favor was that to give Riva back to Tina "without appropriate lead time . . . would be psychologically traumatic" to Riva. The Illinois court will supposedly decide final custody six months from now.

Tina's catch-22, which Ragan freely acknowledged in his decision, is that the longer Riva stays in California the less likely an Illinois court will be to claim jurisdiction as her home state. That Illinois has no intent to claim jurisdiction was made clear during Riva's Christmas visit with Tina in Chicago; papers were filed in the Illinois court and the court deferred to the California

In her December 22 press statement, Tina declared, Ragan's "ruling gives . . . my ex-husband, bomb-maker (Fishman works for Lockheed Missile and Space Company), six months so that he can walk into the Illinois court with a total of two years [of custody] under his belt and therefore claim that California is now Riva's real residence and that the best interests of the child would dictate not to move her. All of this is just a fancy legal cover and a new packaging for the same political attack aimed at women revolutionaries."

Ragan refused to admit into evidence the expert testimony of feminist attorney Marion Neudel which stated that a growing trend in child custody cases is for women who are considered defiant in any way to lose their children to their more conservative ex-husbands.

At one point in the hearing Tina declared her two cases "a legal kidnapping" and "a political railroad." Ragan responded, "I will not have terms like [those] used in my court. If you continue to make political statements this is only going to work against you and it will not go well for you in terms of custody."

Ragan refused to read or consider any letters or petitions in support of Tina. He also criticized Tina's supporters in the courtroom, saying, "You people question authority. You don't like the police. You don't like

the courts. You sit in the back of the court snickering and acting out of order."

All pretense of courtroom order was lost when Virginia Cholesterol and Mrs. Banks of Ladies Against Women came in with placards reading "Better Ted Than Red" and "Father Knows Best," but they never got to use the ditty they had written for the occasion, "Mommies, mommies don't be commies. Stay at home and fold pajammies. Or they'll take your kids away. To live with daddies who build bombies."

Ragan allowed Ted's lawyer to probe extensively into Tina's political activities but did not allow Tina's lawyer to find out anything about Ted's political commitments, not even whether or not he has a security clearance for his computer work at Lockheed.

A psychiatrist hired by Ted accused Tina of child neglect based on her non-sexist home environment, saying "The child felt she didn't come first in her mother's life . . . her mother wasn't there for her . . . her stepfather cooked some of her meals." Ragan's decision statement compared Tina's "fanatical obsession with a political cause" to Ted's "stable, safe, religious and orderly environment, in an attractive, comfortable community."

Tina's press conference response was: "Personally I would characterize [Ted Fishman's environment] as

a stultifying atmosphere calculated to dull the brain and to turn out little robots ready to follow orders and go off to war (very soon) for the glory of the U.S. empire."

Political work to aid Tina in regaining child custody, including legal action in California and Illinois, continues. □

Tina is available for speaking engagements and can be contacted at (415) 781-4989. (312) 528-5353

Courts Back Legal Kidnap

by RALPH JOHANSEN

With the help of a Redwood City court, a Peninsula nuclear physicist who works for Lockheed Missile and Space Company has for two years succeeded in "legally kidnapping" a ten year old daughter from her mother because of the mother's radical politics. It had been a "legal" kidnapping because it was ordered to take place by a court without jurisdiction. Probation reports and memoranda of the court amply document the political basis. The "ransom" demanded by father and court from the mother is political and domestic docility.

In July 1981 the father, Ted Fishman, brought his daughter to California for a regularly scheduled summer visit. Before doing so he had assured his ex-wife Tina Fishman of Chicago that he would return her daughter Riva promptly even though he had already filed an order to show cause ("OSC") in San Mateo County Superior Court two weeks previously. In his OSC, he declared that the mother was a radical whose political activities caused her to neglect Riva.

Riva had been with Tina Fishman since a dissolution decree in 1974 in Indiana. Ted had on several occasions attempted to gain custody of Riva. The Indiana court had found in 1977 when Riva was six that her father had "irresponsibly programmed" her to "memorize certain lines" stating that she did not want return to Indiana.

That court had also found a "good interaction and relation" between Tina and daughter Riva.

This time, however, Ted Fishman found the sympathetic ear of California Court Commissioner James Browning, who as U.S. Attorney in San Francisco had prosecuted Patty Hearst. Ignoring a probation deputy's findings that Riva's needs were met by her mother and that no basis for jurisdiction existed, Browning appointed a new probation deputy. This deputy questioned Tina closely about her political activities, reporting to the court that Riva was being taken to Revolutionary Communist Party meetings and rallies, and that she was provided no religious training by Tina.

Browning assumed jurisdiction and ordered a full investigation partly on the basis of the child's testimony to the effect that she spent time with "a myriad of babysitters" and that her mother was away from the house a good deal of the time on political matters.

In so acting Browning had ignored a valid existing award of custody by the Indiana court and the fact that custody jurisdiction existed in Illinois, where Tina and Riva had lived for the preceding three years. He flouted the express provisions of the Uniform Child Custody Jurisdiction Act (UCCJA), passed by 44 states including California (Civil Code sec. 5150 et. seq.). That act states that to avoid forum shopping and "harmful effects to the well-being" of the child, courts must respect the valid custody decrees of sister states and cannot assume jurisdiction unless it is found that an "emergency" exists, further described as a situation where the child, present

in California, is subjected to or threatened with abuse or neglect.

POLITICS AS NEGLECT

Browning found that Tina was awaiting felony charges as a protester



Tina Fishman, Parent as Politico.

at Peoples Republic leader Deng Xiaoping's visit to Washington, D.C. (she has since completed probation on a misdemeanor count). Enunciating a new doctrine, Browning found that Tina was "intentionally withholding the intangible necessities of parenting" and that this was neglect under the statute.

After interminable delays in unsuccessful motions and in obtaining probation reports, Judge Gerald Ragan finally overruled Browning in December 1982, declaring that no jurisdiction ever existed and that "emergency" under the Uniform Act

means "imminent child abuse". He also stated that Tina was "ready, willing and able" to take custody.

However, Judge Ragan concluded that Riva had been under the "intense and effective influence" of Ted and his household for a year and a half, and that Riva was "developing...hatred for Tina." He held that the best interests of Riva required that custody be awarded Ted through July 1, 1983, to allow for a "gradual period of adjustment" to avoid "psychological trauma." Tina was permitted to see Riva for nine days in December and if that worked out, over Easter holidays. No mention was made of the additional consequences of the "Intense and effective influence" to be asserted in the father's home during the ensuing six months, nor of how the mother was to cope with this situation in two brief holidays. Judge Ragan also took aim at Tina's political associations, calling her "doctrinaire" and accusing her of a "fanatical obsession with a political cause."

Ted Fishman has accomplished his objective, and by selecting a sympathetic forum in violation of the Uniform Act, getting Riva back to a safe haven in Silicon Valley.

Tina's attorney, Guild member Paul Wolf, said that no decision has yet been made whether to go next to the California or to the Illinois courts. □

The Conspiracy has been asked to add that the Committee Against the Kidnapping of Mao Defendant's Daughter states that awards of costs and fees in the case were far short of actual expenses. They request that contributions be sent to them c/o 17 Brenham Place, SF 94108

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