

Lesbian mother wins first fight in custody battle

Judge's ruling gives Debie Hackett standing to fight for visitation with son from previous relationship

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Dallas District Judge David Hanschen ruled in June that a non-biological mother could assert her right to pursue visitation with and access to a child she raised since birth.

Kim Ferris, the biological mother, argued that Texas law prohibits the non-biological parent from seeking the right of visitation.

She and former partner Debie Hackett decided together to conceive a child with donated sperm and raised and cared for the child together.

Hanschen's ruling was one simple sentence.

"After reviewing the pleadings of counsel, relevant case law, and my own hearing notes, the court denies Kimberley Ferris' plea to jurisdiction in the above referenced cause," he wrote to the three attorneys involved.

The ruling did not grant visitation, but denied Ferris' move to dismiss the case and allowed Hackett to continue her pursuit of parental rights.

Hackett said she knew Ferris for 10 years and they had been in a relationship since 2007. They discussed having children early in their relationship and decided Ferris would have a child first, based on her age, Hackett said.

Ferris conceived with sperm donated by Carlos Rojas, a gay man who both women had known for seven years.

The women's relationship ended in November 2009.

"When Oliver was 11 months old, she asked me to leave," Hackett said.

Hackett moved out of the house and said she gave Ferris 30 days "to come to her senses."

After the women broke up, Ferris filed to change the child's name from Hackett-Ferris.

After reading a story in Dallas Voice in December about a court decision in favor of Kristie Vowels, a non-biological mother, Hackett retained legal counsel.

Attorney Jonathan Winacour, who represents Hackett, said Texas law gives a non-custodial par-

ent that has cared for a child for at least six months just 90 days to file a motion.

Ferris and Rojas retained separate attorneys in the case, but neither returned calls from Dallas Voice.

Before the child's birth, Ferris wrote that she wanted Hackett to have "all the rights and responsibilities available in the state of Texas as a parent."

The hearing established that Hackett shared full duties as a parent. To prove her involvement, she produced records that showed she paid for clothing, food, diapers, development classes and health care.

Their pediatrician testified that she understood that Hackett had medical decision-making power.

Winacour emphasizes that this case is not about establishing same-sex marriage, but simply about what is best for the child.

In his arguments, Winacour made the case that the father is not a legal resident and is less likely to be able to maintain a residence within 100 miles. The father's paternity was not established for a year and was not on the birth certificate until after Hackett and Ferris broke up.

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Winocour said that waiting a year is grounds for establishing abandonment in Texas.

Hackett said she is not trying to prevent Rojas from participating in raising the child. She simply wants standard visitation rights. She said she is in the best position to provide health insurance and has a stable home and income to benefit her son.

"The three of us made a contract to bring a child into this world. I'm not going away. This is my son," Hackett said.

On Wednesday, July 14, Winocour filed a motion seeking an order compelling mediation in advance of a hearing on temporary orders. All sides would be required to appear before a mediator.

If mediation were successful, Hanschen's court would presumably instate those orders. If not, the case would return to his court for further hearing. ■