

No. 11-212

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In The  
**Supreme Court of the United States**

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Craig Reeves,

*Petitioner,*

v.

Jane Roe and John Roe,

*Respondents.*

—◆—  
**On Petition For A Writ Of Certiorari  
To The Supreme Court Of South Carolina**

—◆—  
**Brief In Opposition**

—◆—  
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## Statement Of Facts

Craig Reeves began having sex with Victoria A. when she was 15 years old. Petition App. 2. Because Reeves was then 19 years old, South Carolina law deems this criminal sexual conduct in the second degree.<sup>1</sup> The two never married or lived together; both lived with their respective parents. Petition App. 2 n. 1, 3, 5.

By May 2008, Victoria had reached the age of consent and discovered that she was pregnant. She told Reeves two months later in July 2008. He had another girlfriend by then. Petition App. 2.

That August, Victoria's mother telephoned Reeves's mother and yelled at her that Victoria was pregnant and that Reeves needed to come back and accept his responsibilities as a father. Victoria's mother later told Reeves personally that he needed to grow up, come back to her daughter, and raise his child. Reeves offered to pay for an abortion and texted Victoria that, "We dnt have a baby" and to "Go hav an abortion or sumthn get a life stop txtn me damn." Petition App. 2-3 and n. 2.

By September 2008, Reeves discovered that Victoria planned to put the child up for adoption and texted her, "If ur putn it w people and ur happy then f\*kn stop begin me 2 cum back b there its not gna happen." Petition App 4. He texted her weeks later to

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<sup>1</sup> See S.C. Code Ann. § 16-3-655(B)(2).

“leav me the f\*k alone im nt gna text you back and I want nothing 2 do w u so jus get out mx life already.”  
Petition App. 4.

Some five or six months into the pregnancy, Victoria in November 2008 went to Reeves’s work and he saw that she was pregnant. Petition App. 4. While he indicated that he wanted custody of the child, he and Victoria offered different versions on whether he was serious. She testified that he was never serious about raising the child. Petition App. 7.

Reeves never attempted to see Victoria or confirm her pregnancy from the time he was first told about the pregnancy in July 2008 until he saw her that November. Petition App. 3-4. After that November, Reeves never took Victoria to a doctor’s appointment, never repaid the Roes any of the money that they paid for Victoria’s incidental expenses, and never offered to help Victoria’s mother with any of the expenses that she incurred in taking care of her pregnant teenager. The Roes took Victoria to the doctor and they and her mother paid these costs. Petition App. 3, 17; Opposition App. 6.

Reeves at the time was making nine dollars an hour, earned \$ 900 in average monthly commissions, and earned an undisclosed amount of income from a second job. Petition App. 5. He also had \$ 4000 in savings and \$ 34,000 in property. From those assets, Reeves bought some diapers for Victoria’s other son; paid eleven dollars for some clothes for her; and purchased some diapers, baby clothes, and other items

that he placed in his parents' spare bedroom. Petition App. 4-5. He also repaired Victoria's mother's car and unsuccessfully offered Victoria \$ 100, which she refused. During this same time, Reeves was paying \$ 500 a month for cars and \$ 80 a month just for tires. Petition App. 5; Opposition App. 10-11.

The child was born in March 2009. Victoria signed an adoption consent form and the Roes took the infant home the day after its birth. Petition App. 6-7. Later that month, the family court ordered that custody remain with the Roes and ordered Reeves to pay child support every Friday if paternity tests determined that he was the father. Petition App. 7, 64-65.

The amount of child support ordered was calculated pursuant to the state's Child Support Guidelines and Reeve's sworn financial declaration. Petition 63; Opposition App. 8-16. This declaration discloses \$ 153 of Reeve's \$ 900 average monthly commissions. It does not disclose his \$ 4000 in savings or any income from his second job. Petition App. 5 and n. 5; Opposition App. 8-12. Had Reeves disclosed all of his commission income, the Child Support Guidelines would have required him to pay roughly \$ 100 more a month in child support. Because he failed to disclose any income from his second job, the Roes could not calculate how much more Reeves would have been ordered to pay had he disclosed that income.

Reeves never paid the child support weekly as ordered. He waited 20 days after the account was set

up before making a partial payment. He then brought it current but yet again let it lapse into arrears. He did not bring the account current again until the day before the merits hearing. Petition App. 7, 18 n. 9; Opposition App. 2-5. He testified that he did not pay the child support as ordered because he went on vacation and other places out of town. Opposition App. 4-5.

Almost a year after the Roes took the child home with them, the family court ordered them to transfer custody to Reeves by March 1, 2009. Petition App. 58-60. The family court cited *Lehr v. Robinson*, 463 U.S. 248 (1983), to recognize that unwed fathers lack substantial constitutional protection unless they demonstrate a full commitment to the responsibilities of parenthood. Petition App. 41-42, 53-54. The family court then applied state law to determine if Reeves had in fact made the required demonstration. In applying state law, the family court described S.C. Code Ann. § 63-9-310(A)(5)(b) as “controlling” and “required” unless Reeves was thwarted from complying. Petition App. 38, 40, 44, 52-55. It concluded that Reeves satisfied these state-law standards. Petition App. 52-57.

The child’s Guardian Ad Litem and the Roes separately moved to stay the child’s transfer to Reeves pending a state-court appeal. Petition App. 58-59. These motions were denied. Petition App. 60.

In family court appeals, South Carolina appellate courts are free to find facts in accordance with the appellate court’s own view of the preponderance of

the evidence. Petition App. 8. The Roes thus asked the Court to factually determine whether:

- Reeves was thwarted from complying with S.C. Code Ann. § 63-9-310(A)(5)(b)
- Reeves complied with S.C. Code Ann. § 63-9-310(A)(5)(b)
- an adoption was in the child's best interests.

Opposition App. 17-19, 24-35.

Reeves's response never suggested to the South Carolina Supreme Court that S.C. Code § 63-9-310(A)(5)(b) violated his constitutional rights. He instead argued that the state-law thwarting doctrine excused his compliance with the state statute, or that he complied with the state statute, and that his custody was in the child's best interests. Opposition App. 20-23.

The South Carolina Supreme Court did not address whether the state statute violated federal due process. Rather, it stated, "In enacting section 63-9-310(A)(5)(b), the General Assembly set the minimum standards an unwed father must meet in a timely fashion to demonstrate his commitment to the child, and his desire to 'grasp the opportunity' to assume full responsibility for his child." Petition App. 10. It also noted the statute's distinction between couples who have and have not lived together without addressing equal protection. Petition App. 10 n. 7.

In applying state law, the South Carolina Supreme Court factually found that Reeves was not

thwarted from complying with S.C. Code § 63-9-310(A)(5)(b), that he did not comply with the statute, and that he “did not fully ‘grasp [the] opportunity’ to come forward and demonstrate a full commitment to the responsibilities of parenthood through prompt and good faith efforts.” Petition App. 1-18. It ordered the child’s immediate return to the Roes. Petition App. 2, 18.

Reeves petitioned the state Supreme Court for rehearing but again failed to argue that South Carolina law violates federal due process or equal protection. Opposition App. 26-45. He instead twice acknowledged that the South Carolina General Assembly set the “minimum standards” required to demonstrate a commitment to parenthood, and recognized that the South Carolina Supreme Court is the fact-finder in these cases. Opposition App. 30-32, 43. He argued that the Court misapprehended or overlooked the facts. Opposition App. 26-45.

On May 18, 2011, the state Supreme Court denied the petition for rehearing. Petition App. 66-67. The child’s custody was transferred back to the Roes shortly thereafter. Unlike the Roes, Reeves did not move for a stay to try to block the child’s transfer pending further proceedings.



## Reasons To Deny The Petition

Reeves's petition should be denied because:

- he did not preserve the questions presented
- he lacks Article III standing to raise his equal protection challenge
- courts uniformly hold that the responsibilities of fatherhood begin at conception
- South Carolina's thwarting doctrine protects unwed birth fathers.

### **1. The questions presented were not preserved.**

Reeve's federal due process and equal protection challenges to S.C. Code Ann. § 63-9-310(A)(5)(b) were never addressed by or properly raised to the South Carolina Supreme Court. This Court almost unfailingly refuses to consider such unpreserved federal-law challenges to state-court decisions. *Howell v. Mississippi*, 543 U.S. 440, 443 (2005) (*per curiam*).

### **2. Reeves lacking standing to raise the equal protection challenge.**

This Court likewise enforces Article III standing and thus requires a redressable injury in fact. *Allen v. Wright*, 468 U.S. 737, 751 (1984). Reeves's equal protection challenge does not qualify.

Reeves argues that § 63-9-310(A)(5) impermissibly distinguishes between those unwed fathers who do and do not openly live with the child or the child's mother for a continuous period of six months immediately preceding the placement of the child for adoption. But this "living together" distinction does not injure Reeves because he "did not fully 'grasp [the] opportunity' to come forward and demonstrate a full commitment to the responsibilities of parenthood through prompt and good faith efforts." Petition App. 17. Even if the "living together" provision is struck down, Reeves is left with his failure to promptly grasp the responsibilities of parenthood. A favorable ruling on the "living together" provision will thus not redress Reeves's other shortcomings.

The decision that Reeves relies on to argue for an equal protection violation confirms this lack of standing. In *Matter of Raquel Marie X.*, 76 N.Y.2d 387, 559 N.E.2d 418, 559 N.Y.S.2d 855 (N.Y. 1990), *cert. denied*, *Robert C. v. Miquel T.*, 498 U.S. 984 (1990), the New York Court of Appeals struck down a statute that required unwed birth fathers to live with the child's mother to veto a newborn's adoption. The Court then held, however, that custody requires more than an assertion of custody. The birth father must still manifest parental responsibility during the six months immediately preceding the newborn's placement for adoption. Payment or lack of payment of pregnancy and birth expenses, the Court held, is a factor. *Id.* at 408, 559 N.E.2d at 428, 559 N.Y.S.2d at 865.

The New York Court of Appeals applied these factors to find that one birth father had the right to withhold consent because he did everything possible to manifest and establish his parental responsibility virtually from the time he learned of the pregnancy. *Id.* at 408-409, 559 N.E.2d at 428, 559 N.Y.S.2d at 865. But the Court remanded for a determination on whether another father made the required efforts. On remand, the court held that the birth father's consent was not required in part because he made few financial contributions during the pregnancy. *Matter of Raquel Marie X.*, 173 A.D.2d 709, 712-713, 570 N.Y.S.2d 604, 606-607 (N.Y.App., 2d Dept., 1991).

In yet another case, a New York appellate court likewise held that a birth father's consent to a newborn adoption was not necessary in part because he provided virtually no financial support during the pregnancy. *Matter of John E.*, 164 A.D.2d 375, 379 and n. 1, 564 N.Y.S.2d 439, 442 and n. 1 (N.Y.App., 2d Dept., 1990).

Here, the South Carolina Supreme Court factually found that Reeves "did not fully 'grasp [the] opportunity' to come forward and demonstrate a full commitment to the responsibilities of parenthood through prompt and good faith efforts." Petition App. 17. Like the remanded birth father in New York, this finding precludes the necessity of Reeves' consent whether or not the separate "living together" provision violates equal protection. There is no redressable injury in fact.

### **3. Courts uniformly hold that unwed fathers must grasp the responsibilities of parenthood during the pregnancy.**

Reeves's petition dwells on the relationship that he says he developed with the child after the child's birth, including the time that he had custody only because the courts unfortunately denied the Guardian Ad Litem's and the Roes' motions to stay the child's transfer to Reeves pending the state-court appeal. Reeves uses this to suggest that birth fathers can wait until the child's birth before they accept the responsibilities of parenthood. This is not the law. Like New York, courts uniformly hold that birth fathers may lose their opportunity for parenthood if they fail to promptly demonstrate a full commitment to parenthood during the pregnancy.

In the Florida case that Reeves cites, for example, the Court remanded for the trial court to determine if the birth father after learning of the pregnancy paid "a fair and reasonable amount of expenses incurred in connection" with the pregnancy and birth. *Heart of Adoptions, Inc. v. J.A.*, 963 So.2d 189, 201-202 (Fla. 2007). The Court concluded that the birth father's parental rights "may be terminated" if the trial court found that he did not make the required financial contributions. *Id.* at 202. *See also Matter of Adoption of John Doe*, 543 So.2d 741 (Fla. 1989), *cert. denied*, *Roe v. Doe*, 493 U.S. 964 (1989) (holding that a birth father abandoned the child pre-birth by failing to provide medical expenses and financial support during the pregnancy).

The California Supreme Court issued another leading case on this point. In *Adoption of Michael H.*, 10 Cal.4th 1043, 898 P.2d 891, 43 Cal.Rptr.2d 445 (1995), *cert. denied*, *Mark K. v. John S.*, 516 U.S. 1176 (1996), the birth father argued that he had a right to wait until the child was born before making efforts at parenthood. The Court disagreed and identified five State interests in requiring birth fathers to act more promptly:

- the mother needs help with prenatal care and may have other physical and emotional needs during the pregnancy
- the mother needs to know the father's intentions before the birth to make an informed decision about whether to have an abortion, place the child for adoption, or keep the baby
- adoptions will be frustrated, discouraged, and delayed if a birth father may wait until after a newborn is placed for adoption before claiming his parental role
- the child may be harmed by the disruption of familial relationships that may occur after years of litigation
- adoptive parents are harmed emotionally if the child is separated from them after a prolonged period.

*Id.* at 1055-1058, 898 P.2d at 898-899, 43 Cal.Rptr.2d at 452-453.

After identifying these interests, the Court held that the father's consent to the adoption was not necessary because he failed to take prompt steps during the pregnancy. *Id.* at 1060, 898 P.2d at 901, 43 Cal.Rptr. at 455.

New York, Florida, and California are not alone. The Kansas Supreme Court recently surveyed decisions on newborn adoptions and agreed that a birth father's consent to an adoption is not necessary if he does not demonstrate a full commitment to parenthood during the pregnancy. *Adoption of A.A.T.*, 287 Kan. 590, 606-612, 196 P.3d 1180, 1192-1196 (2008), *cert. denied*, *Peterson v. Jackson*, 129 S.Ct. 2013, 173 L.Ed.2d 1088 (2009).

Other similar decisions, statutes, and proposed uniform acts include:

Ala. Code § 26-10A-9(a)(1) (defining child abandonment to include "the failure of the father, with reasonable knowledge of the pregnancy, to offer financial and/or emotional support for a period of six months prior to the birth");

*X.T. v. M.M.*, 2010 Ark.App. 556 (Ark.App. 2010) (holding that a birth father's opportunity to accept the responsibilities of parenthood begins at conception and that his consent was not necessary because he neither offered nor provided support during the pregnancy or prenatal care);

*In re D.S.P.*, 233 Ga.App. 346, 504 S.E.2d 211 (Ga.App. 1998) (holding that a birth father abandoned

his opportunity interest in the child by his conduct during the pregnancy and that his disregard during the pregnancy is as significant as a disregard after the child's birth);

Idaho Code § 16-1504(2)(b)(iii) (providing that a birth father's consent to a newborn adoption is not required if he knows about the pregnancy and fails to pay "a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his means, and when not prevented from doing so by the person or authorized agency having lawful custody of the child");

*In re H.M.M.*, 754 So.2d 425 (La.App. 2000) (affirming the termination of a birth father's parental rights where he did not provide financial support during the pregnancy, did not contribute to the medical expenses of pregnancy or birth, and did not consistently support the child after birth);

*Doe v. Attorney W.*, 410 So.2d 1312 (Miss. 1982) (holding that a birth father abandoned his child during the pregnancy in part because he suggested an abortion and refused to help pay for prenatal care);

Montana Code Ann. § 42-2-610(4)(b) (providing that a birth father's consent to a newborn adoption is not required if he knows about the pregnancy and fails to pay "a fair and reasonable amount of the expenses incurred in connection with the pregnancy and the child's birth in accordance with the putative father's means when not prevented from doing so by

the person or authorized agency having lawful custody of the child”);

Nebraska Revised Statutes § 43-104.22(5) (providing that an unwed father’s consent to an adoption is not required if “the father had knowledge of the pregnancy and failed to provide reasonable support for the mother during the pregnancy”);

Nevada Revised Statutes § 128.011 (providing that a mother is “abandoned” if “the father or putative father has not provided for her support during her pregnancy”);

*Adoption of Hart*, 62 Ohio App.3d 544, 577 N.E.2d 77 (Ohio App. 1989) (holding that a birth father willfully abandoned his newborn in part because he failed to support the mother during her pregnancy);

*Adoption of L.D.B.*, 246 P.3d 456 (Okla.App. 2010) (holding that a birth father’s opportunity to accept the responsibilities of parenthood begins at conception and was lost by failing to investigate the mother’s claim that she was pregnant and by failing to provide support during the pregnancy);

Uniform Adoption Act of 1994, § 3-504(c)(1)(i) (providing for the termination of an unwed birth father’s parental rights if he fails to “pay reasonable prenatal, natal, and postnatal expenses in accordance with the respondent’s financial means” and fails to prove a “compelling reason” for not doing so).

*In re Baby Girl K*, 113 Wis.2d 429, 335 N.W.2d 846 (1983), *appeal dismissed*, *Buhse v. Krueger*, 465

U.S. 1016 (1984) (holding that the opportunity to exercise parental responsibilities begins before the child's birth and that this does not violate equal protection).

#### **4. South Carolina's thwarting doctrine protects unwed birth fathers.**

Reeves lastly misstates South Carolina law by arguing that it prevents birth fathers from fully demonstrating their commitment to parenthood or the court from considering evidence other than financial contributions. South Carolina law allows birth fathers to present all of the evidence that they wish to present on their commitment to parenthood in determining if their efforts at parenthood were thwarted.

South Carolina law does not require strict compliance with the financial contributions required by S.C. Code Ann. § 63-9-310(A)(5)(b) if a father's ability to cultivate a relationship with his child was thwarted. Petition App. 10-11. In *Abernathy v. Baby Boy*, 313 S.C. 27, 437 S.E.2d 25 (1993), the Court created this thwarting doctrine to prevent a mother from subjecting the birth father's constitutional right to her whims. Petition App. 11.<sup>2</sup> State law holds such thwarted birth fathers to lower standards. Petition App. 13 and n. 8.

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<sup>2</sup> Other states have statutes to the same effect. *See, e.g.*, Ala. Code § 26-10A-9(a)(1) (father must have "reasonable knowledge of the pregnancy" before financial or emotional support is required); Idaho Code § 16-1504(2)(b)(iii) (financial contributions are not required if father is prevented from making them);

(Continued on following page)

In this case, the state Supreme Court thoroughly explored the record to determine if thwarting occurred “to establish the proper standard under which we will evaluate Father’s contributions.” Petition App. 11. It then reviewed Reeves’s suggestion to Victoria to have an abortion, his telling her that he was happy with giving the baby up for adoption, and his one-time offer of \$ 100. Petition App. 12-13. From this record, the Court concluded that it was “not persuaded he [Reeves] would have been so easily thwarted in his efforts to assume parental responsibilities by this sixteen-year old girl who did not hide from him as in *Abernathy*, but continued to live in the same house throughout her pregnancy and delivery.” Petition App. 13.

The Court did not focus on whether Reeves made the required financial contributions until it first determined that he was not thwarted. Petition App. 14-15.

Reeves thus does not have state law to blame for his inability to demonstrate his commitment to parenthood. His own actions – and inactions – show that he “had the means and opportunity to provide more, but he simply chose not to and to rely on others to provide for Mother.” Petition App. 17. He “did not fully ‘grasp [the] opportunity’ to come forward and demonstrate a full commitment to the responsibilities

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Montana Code Ann. § 42-2-610(4)(b) (same); Nebraska Revised Statutes § 43-104.22(5) (father must have “knowledge of the pregnancy” before “reasonable support for the mother during the pregnancy” is required).

of parenthood through prompt and good faith efforts.”  
Petition App. 17.



### **Conclusion**

South Carolina law properly distinguishes between birth fathers who promptly demonstrate a full commitment to parenthood and those who do not. The South Carolina Supreme Court factually found that Reeves did not. To overcome this finding, Reeves wants this Court to grant birth fathers a constitutional right to escape the consequences of their actions during the pregnancy.

Reeves’s arguments for such a right are not preserved for review, fail for lack of standing, or misstate the law. The States have historically regulated family relationships and may legitimately require unwed fathers who can step up to step up during the pregnancy that they helped create.

Reeves’s petition for a writ of certiorari should be denied.

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MR. TEMPLE: All right.

THE COURT: All right.

MR. TEMPLE: Thank you, your Honor.

BY MR. TEMPLE:

Q. All right. The child support that you're ordered to pay is \$71.40 a week; is that right?

A. Yes, sir.

Q. All right. And \$68 and some of that is supposed to go for the support, the rest of it is Court fees; is that right?

A. I believe so.

Q. And you testified that at the depositions you were ready to write a check to my clients; isn't that right?

A. Yes, sir.

Q. Okay. And when the account was set up, and I'm not interested in the delay of getting the account set up, we all understand that, but when the account was set up, by then there was an accrual of child support that was owed, right?

A. Yes, sir.

Q. Okay. I'm going to hand you what's a printout from the Child Support Office.

A. Yes, sir.

Q. All right. When the file was set – when the file was finally set up so that you could start making payments how [299] much had accumulated there?

A. Be this one, right?

Q. Yeah.

A. 999 – \$999.60.

Q. Okay. And that was set up in the – the account was set up in September, right, '09; this past September?

A. Yes, sir.

Q. And when did you make a payment toward that \$999.60?

A. The end of September.

Q. Okay. The account was set up September 2nd and you made a payment September 20 – I mean – Yeah, September 22nd?

A. Yes, sir.

Q. 20 days later?

A. Yes, sir.

Q. Okay. And did you pay the whole \$999.60?

A. No, sir. I came in to see if it was still set up and see if it was set up and it was so I paid 500 because that's what I had on me and then I had to work and I came back when I had the rest of the money with me and got current.

Q. All right. And when did you get current at that time?

A. It'd be 10-05, I guess that's the way that's written?

Q. Right.

A. 10-05.

Q. October 5th you came back and brought it current?

[300] A. Yes, sir.

Q. All right. But you've never made a weekly payment have you?

A. No, sir. I actually went on vacation and when I got back from vacation, which was right before Court, I came in and made the payment.

Q. So is it your testimony that you went on vacation from October 5th until the 11th of November?

A. No, I went on vacation and then I came back and had my visitation with Chase and then I left and went other places and came back.

Q. Okay. So you had an accumulation from the 5th of October all the way up through the day before this hearing didn't you?

A. Yes, sir.

Q. And the day before this hearing you went in and paid \$357, didn't you?

A. Yes, sir.

Q. And that brought the account current then?

A. Yes, sir.

Q. But you never paid by the week?

A. No, sir.

Q. Do you understand that the Court order directed you to pay by the week?

A. Yes, sir.

[301] Q. But you just chose to ignore it?

A. No, sir. It's sometimes I didn't get my check until Friday, you know, sometimes I was out of town, just different things, but I did pay it, I did make sure it got paid.

Q. The day before the hearing?

A. Yes, sir.

Q. But yet you're ready, willing and able to take care of this child and pay whatever you need to pay to show you're doing – to demonstrate to the Court your interest in being a father?

A. Yes, sir.

Q. You're a responsible [sic] guy?

A. Yes, sir.

Q. Do you remember telling me in your deposition that you had never been arrested before?

A. Yes, sir.

Q. That wasn't true, was it?

A. It – I was never charged. I was arrested and by the time I got to the jail I was released and that's why it's null – whatever it is – is because it wasn't me.

Q. What did I ask you at your deposition?

A. Don't remember the exact words.

Q. Okay. I hand you the deposition again.

**(PAUSE)**

MR. TEMPLE: I apologize, Judge. If the Court could

\* \* \*

[309] Q. What did, what did Victoria do to keep you from paying money?

A. She just wouldn't accept anything. She wouldn't take anything, she didn't want anything from me because as I was told from her she was guided from the adoption agency.

Q. Okay. So you never – did you ever offer her money – her mother any money to help with expenses?

A. Her mother, no, sir.

App. 7

Q. You knew that she was getting money from the agency, right?

A. No, sir.

Q. Oh, you didn't know that?

A. No.

Q. How did you think she paid for the stuff she did pay for?

A. Didn't think she had much to pay for and her mother.

Q. But you testified that you went shopping with her and she bought stuff?

A. Yeah, I mean we got little things here and there. I mean we bought diapers and . . .

Q. How did she pay for them?

A. I paid for them.

Q. Oh, okay. So she never paid for anything when y'all went shopping?

A. No, sir.

\* \* \*

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STATE OF SOUTH	)	IN THE
CAROLINA COUNTY	)	FAMILY COURT
OF GREENVILLE	)	THIRTEENTH
Jane Roe and John Roe,	)	JUDICIAL CIRCUIT
Plaintiff(s)	)	FINANCIAL
	)	DECLARATION
Craig Reeves, Victoria	)	OF CRAIG REEVES,
[Name Omitted], John Doe	)	
Biological Father and	)	FILE NO.:
Baby Boy, an infant,	)	2009-DR-23-975
Defendant(s)	)	

---

**HUSBAND/FATHER**

Address: 28 Dogwood Drive, Travelers Rest

Age: 20

Occupation: Sales

Employer: O'Reilly Automotive

Employer Address: 202E Wade Hampton Blvd., Greer

**WIFE/MOTHER**

Address:

Age:

Occupation:

Employer:

Employer Address:

<b>GROSS MONTHLY INCOME</b>	<b>HUSBAND/ FATHER</b>	<b>WIFE/ MOTHER</b>
Principal Earnings from Em- ployment <sup>1</sup>	1,200.00	0.00
Overtime, Tips, Commission, Bonuses <sup>2</sup>	153.00	0.00
Pensions, Retirement, and Annuities income	0.00	0.00

App. 9

Additional Employment income	0.00	0.00
Social Security Benefits (SSA) and VA Benefits	0.00	0.00
Disability and Worker's Compensation Benefits	0.00	0.00
Unemployment and AFDC	0.00	0.00
Spousal or Child Support (from other marriage/relationship)	0.00	0.00
Dividends, Interest, Trust Income, and Capital Gains	0.00	0.00
Rental Income and Business Profits	0.00	0.00
Other (Specify):	0.00	0.00
Other (Specify):	0.00	0.00
Other (Specify):	0.00	0.00
<b>TOTAL GROSS MONTHLY INCOME</b>	<b>\$1,353.00</b>	<b>\$ 0.00</b>

<b>PAYROLL DEDUCTIONS FROM MONTHLY INCOME</b>	<b>HUSBAND/FATHER</b>	<b>WIFE/MOTHER</b>
Federal Income Tax <sup>3</sup>	100.00	0.00
State Income Tax	50.00	0.00
Social Security and Medicare Tax (FICA)	65.00	0.00
Self-Employment Tax	0.00	0.00
Health and Dental Insurance (Adult)	0.00	0.00
Health and Dental Insurance (Child)	0.00	0.00
Union Dues	0.00	0.00
Voluntary Retirement Contribution (401(k), 457, IRA)	0.00	0.00
Mandatory Retirement Contribution	0.00	0.00

Savings Plan	0.00	0.00
Other (Specify):	0.00	0.00
Other (Specify):	0.00	0.00
Other (Specify):	0.00	0.00
<b>TOTAL MONTHLY DEDUCTIONS</b>	<b>\$215.00</b>	<b>\$ 0.00</b>
<b>NET MONTHLY INCOME<sup>4</sup></b>	<b>\$1,138.00</b>	<b>\$ 0.00</b>

Estimate monthly expenses: (Specify which party is the custodial parent and list name and relationship of all members of household whose expenses are included.[sic]

<b>MONTHLY EXPENSES<sup>5</sup></b>	<b>HUSBAND/ FATHER</b>	<b>WIFE/ MOTHER</b>
Residential Rent Payment	0.00	0.00
Note or Mortgage Payment on Residence(s)	0.00	0.00
Homeowner's Insurance ( <i>If not Included in monthly mortgage protocol</i> )	0.00	0.00
Food and Household Supplies <sup>6</sup>	50.00	0.00
Utilities, Water, and Garbage Collection	0.00	0.00
Telephone and Cellular Phone	50.00	0.00
Medical, Dental and Disability Insurance Premiums (not deducted from paycheck)	0.00	0.00
Life Insurance Premium	0.00	0.00
Child Support (from other relationship)	0.00	0.00
Work Related Day Care	0.00	0.00
Spousal Support (from prior marriage)	0.00	0.00
Auto Payment	500.00	0.00

App. 11

Auto Insurance, taxes, gasoline, and maintenance <sup>7</sup>	150.00	0.00
<b>SUBTOTAL:</b>	<b>\$750.00</b>	<b>\$ 0.00</b>
Real Property Tax on Residence(s)	0.00	0.00
Maintenance for household <sup>8</sup>	0.00	0.00
Adult Clothing	40.00	0.00
Children's Clothing <sup>9</sup>	0.00	0.00
Cable Television, Satellite, and Internet/Online Services	0.00	0.00
Laundry and Dry Cleaning <sup>10</sup>	0.00	0.00
Medical and Dental Expenses (not paid by insurance)	0.00	0.00
Prescriptions, Glasses, and Contacts (not paid by insurance)	0.00	0.00
Children's incidental expenses <sup>11</sup>	0.00	0.00
School lunches, supplies, field trips, and fees <sup>12</sup>	0.00	0.00
Entertainment <sup>13</sup>	50.00	0.00
Adult Incidental expenses <sup>14</sup>	50.00	0.00
All Installment payments <sup>15</sup>	80.00	0.00
<b>SUBTOTAL:</b>	<b>\$ 220.00</b>	<b>\$ 0.00</b>
<b>TOTAL MONTHLY EXPENSES</b>	<b>\$ 970.00</b>	<b>0.00</b>

**INSTALLMENT LOAN PAYMENTS SECTION**

<b>Creditor</b>	<b>For</b>	<b>Monthly Payment</b>	<b>Balance</b>	<b>Owed by<sup>16</sup></b>
Brand Source	Tires	\$80.00	\$800.00	Craig

**OTHER DEBTS AND OBLIGATIONS NOT PAYABLE IN MONTHLY INSTALLMENTS**

<b>Creditor</b>	<b>For</b>	<b>Due Payment</b>	<b>Balance</b>	<b>Owed by<sup>16</sup></b>

Are you currently in Bankruptcy?  YES  NO

Are any obligations listed above, including mortgage and note payments, in arrears?  YES  NO

If yes, please list the obligations in arrears.

**ALL MARITAL PROPERTY KNOWN TO PARTIES**

<b>Assets</b>	<b>Husband/ Father</b>	<b>Wife/ Mother</b>	<b>Joint</b>
Cash and Money in Checking Account(s) <sup>17</sup>	427.00	0.00	0.00
Money in Savings Account(s), Credit Union, Money Mkt, or Cert. of Dep.	0.00	0.00	0.00
Value of Voluntary Retirement Account(s)	0.00	0.00	0.00
Value of Pension Account	0.00	0.00	0.00
Value of Publicly Held Stocks, Bonds, Securities, Mutual Funds <sup>18</sup>	0.00	0.00	0.00
Value of Privately Held Stocks and Other Business	0.00	0.00	0.00

Value of Real Estate – Net of Mortgage Balances <sup>19</sup>	0.00	0.00	0.00
Value of All Other Property <sup>17</sup>	34000.00	0.00	0.00
<b>TOTAL ASSETS</b>	<b>\$34,427.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>

**ANY NON MARITAL PROPERTY KNOWN TO PARTIES**

Description of Asset	Title Owner	Date of Acquisition	Source of Funds to Acquirer	Estimate Present Market Value

If total assets are less than \$300,000.00, sign and have notarized.

If total assets are greater than \$300,000.00, itemize assets by completing additional sections below and sign and have notarized.

**FINANCIAL ACCOUNTS SECTION<sup>18</sup>**

Owner	Name of Institution	Type of Account	Balance

**VOLUNTARY RETIREMENT ACCOUNTS AND  
PENSION ACCOUNTS SECTION**

<b>Type of Account</b>	<b>Value</b>

**PUBLICLY HELD STOCKS, BONDS, SECURITIES,  
MUTUAL FUNDS SECTION (NON-RETIREMENT)<sup>19</sup>**

<b>Name of Company</b>	<b>Number of Shares/ Type of Account</b>	<b>Value</b>

**REAL ESTATE SECTION<sup>20</sup>**

<b>Owner</b>	<b>Address</b>	<b>Value</b>	<b>Mortgage Balance</b>	<b>Mortgage Equity</b>

Sworn to and Subscribed before me )  
 )  
 this 19th day of March, 2009 )  
 )  
[Illegible] (SEAL) ) Craig Reeves  
 Notary Public for South Carolina ) *Signature*  
 )  
My commission expires: 5/20/2018 )

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<sup>1</sup> A recent pay stub should be attached to the Financial Declaration. To compute Principal Earnings from Employment, first determine whether you are paid semi-monthly, biweekly, or weekly. If you are paid semi-monthly, multiply the gross amount of your pay check by two. If you are paid biweekly, multiply the gross amount of your pay check by 26 and then divide by 12. If you are paid weekly, multiply the amount of your paycheck by 52 and divide by twelve. Round to the nearest whole dollar.

<sup>2</sup> To compute Overtime, Tips, Commission, and/or Bonuses, take an average of your monthly earnings from overtime, tips, commission, bonuses, etc. from the past three years or the length of employment if employed less than three years (including this year).

<sup>3</sup> To compute State, Local, and Social Security Tax deductions, use the same formula used to compute principal earnings in endnote 1 above, or consult or have your attorney consult an accountant.

<sup>4</sup> Net monthly Income is equal to Total Gross Monthly Income minus Total Monthly Deductions.

<sup>5</sup> Do not include any expense in the Monthly Expenses section that has already been included in the Deductions from Gross Monthly Income on page one of the Declaration.

<sup>6</sup> Food Expense is to include the cost of groceries, toiletries, cleaning supplies, and casual eating out.

<sup>7</sup> Auto Expenses are to include gasoline, oil changes, tune-ups, tire replacement, maintenance, and related items.

<sup>8</sup> Maintenance for Household is to include appliance and household repairs, landscaping, house cleaning, pest control, pool service, alarm service, and other related items.

<sup>9</sup> Clothing Expense is to include shoes and clothing purchases, clothing repair and alterations, and related items.

<sup>10</sup> Laundry Expense is to include the cost of laundry service, dry cleaning, and related items.

<sup>11</sup> Children's Incidental Expenses are to include allowance, summer camp, nursery school, baby sitters, lessons, activities, participatory sports, and related items.

<sup>12</sup> School Expense is to include tuition, supplies, field trips, dues, tutors, locker rentals, school lunches, and other related items.

<sup>13</sup> Entertainment is to include movies, theater, vacations, sporting events, compact discs, digital video discs, and related items.

<sup>14</sup> Adult Incidental Expenses are to include cosmetics, hair and nail care, books, magazines, newspapers, business dues, memberships, pets, charity, religious dues or tithes, gifts, bank charges, hobbies, and related items.

<sup>15</sup> All Installment Loan Payments is the total amount itemized in Installment Loan Payments Section, which should include all loan payments not already listed as a monthly expense. Examples: home equity loan, credit cards, etc.

<sup>16</sup> Indicate which spouse legally owes the payment (husband, wife, or joint).

<sup>17</sup> Other property is to include automobiles (minus loan balance), boats (minus loan balance), furniture, furnishings, china, silver, jewelry, collectibles, and other personal property.

<sup>18</sup> Itemize Financial Accounts such as checking, savings, credit union, money market, or certificate of deposit accounts in the Financial Accounts Section.

<sup>19</sup> Itemize Publicly Held Stocks, Bonds, Securities, Stock Options and Mutual Funds (excluding retirement accounts) in the Publicly Held Stocks, Bonds, Securities, Mutual Funds Section.

<sup>20</sup> Itemize each parcel of Real Estate in the Real Estate Section.

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STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM GREENVILLE COUNTY  
Family Court

Alex Kinlaw, Jr., Family Court Judge

---

Case # 2009-DR-23-0975

---

Jane Roe and John Roe, ..... Appellants

v.

Craig Reeves, Victoria A., John Doe  
Biological Father and Baby Boy,  
an infant..... Respondents

---

**APPELLANTS' FINAL BRIEF**

---

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\* \* \*

[1] **Statement of the Issues on Appeal**

1. S.C. Code § 63-9-310(A)(5)(b) provides that an unwed father’s consent to an adoption is not required unless he pays a fair and reasonable sum toward certain expenses. The unwed father in this

case paid a fraction of the sums that he paid for cars, tires and entertainment. Is this fair and reasonable?

2. Compliance with S.C. Code § 63-9-310(A)(5)(b) may be excused if the birth father's efforts to comply were thwarted. The birth mother here told the birth father that she was pregnant, never hid from him, and may have declined \$ 100 cash from him. Will the Court excuse his failure to satisfy § 63-9-310(A)(5)(b)?

3. The lodestar in adoption cases is the child's best interests. The prospective adoptive parents here have been married 17 years and are financially and emotionally secure. The birth father is an admitted perjurer, thief, and statutory rapist. Where are the child's best interests?

### **Statement of the Case**

On March 6, 2009, the Roes filed a Summons and Complaint seeking to adopt Baby Boy. They alleged that Victoria A., the birth mother, had executed a Consent and Relinquishment of her parental rights and that

\* \* \*

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STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM GREENVILLE COUNTY  
Family Court

Alex Kinlaw, Jr., Family Court Judge

---

---

Case # 2009-DR-23-0975

---

Jane Roe and John Roe, ..... Appellants

v.

Craig Reeves, Victoria A., and  
Baby Boy, an infant ..... Respondents

---

**RESPONDENT CRAIG REEVES' FINAL BRIEF**

---

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Counsel for Respondent Craig Reeves

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**I. THE FAMILY COURT DID NOT ERR IN FINDING THAT REEVES' CONSENT TO ADOPTION OF HIS BABY SON WAS REQUIRED.**

- a. Reeves paid a fair and reasonable sum based on his financial ability for support of Baby Boy.
- b. Reeves contributed to the needs of the birth mother during pregnancy to the extent that she allowed him to do so and to the extent that she had needs.
- c. Reeves has undertaken sufficient, prompt, and good faith efforts to assume parental responsibility and to comply with the statute.
- d. Reeves' situation is clearly distinguishable from cases wherein a father's consent was not required for adoption to occur.

II. THE FAMILY COURT DID NOT ERR IN FINDING THAT REEVES SHOULD HAVE CUSTODY OF HIS CHILD

- a. The Family Court considered the best interests of the minor child.
- b. The Guardian *ad Litem* indicated that Reeves was fit to parent.
- c. Appellants' accusations toward Reeves of criminal court processes is inappropriate raised insofar as said alleged actions were not ruled upon by the Family Court, and thus are not preserved for appeal.

Conclusion..... 39

\* \* \*

[4] STATEMENT OF ISSUES ON APPEAL

I. S.C. Code. Section 63-9-310(A)(5)(b) provides, in pertinent part, that an unwed father's consent to an adoption is not required unless he pays "a fair and reasonable sum, based on the father's financial ability, for the support of the child **OR** for expenses incurred in connection with the mother's pregnancy **OR** with the birth of the child, including, but not limited to, medical, hospital, and nursing expenses." [sic] (emphasis added). Reeves strictly complied with the statute by paying the amount of child support calculated by a Family Court judge pursuant to S.C. Child Support Guidelines. Is this not a *per se* fair and reasonable amount? Would a Court order an unreasonable sum to be paid for child support?

II. *Abernathy v. Baby Boy*, 313 S.C. 27, 437 S.E.2d 25 (1993) holds that even though an unwed father fails to meet the literal requirements [sic] the above statute he may be afforded constitutional protection when he undertakes sufficient prompt and good faith efforts to assume parental responsibility and to comply with the statute. The birth mother in this case selfishly only wanted Reeves to raise the child if Reeves was in a relationship with her. During pregnancy, she vacillated between telling Reeves he could have the baby and then that he couldn't. During pregnancy, she asked the adoption agency how to keep Reeves from getting the baby and she was told to not allow Reeves to contribute anything for her. Although she rejected offers made by Reeves, she did allow Reeves to pay for car parts, do the repairs on her only family vehicle, and buy items for her other minor child. Victoria A. made herself a "No Information" patient at the hospital thereby hiding and secreting herself from Reeves when Reeves tried to find her and Baby Boy.

III. The Family Court's decision was based on Reeves' compliance with the [5] statute and case law. Findings were made by the court concerning fitness of Reeves and the best interests of Baby Boy. The Guardian *ad Litem* found Reeves to be fit to parent. Should a fit biological parent be discarded for a wealthier adoptive parent?

\* \* \*

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STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM GREENVILLE COUNTY  
Family Court

Alex Kinlaw, Jr., Family Court Judge

---

Case # 2009-DR-23-0975

---

Jane Roe and John Roe, .....Appellants

v.

Craig Reeves, Victoria A., John Doe Biological  
Father and Baby Boy, an infant ..... Respondents

---

**APPELLANTS' FINAL REPLY BRIEF**

---

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STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM GREENVILLE COUNTY  
Family Court

Alex Kinlaw, Jr., Family Court Judge

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Op. No. 26967 (S.C. Sup. Ct. filed May 2, 2011)  
(Shearouse Adv. Sh. No. 15 at 47)  
Case No. 2009-DR-23-0975

Craig Reeves ..... Petitioner,

v.

Jane Roe and John Roe ..... Respondents.

-----  
**PETITION FOR REHEARING**  
-----

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Attorney for Petitioner

[1] Pursuant to Rules 221 and 224, SCACR, Respondent Craig Reeves petitions this Court to Rehear and Reconsider its ruling in *Jane Roe and John Roe v. Craig Reeves, Victoria A., John Doe, Biological*

*Father and Baby Boy, an infant*, Op. No. 26967 (S.C. Sup. Ct. filed May 2, 2011) (Shearouse Adv. Sh. No. 15 at 47) in which the Court reversed the Family Court's decision by finding that the biological father's consent was not necessary for the adoption of his son to proceed and ordered the minor child to be turned over to the adoptive parents immediately. Craig Reeves contends that in reaching its decision the Court overlooked or misapprehended several points set forth below.

**I. This Court overlooked the best interests of the minor child in ruling that the minor child must be immediately turned over to the unrelated adoptive couple.**

The relationship between an unwed father and his child is deserving of constitutional protection because the father possess [sic] an "opportunity no other male possesses to develop a relationship with his offspring" when the child is born. *Abernathy v. Baby Boy*, 313 S.C. 27, 31, 437 S.E.2d 25, 28 (1993).

It is self evident that the minor child, not just the biological father, has the right to be raised by his blood kin, his father. The minor child who is the subject of this action, Chace, is the offspring of Craig Reeves. Craig Reeves has done everything he has known to do, and was allowed to do, since learning that Victoria, the mother, was not just playing another trick on him by saying that she was pregnant.

[2] An unwed father must demonstrate a full commitment to the responsibilities of parenthood by coming forward to participate in the rearing of his child in order for this relationship to obtain constitutional protection. *Id.* at 31, 437 S.E.2d at 28.

It is illegal to buy and sell babies in the state of South Carolina. And Craig Reeves did not immediately think of paying money so that he could have this baby. Instead he made offers to care for and love the baby. He has now done so for 15 months. This father currently has a custodial relationship with the child. The child and his father have a close and loving bond. This Court has also long recognized a child's need for early permanence and stability in parental relationships.

In the event this court finds that Craig Reeves has not undertaken a sufficient effort to assume parental responsibility, this case should be remanded to the trial court for a determination as to the best interests of this minor child.

It is the child who will have lost a parent if he is placed with the adoptive couple. This matter should be remanded to the trial court for a factual determination as to what is in the best interest of the minor child now, since he has been living with his father for 15 months and is of an age to have close bond with his father and relatives.

An immediate return of the child is too draconian a measure, insofar as it detrimentally affects the child.

This is not an issue of fairness to the parties. Removal of the child at this juncture is unfair to the child. Remand should happen before the life of the child is disrupted. To [3] remove the child without a factual determination as to the best interest of the minor child would be a punishment for the child, not the father.

The best interest of the child to not break the bond between father and child. This child should not be taken away from his blood kin without a clear finding that that is, in fact, in the best interest of the minor child. To fail to do this is contrary to the best interest of the minor child.

As stated in *Abernathy*, the best interest of the child is the lode star of any and all custody determinations. . . . in the ultimate analysis, this court's lodestar is always the best interests of the child. *See, e.g., Patel v. Patel*, 347 S.C. 281, 285, 555 S.E.2d 386, 388 (2001) ("In a custody case, the best interest of the child is the controlling factor."); *S.C. Dep't of Soc. Servs. v. Cummings*, 345 S.C. 288, 298, 547 S.E.2d 506, 511 (Ct.App. 2001) ("The best interests of the child are paramount when adjudicating a TPR case."). A long line of cases was overruled holding that the termination of parental rights statute should be strictly construed and determined that it should be liberally construed consistent with the purpose of facilitating prompt adoption and the best interests of the child. *See Joiner ex rel. Rivas v. Rivas*, 342 S.C. 102, 536 S.E.2d 372 (2000). Likewise, the child's best interests are considered as a factor here. In

*Abernathy*, the Supreme Court has stated that the father's constitutional window is a limited one, balanced against the child's interest in stability. *Abernathy* at 32, 437 S.E.2d at 28.

Taking the child out of the home he has known from infancy until two years old could result in significant long-term trauma and possibly severe attachment issues. Thus, the best interests of Infant Baby Boy warrant the granting of this motion reversing [4] the opinion of the court, withdrawing its opinion, and affirming the family court's order. In the alternative, the best interests of the child require a remand to the trial court for a factual finding of what is in the best interest of the minor child.

**II. This Court misapprehended the good faith efforts of Craig Reeves in undertaking sufficient, prompt efforts to assume parental responsibility and to comply with the statute.**

The General Assembly has set the minimum standards an unwed father must meet in a timely fashion to "demonstrate his commitment to the child, and his desire to 'grasp [the] opportunity' to assume full responsibility for his child." [7] *Abernathy*, 313 S.C. at 32, 437 S.E.2d at 29 (quoting *Lehr v. Robertson*, 463 U.S.248, 103 S. Ct. 2985 at 262).

It is crucial to note that perfect efforts to assume parental responsibility are not mandated by the legislature.

Section 63-9-310(A)(5)(b), provides, in pertinent part:

(A) Consent or relinquishment for the purpose of adoption is required of the following persons:

....

(5) the father of a child born when the father was not married to the child's mother, if the child was placed with the prospective adoptive parents six months or less after the child's birth, but *only if*:

[5]....

(b) the father *paid a fair and reasonable sum*, based on the father's financial ability, for the *support of the child* or for the expenses incurred *in connection with the mother's pregnancy or with the birth of the child*, including, but not limited to, medical, hospital, and nursing expenses.

(emphasis added).

The primary function in interpreting a statute is to ascertain the intent of the Legislature. *Spartanburg Cty. Dep't of Social Svcs. v. Little*, 309 S.C. 122, 420 S.E.2d 499 (1992). A statute must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers. *Id.* By enacting section 20-7-1690(A)(5)(b) [now 63-9-310(A)(5)(b)], the Legislature contemplated establishing general minimum standards by which an unwed father timely may demonstrate his commitment to

the child, and his desire to “grasp [the] opportunity,” *Lehr*, 463 U.S. at 262, 103 S.Ct. at 2993, 77 L.Ed.2d at 627, to assume full responsibility for his child.

The legislature did not set out specific mandatory minimums for biological fathers. The test is whether it is apparent that the father has commitment to the child and whether he has shown that he wants to grasp the opportunity of parenthood. Craig Reeves has shown this commitment.

[6] Strict compliance with the literal requirements of section 63-9-310(A)(5)(b) is not always required. For example, a father’s ability to cultivate the sort of relationship recognized in *Abernathy* can be thwarted by the mother’s refusal to accept the father’s expressions of interest in and commitment to the child. *Id.* at 32, 437 S.E.2d at 29.

An unwed father is entitled to constitutional protection not only when he meets the literal requirements of section 20-7-1690(A)(5)(b) [now 63-9-310(A)(5)(b)], but also when he undertakes sufficient prompt and good faith efforts to assume parental responsibility and to comply with the statute. Otherwise, a father’s constitutional right to form a relationship with his child that receives constitutional protection is subject to the whim of the mother. *Doe v. Roe*, 369 S.C. 351, 631 S.E.2d 317(2006).

As stated in *Abernathy*, the specific acts undertaken by the unwed father to preserve his inchoate relationship with his child, as well as the nature of the relationship he wishes to foster with the child, are

of considerable importance in determining whether the unwed father has evinced a commitment to his child deserving of protection. *See id.* at 352; *cf. Lehr*, 463 U.S. at 262, 103 S.Ct. at 2994, 77 L.Ed.2d at 627 (appellant never had any significant custodial, personal, or financial relationship with child, and did not seek to establish a legal tie until after the child was two years old).

The record reflects that the birth father in the instant case took AT A MINIMUM the following steps to develop a relationship with his offspring to evince a commitment to his child:

- [7] • Craig Reeves sought to contribute funds that could be used by the expectant mother, but they were rejected by her since she had been told how to prevent Reeves from “messing up” the adoption.
- Craig Reeves used his time and money to repair the only car available to the mother to drive during her pregnancy.
- Craig Reeves paid for things the mother would accept for the mother’s other child because she needed them and would otherwise have to pay for them.
- Prior to the baby’s birth, Craig Reeves set up a nursery in his home for the baby.
- Craig Reeves went to the hospital on the evening of the birth but neither adoptive parents, nor the birth mother, allowed him to know where the baby and mother were.

- Craig Reeves caused a temporary hearing to be scheduled within 2 weeks of the birth of the baby.
  - Craig Reeves paid child support.
  - Craig Reeves visited the baby every chance he had throughout the litigation.
- [8] • Craig Reeves has developed a close, committed, and loving relationship with his son.

Statutory construction requires that the clear and simple meaning be given to the words of a statute [sic]. The requirement to pay expenses is in the alternative to payment of child support, as indicated by the word ‘or’ in the statute, not in addition to payment of child support. During the pregnancy, there were no other expenses for him to pay, as evidenced by the trial record.

Child Support cannot be paid prior to birth but Craig Reeves did pay it after the birth of the baby when the DNA test results were received. This was the earliest possible time that Craig Reeves could get the adoptive couple to accept the money. Their testimony reveals that they refused his offer to accept child support when he offered it prior to the court getting the child support account formally set up.

A perfect effort to assume parental responsibility is not required by the statute or case law of our state. Craig Reeves has exhibited his desire and sincere wish to grasp the obligations of parenthood since months prior to the birth of the minor child.

Grasping the opportunity in this case was not just about money since babies cannot be bought and sold. For the Court to place inordinate emphasis on money instead of a parent's actions does just that. What amount of money is enough money for a biological father to pay while a child is *in utero*? No court can set child support while a baby is *in utero*. By what point in pregnancy is it too late to grasp a parenting relationship? Is 3 months before birth too late? The facts of this case indicate not.

[9] Accordingly, this Court should grant this petition for rehearing, withdraw its opinion, and affirm the family court's order.

**III. This Court overlooked Craig Reeves' argument that he provided as much financial support for the benefit of biological mother, Victoria A., as she would allow after the adoption agency lawyer told her how to keep Reeves from "messing up" the adoption.**

The Court's reasoning in determining whether the biological father's efforts had been thwarted did not place enough emphasis and importance upon the admitted instructions from the adoption agency attorney to biological mother during her pregnancy as to how to prevent the biological father from "messing up the adoption".

The mere fact that the mother sought this advice and that it was given corroborate Craig Reeves

testimony that he was thwarted in his efforts during the pregnancy to grasp the opportunity of parenthood.

The testimonies at trial of not only the birth mother Victoria, but also of an adoption agency employee and the adoption agency attorney all substantiated the fact that the biological mother sought guidance 2 months before the baby was born as to how she could prevent Craig Reeves from getting the baby. Victoria testified that Craig Reeves wanted the baby after birth and that during pregnancy he was telling her that wanted the baby. Victoria inquired at the adoption agency as to how to keep Craig from succeeding.

[10] Craig had sent so many text messages to Victoria about wanting to have custody of the baby instead of her going through with the adoption that Victoria met with the attorney for the adoption agency 2 months prior to the birth to be sure that she knew how to keep Craig from “messing up” the adoption”.

There are many ways that a birth mother can thwart the efforts of a birth father. In the instant case, Victoria was not hiding herself from Craig but she was lying to him, misleading him into believing that he would be able to take the baby home from the hospital. Victoria admitted under oath at the trial that she told each party what they wanted to hear. She admitted to having lied to Craig Reeves, the adopting couple, the agency and the guardian *ad litem*.

Craig Reeves was thwarted by the knowledge Victoria obtained from the adoption agency attorney since armed with the knowledge to not accept anything directly for the baby, Craig did not know what else to do except provide the things that she would allow.

The birth mother admitted that she found out how to avoid allowing the birth father to have his own child. Accordingly, this Court should grant this petition for rehearing, withdraw its opinion, and affirm the family court's order.

**IV. This Court misapprehended the direct impact of Craig Reeves spending money on Victoria's other child and on repairing her only method of transportation, the family car, to the pregnant biological mother.**

[11] The Court has overlooked the fact that there is no evidence in the record that the mother had "any expenses incurred in connection with" [sic] her pregnancy." Even without the relatively minor contributions from the adoptive couple, the Mother herself, Victoria, testified that she had none of the expenses commonly considered in family court proceedings, those set out on page 2 of the financial declaration form used in Family Court. Mother had no job. She was wholly financially supported by her own mother (maternal grandmother) who did not testify at trial. She lived with her mother as a dependent although Victoria had given birth 2 years prior at age 14.

Mother had no medical bills and obviously none were submitted at trial. No medical bills existed because they were paid by Mothers insurance, Medicaid. Mother testified that her financial needs consisted of money for toiletries, gas money, and things for her other young child. When Craig Reeves paid these, that payment assisted the mother's financial condition.

The repairs to the family car were for the benefit of Victoria and the unborn baby to have transportation. Reeves had no vested interest in otherwise fixing Victoria's mother's car and no such motive was admitted into evidence in the trial record. The sole testimony regarding Reeves' intent in fixing the car was that it was to give Victoria safe transportation.

Craig Reeves made offers to pay for and did pay for various things for the pregnant Victoria, including items she would otherwise have had to purchase for her other child. He spent time and money repairing the only mode of transportation Victoria [12] had, her mother's car, so that Victoria could get around. It is true that the adoptive couple was at that time taking Victoria to doctor's appointments, but they did not take her anywhere else that Victoria needed or wanted to be. Additionally, Craig Reeves fixed the car that Victoria drove so that she would not feel dependent on the Roes, or need the Roes, during the pregnancy.

What Craig Reeves did was to prepare for caring for the baby in his home. He prepared in the way that is commonly done by young people of today. He

welcomed the thought of raising his son. Craig Reeves has a close and loving relationship with his child.

All that Victoria requested from Craig Reeves was for him to resume their relationship. Money was not an issue to her. She admittedly had no living expenses. She had no medical bills. She only had expenses for her other child. It was practically impossible for Craig Reeves to know what amount of money would have been enough in the situation he found himself in.

Since months before the birth of the baby this father was adamant that he wanted his baby. He has exhibited that he wants to be a full time father and is capable of being a full time father. After the Plaintiffs finally took the child to the DNA Paternity testing in May 2009, Reeves exercised his visitation with his son on every occasion allowed to him. The birth father, Reeves, has consistently objected to the adoption not only during this litigation but for months prior to the birth of the baby.

The ruling of the Family Court should be affirmed dismissing the termination of parental rights and adoption and granting custody of Baby Boy to his biological father [13] Reeves.

**V. The Court misapprehended Craig Reeves text messages to Victoria after their last break up as indicators of whether he had a desire to parent**

The Court appears to have determined, from the cold record on appeal, that the biological father's text messages in response to birth mother indicated that he did not want the baby. This is not the context within which these young people were operating and should not be the understanding of the Court.

The Court has minimized the causation for Craig Reeves' texts by leaving as a mere footnote the types of statements and behaviors that Victoria had been exhibiting during the on again, off again relationship. Though unpleasant, these text messages constitute proof of Craig Reeves' position of what he has consistently maintained; i.e. that he considered the relationship to be over.

The Court appears to place much weight on the words of those texts, making them words of rejection of the child that could not be undone by any later words or actions. To so find is to misapprehend the parties' [sic] understanding of the significance behind the texts that were sent by Craig Reeves in response to Victoria's texts. Even if the one sided text messages were taken literally, instead of in the sense that they were conveyed when Craig believed the [sic] Victoria was once again lying to him to get him back, such logic would condemn many parents as rejecting of the

child if their only first words were all that was ever considered.

The Court should not take the text messages out of context or justice, much less [14] the best interests of the child, will not be served. The language of the father's texting was the one-sided communication during the time that Craig Reeves believed that Victoria was lying to get him to come back to her. It is noteworthy that Victoria's texts to Craig are not visible or a part of the record.

It is evident from the one sided text messages that his albeit rude language was designed to tell Victoria that he was not coming back to the relationship and that she didn't have credibility with him. Victoria already had had one baby living with her who was born when she was 14. Craig knew she would not get an abortion.

The ruling of the Family Court should be affirmed dismissing the termination of parental rights and adoption and granting custody of Baby Boy to his biological father Craig Reeves.

## **VI. The court has misapprehended the income of Craig Reeves.**

There is no evidence in the record that Craig earned any money going on runs with the person to repossess vehicles. He did not earn money repossessing cars but he acknowledged to the Guardian *ad*

*litem* and to the court at trial that he did do this some with another person.

Additionally Craig Reeves did not earn any commissions nor did he have the ability to as alluded to in the Guardian's Report. His sworn financial declaration accurately reflected his actual income. Furthermore, no testimony or corroborated evidence in the record conflicts with his financial declaration income statement. There is no other supporting documentation or testimony other than the one incorrect line in the [15] Guardian's Report shows commissions.

A scrivener's error apparently occurred when the Guardian's report was drafted.

Reeves paid child support based upon his true earnings found in his sworn financial declaration. It was never questioned during litigation by any party, including the Guardian *ad litem*. No backup documentation or testimony refutes the documented income and financial condition of Craig Reeves.

This Court should grant this petition for rehearing, withdraw its opinion, and affirm the family court's order based upon the finding that the biological father paid child support as specifically provided for by the legislature.

**VII. The Court overlooked deference to the trial judge regarding findings of fact.**

In appeals from the family court, this Court may find facts in accordance with its own view of the preponderance of the evidence. *Dearybury v. Dearybury*, 351 S.C. 278, 569 S.E.2d 367 (2002); *Lanier v. Lanier*, 364 S.C. 211, 612 S.E.2d 456 (Ct.App. 2005); *Nasser-Moghaddassi v. Moghaddassi*, 364 S.C. 182, 612 S.E.2d 707 (Ct.App. 2005); *Emery v. Smith*, 361 S.C. 207, 603 S.E.2d 598 (Ct.App. 2004) (citing *Rutherford v. Rutherford*, 307 S.C. 199, 414 S.E.2d 157 (1992)).

This broad scope of review does not require the court to disregard the family court's findings. *Holler v. Holler*, 364 S.C. 256, 261, 612 S.E.2d 469, 472 (Ct.App. 2005). *Bowers v. Bowers*, 349 S.C. 85, 561 S.E.2d 610 (Ct.App. 2002); *Badeaux v. Davis*, 337 S.C. 195, 522 S.E.2d 835 (Ct.App. 1999).

[16] Nor must the fact be ignored that the trial judge, who saw and heard the witnesses, was in a better position to evaluate their credibility and assign comparative weight to their testimony. *Lacke v. Lacke*, 362 S.C. 302, 608 S.E.2d 147 (Ct.App. 2005); *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (Ct.App. 1999); *see also Dorchester County Dep't of Soc. Servs. v. Miller*, 324 S.C. 445, 477 S.E.2d 476 (Ct.App. 1996) (noting that because the appellate court lacks the opportunity for direct observation of witnesses, it should accord great deference to the family court's findings where matters of credibility are involved).

The trial court had the opportunity to hear the birth mother Victoria testify that it was “not fair” for Craig Reeves to have custody of the baby because he broke up with Victoria without “trying”.

The trial judge, who saw and heard the witnesses, was in a better position to evaluate their credibility and assign comparative weight to their testimony. *Doe v. Roe* 369 S.C. 351, at 359. “because the appellate court lacks the opportunity for direct observation of witnesses, it should accord great deference to the family court’s findings where matters of credibility are involved.” *Doe v. Roe* 369 S.C. 351, at 359.

Accordingly, this Court should grant this Petition, permit rehearing, withdraw its prior opinion, and hold that the Court will provide deference to the findings of the trial judge who saw and heard the witnesses and was in a better position to judge credibility and demeanor.

Furthermore, the Court should account for the express credibility findings of the only tribunal to see and hear the witnesses and better judge their demeanor and [17] veracity, especially in light of Appellants Jane and John Roe’s direct attack on Mr. Reeve’s credibility, character, and attempts to grasp the responsibility of parenthood before the Family Court. The Court should affirm the judgment below.

**CONCLUSION**

For the reasons stated, this Court should grant this Petition, rehear this matter, and withdraw its prior opinion reversing the Family Court's finding that Mr. Reeve's consent was required.

Respectfully submitted,

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