

1 Then I have nothing further, Your Honor.

2 Thank you. I'd ask this witness be released.

3 THE HONORABLE MALPHRUS: Mr. Brown, you can step
4 down. Thank you. You can return to your chair.

5 And you can call your next witness.

6 MS. JONES: Thank you, Your Honor. My next
7 witness is outside I hope. It's his mother so I'm going to
8 go check on them and I'll be right back.

9 THE HONORABLE MALPHRUS: Okay.

10 (Whereupon, proceedings were briefly interrupted while
11 Ms. Jones stepped outside of courtroom to call the next
12 witness.)

13 MS. JONES: Your Honor, I -- my next witness that
14 I would call is Ms. Alice Brown.

15 THE HONORABLE MALPHRUS: Okay. Ms. Brown, please
16 come around here to the witness stand.

17 ALICE BROWN,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE HONORABLE MALPHRUS: Thank you, ma'am. You
20 can have a seat.

21 DIRECT EXAMINATION BY MS. JONES:

22 Q. Ms. Brown, you are the paternal grandmother of Baby
23 Girl; is that correct?

24 A. Yes, ma'am.

25 Q. And I believe you are [REDACTED] years of age?

1 A. Yes, just turned.

2 Q. You and your husband have been married for how long?

3 A. Forty-three years.

4 Q. Have you ever been married to anybody else?

5 A. No, ma'am.

6 Q. How many children did you have together?

7 A. [REDACTED]

8 Q. And they're obviously grown?

9 A. Mm-hmm.

10 Q. Other than my client, Dusten Brown, you have another
11 child?

12 A. Yes.

13 Q. The boy is [REDACTED]

14 A. Uh-huh.

15 Q. And is he an older brother or a younger brother?

16 A. He's the oldest.

17 Q. And does he have children?

18 A. Yes, they do. They have [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. And do they live close by your residence?

22 A. Yes, 12 miles away.

23 Q. Do you see them on a regular basis?

24 A. Very much so.

25 Q. Do you ever care for those children?

1 A. All summer long.

2 Q. All summer long?

3 A. And on the weekends during school.

4 Q. Do you -- during school?

5 A. Uh-huh.

6 Q. Do you care for them when their parents are at work?

7 A. No.

8 Q. Okay.

9 A. They're in school.

10 Q. Okay. And have -- have you ever worked?

11 A. Yeah.

12 Q. What have you done?

13 A. I was a -- at Montgomery Ward's I was the jewelry
14 lady, working the jewelry department.

15 Q. Since you've had children have you worked outside the
16 home?

17 A. No, just with 4-H.

18 Q. You knew about Dusten's engagement to Christinna?

19 A. Yeah.

20 Q. And you came to know of the pregnancy; is that
21 correct?

22 A. Yes, ma'am.

23 Q. Can you tell me about that? How did you learn of the
24 pregnancy between Dusten and Christinna?

25 A. Dusty called and told us that she was going to have a

1 baby and they were so happy.

2 Q. I'm sorry. I know this is hard.

3 A. I'm sorry.

4 Q. You said Dusten called and they were going to have a
5 baby and he was happy or you were happy. What did you say?

6 A. We was all happy.

7 Q. And was there talk about a wedding? Obviously they're
8 already engaged at the time you found out they were
9 pregnant.

10 A. Yes.

11 Q. And do you -- what do you know about the plans for the
12 wedding?

13 A. Not much because it was just kind of a -- Chrissy
14 [sic] was just talking about her dress, that she was so
15 tiny that her sister would have to make it for her and that
16 they wasn't for sure where they was going to have it.

17 Q. Okay. Can you -- can you tell me what was your
18 understanding of from the time that we found out this news
19 that they were pregnant, they were engaged previously,
20 everybody's happy about that, ---

21 A. Mm-hmm.

22 Q. To your knowledge did Dusten and Christinna get along
23 well when they found out they were pregnant?

24 A. Oh, yeah. They was happy.

25 Q. Had Christinna come to your home for any holidays and

1 shared those holidays with you and your family?

2 A. Yeah, they -- she -- before they got engaged she and
3 her two kids came to the house on Easter. And we had
4 boughten [sic] gifts for them like we did the card. And I
5 think her girlfriend, Lisa [REDACTED] or something like
6 that, Lisa came in on Thanksgiving one time. And she was
7 invited to come Christmas and she didn't come. But we had
8 boughten [sic] gifts for the baby, or for the kids, her two
9 kids. And I had bought her some -- my husband and I had
10 bought her some champagne glasses for the wedding. And we
11 bought a guest book for her and a album and the knife and
12 serving ladle for her. And Dusty took them over to her
13 because she didn't come over. She wanted to stay home.

14 Q. Did they -- did Christinna also go with you I think to
15 Dusten's graduation from Basic Training or did she attend
16 that event and ---

17 A. Her and the Lisa girl had drove down I guess because
18 we were already there and we didn't see her until
19 afterward. Then we went and went to Chili's and ate out.
20 And my husband paid for everybody's dinner.

21 Q. Okay. And you -- you told me about finding out about
22 the news that they were pregnant. Tell me what your
23 observation of the situation with the relationship.

24 A. She was awful quiet. And she just was kind of shy and
25 backwards a little bit. She was a nice girl I thought.

1 Q. What with regard to the relationship? Did they ---

2 A. They were happy. Dusty, he said, I've really found
3 someone I love mom. I was so happy for him.

4 Q. And -- and did you at some point come to learn that
5 Christinna had broken off this engagement?

6 A. Yes.

7 Q. And that she had told Dusten to go find somebody else
8 in Fort Sill?

9 A. Yes.

10 Q. Did -- did you have any idea what the explanation for
11 her breaking off the engagement was?

12 A. She -- well she didn't really give an explanation.

13 Q. What was Dusten's reaction to her breaking off the
14 engagement?

15 A. He was very upset.

16 Q. Do you know whether he held out hope that she would
17 change her mind?

18 A. Oh, yeah. Still yet.

19 Q. Still yet?

20 A. Uh-huh.

21 Q. And when she asked him to terminate his parental
22 rights, you -- you -- are you aware of that?

23 A. Yeah.

24 Q. Do you know -- do you have any idea why he indicated
25 that he would agree to that?

1 A. Yeah, because he was going to Iraq and didn't know if
2 he would get to come back or not. And he said this way
3 Christy got full custody of the baby if anything did happen
4 to him.

5 Q. You knew that the baby was expected in September 2009?

6 A. Yeah, the first week was the only thing we knew.
7 Chrissy [sic] never contacted us and told us that
8 everything was going okay with the -- with her pregnancy or
9 anything.

10 And I finally got her phone number, oh, shortly before
11 she had the baby. And we found out that she had had the
12 baby and it was about two weeks after she had delivered.
13 And I had called her and left a message because she
14 wouldn't answer the phone. And I left a message and I
15 said, Chrissy [sic], this is Alice, Dusty's mom. I said,
16 We have some gifts from the family. It was money and a
17 little blanket that I made for the baby and some little
18 socks, and Elmo, Kissy Baby, and a rabbit we had bought the
19 baby -- or Dusty had bought the baby for Easter it was.
20 And I had bought the baby a little book. I think it was me
21 who bought it, but I'm not sure.

22 (Deputy handed tissue to witness.)

23 THE WITNESS: Thank you.

24 Q. And did she return your phone call?

25 A. No.

1 Q. At some point did you attempt to call her again from a
2 different phone?

3 A. Yeah.

4 Q. Can you tell me about that?

5 A. I went to Wal-Mart and I called from a pay phone so
6 that she wouldn't recognize the phone number and she didn't
7 answer it either.

8 Q. Do you recall if you left a message?

9 A. No, I didn't leave a message. I just hung back up.

10 Q. And did all of your attempts to contact Christinna
11 before and after her pregnancy go unanswered?

12 A. That -- yeah.

13 Q. At some point did you all suspect that she had changed
14 her phone number?

15 A. Yeah.

16 Q. Did you ever learn if she did?

17 A. No.

18 Q. You were talking about the socks.

19 A. Uh-huh.

20 Q. Those were socks that -- that you knitted the baby?

21 A. I crocheted beads around the cuff of the -- the top of
22 the sock. I had made her some that I had brought down
23 here, 24 pair.

24 THE HONORABLE MALPHRUS: Mr. Godwin?

25 MR. GODWIN: Your Honor, I would just ask counsel

1 to find a way to be conscious of the time.

2 THE HONORABLE MALPHRUS: Ms. Jones, we are trying
3 to move things along.

4 MS. JONES: Thank you, Your Honor.

5 Q. When Dusten was served the pleadings in this action in
6 January 2010 ---

7 A. Uh-huh.

8 Q. --- was that the first time that you all discovered
9 that Christinna had given the baby up for adoption?

10 A. Yes, ma'am.

11 Q. And what was -- what was the reaction to that?

12 A. He -- the bottom fell out of his world.

13 Q. And what action was taken as a result of finding out
14 that that had occurred?

15 A. When he had signed -- he thought it was to give up his
16 rights. To sign his rights to her.

17 Q. Uh-huh.

18 A. And the paper stated that it was -- that he -- or the
19 lawyer said something about Chrissy [sic] had given up her
20 rights also. And he said, for what, for why? And he said,
21 The baby's in South Carolina. And he said, Why that? And
22 he said, She's adopted -- the baby was adopted out. And
23 Dusty was pretty upset.

24 Q. And did you contact a lawyer?

25 A. Yes. He called JAG and we -- he called us and said,

1 We need a lawyer, Mom. I said, Fine, we'll get it. I
2 said, What do you want to do? And he says, I want the
3 baby.

4 Q. The Guardian ad Litem visited your home. Dusten lives
5 with you; is that right, Ms. Brown?

6 A. Yes, ma'am.

7 Q. And is he welcome in your home as long as he wants to
8 stay there?

9 A. Any time he wants to. Both of my boys can come.

10 Q. If he were to get custody of his daughter would you
11 and your husband be available to help care for the child if
12 he were to be deployed again?

13 A. Oh, very much.

14 Q. Are you physically capable of caring for a child this
15 age?

16 A. Yes, ma'am. I take care of four grandkids at one time
17 during the summer.

18 Q. And she has a bedroom in your home?

19 A. Yes, ma'am.

20 Q. I know y'all bought some new furniture for her.

21 A. Mm-hmm.

22 Q. For Baby Girl.

23 A. Dusty did.

24 Q. Do you have any idea how much that might have cost?

25 A. We looked at the bed in -- at Hobby Lobby. I think it

1 was 300.

2 Q. And changing table, any idea how much all the
3 furniture was?

4 A. The crib was \$56.

5 Q. You mean the changing table?

6 A. Yeah, the changing table. Yeah.

7 Q. Is Dusten involved in Kelsey's life, his other
8 daughter?

9 A. Very much.

10 Q. Do you believe Dusten is capable of -- of -- of
11 fathering Baby Girl?

12 A. Very, very much. When Kelsey was just little, a few
13 months old, and he'd get visitation rights, ---

14 Q. I'm sorry. I know this is difficult for you.

15 A. --- Dusty would change her diapers. I never changed a
16 dirty diaper on her. And he'd give her a bath.

17 Q. Let's just talk a little about the Guardian's visit to
18 your house. Our Guardian ad Litem made a visit to your
19 house in July. And is it your understanding she'd been
20 involved in this case since November of 2009?

21 A. She said that she was -- had worked with them to do
22 the -- for the adoption.

23 Q. She told you she had worked with who?

24 A. With the adoptive parents.

25 Q. She did?

1 A. Yeah, to prepare them for the adoption.

2 Q. Did she tell you when she did that? Meaning before --
3 before the baby was born?

4 A. Yeah, before the baby was born.

5 Q. What else did she tell you at her visit to your home?

6 A. To -- what, pertaining to my home?

7 Q. Any -- Yes, ma'am. There was a -- as you know we made
8 a motion to remove the Guardian and that was heard for a
9 full day at our last ---

10 A. Yeah.

11 Q. --- call to trial. And you and your husband had
12 submitted an affidavit in that regard.

13 A. I was upset the first day because she -- she asked --
14 the first question was what did I expect out of this visit.

15 Q. And let me just ask you this. Was it your
16 understanding she didn't believe that visit was necessary?

17 A. Yes.

18 Q. Okay. Go ahead.

19 A. That she thought that the baby needed to stay with the
20 adoptive parents, that they were -- had a very beautiful
21 home, that they had -- were very well educated and they had
22 -- let's see here, beautiful home, well-educated, they
23 could send the baby to any school that they wanted to or
24 she wanted to and it was nothing that the baby needed that
25 they couldn't buy for her.

1 Q. Okay. And how did that make you -- how did that
2 impress you as far as her role in the case?

3 A. It just made me feel that she was already committed to
4 the adoptive parents to award the baby to them.

5 Q. Were you present when she toured your home and looked
6 at the bedroom?

7 A. Yes, I was walking in the rooms with her.

8 Q. And did -- can you tell the Court, did the Guardian
9 look into Baby Girl's room?

10 A. She stood at the door and peeked in. And she didn't
11 go in. She did not go in the room at all. She didn't look
12 at the baby's clothes in her closet. She didn't look at
13 any of the toys that was on the floor. She -- she just
14 kind of peeked in and out. That was it. And I thought,
15 okay, I would have thought that she would have looked at
16 the clothes that we had in the closet.

17 Q. Did she look at Dusten's bedroom?

18 A. No.

19 Q. Did you offer?

20 A. Yes.

21 Q. Did she decline that?

22 A. She said, I didn't -- I don't need to see that -- your
23 room.

24 Q. She looked at your room, didn't she?

25 A. Yeah, she went into my bathroom -- or bedroom. I

1 don't think she went into the bathroom.

2 Q. Did this Guardian ask or suggest to you that you
3 needed to pray about this situation?

4 A. Yes, ma'am.

5 Q. Can you tell the Court what she said to you in that
6 regard?

7 A. We was looking at the baby of the picture on the wall
8 in the dining room.

9 Q. Baby Girl?

10 A. Yeah.

11 Q. A picture of Baby Girl?

12 A. Yes. She asked me if I had seen her. And I said,
13 Only one picture that we got off the Internet. And I said,
14 That's the only one I've got. And I said, It's on the wall
15 with the other four. And she -- I said, Would you like to
16 see it? And she said, Yes. She came in. She looked at
17 it. Then she goes -- she had her hands in her pocket and
18 she turned and walked back into the front room and she said
19 that we really need to get down on our knees and pray to
20 God that we can make the right decision for this baby, that
21 she is with a very loving and understanding family.

22 And the second day she was there she made the
23 statement again that, you know, if we took this baby from
24 the only family that she knows, has known. That was when
25 my husband got upset. And he said, We've never gotten to

1 have the chance to see the baby or hold her. And she was
2 just that we needed to pray to God to make the right
3 decision for this baby because it would physically and
4 mentally destroy her.

5 And I said, Well what happens when she turns 19 and
6 they tell her she's adopted? Her whole life will become a
7 lie. Won't that destroy her? And she said, But she's a
8 child now.

9 Q. Did you get the sense that the Guardian was attempting
10 to get you to change your mind or Dusten's mind about
11 pursuing this litigation?

12 A. Yeah. She was -- she worked very hard at that. It
13 was more talk of -- of that than of really anything.

14 MS. JONES: Thank you. That's all I have of this
15 witness, Your Honor.

16 THE HONORABLE MALPHRUS: Mr. Godwin?

17 MR. GODWIN: May it please the Court, Your Honor.

18 CROSS EXAMINATION BY MR. GODWIN:

19 Q. Mrs. Brown, my name is Ray Godwin. As you probably
20 know I represent the Adoptive Couple. I have in my hand
21 the home study which was conducted for your benefit. Are
22 you familiar with that home study?

23 A. From which one, her?

24 Q. The -- the one conducted by the Cherokee Nation.

25 A. Yes, ma'am -- or sir.