

Adoption of T.K.

Another *Kelsey S.* case. They keep coming, and they are important. The context is crucial.

Bio-dad status alone does not confer parental rights. Here, bio-dad tried to block mom's adoption of their child to prospective adoptive parents. His attempt to block termination of his parental rights was denied by the trial court, primarily because of his less than full commitment financially, plus the negative emotional effects of his cyber-stalking of mom. The Court of Appeal affirmed termination of his parental rights.

Justice Bedsworth's opinion is colorfully well-written, and contains a noteworthy review of *Kelsey S.* requirements and interpretive case law. Starting with the familiar core quote from *Kelsey S.*: "If an unwed father promptly comes forward and demonstrates a full commitment to his parental responsibilities – emotional, financial and otherwise – his federal constitutional right to due process prohibits the termination of his parental relationship absent a showing of his unfitness as a parent." [1 Cal.4th at p. 849], the T.K. court cites *Michael H.* as the next Supreme Court case after *Kelsey S.* *Michael H.* was a Supreme Court reversal of lower court finding of *Kelsey S.* status. The *Kelsey S.* dilemma facing alleged fathers [if in the early stages of the mother's pregnancy, he vigorously opposes the mother's decision to relinquish the child for adoption, he runs the risk of irreparably damaging his relationship with the mother and causing her emotional upset, quite the opposite of the emotional support he must give under *Kelsey S.*; if, on the other hand, he initially acquiesces in the mother's decision to place the child for adoption, hoping to change her mind before the child is born, he has forfeited his right to object later in the pregnancy to the child's adoption], posited in Justice Kennard's *Michael H.* dissent, continues to this day. The T.K. opinion is worth careful study on this point alone.

A contrary 2012 Court of Appeal decision, *Adoption of H.R.* (2012) 205 Cal.App.4th 455, upheld a finding of *Kelsey S.* status, was reviewed in detail, distinguished, and not followed. Other case law where *Kelsey S.* status was achieved was also reviewed. In the case before it, the T.K. Court of Appeal disagreed with the lower court's finding of *Kelsey S.* status. Further comment on recent case law interpretation of varying resolutions of *Kelsey S.* requirements was also set forth.

As the latest expression of *Kelsey S.* factors, T.K.'s review and analysis is required reading with respect to the rights and requirements of unwed fathers in their attempt to achieve rights that can be acquired only by achieving *Kelsey S.* status.

With multiple categories of parentage now available and recognized in our technologically advanced and sociologically diverse society [bio-dad, alleged father, *de facto*

father, natural parent, sperm donor, surrogate parent, presumed father, adoptive parent, three parent family per *Family Code* section 4052.5], these cases are being presented with increasing frequency and increasing complexities. This is precisely why family law counsel need to be constantly vigilant to the unending factual vagaries of each case and the perceptive application of legal principles in parentage disputes.

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