

# Dad left out in the cold

By Doug Beazley

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My heart aches for him. A room in the house Adam shares with his fiancée in Saskatoon is furnished and ready for a baby boy - the crib, the stroller, the toys.

But the child isn't coming home.

This past week, a Saskatchewan court denied "Adam" (his court-appointed pseudonym) custody of his eight-month-old child. Instead, the boy will be raised by a Prince Albert couple selected by "Rose," the birth mother.

The court also denied Adam an order giving him access to the boy for at least a solid year - unless the parties to the case agree on an access arrangement, which seems unlikely, given the raw emotions generated by the case.

But did this ruling set a legal precedent? Do estranged fathers have fewer parental rights under Canadian law now than they did before Adam took his fight to court?

That's what the losing side is claiming. Adam's lawyer, Mark Vanstone, says the judge in this case picked the P.A. couple, "Dave and Linda," over Adam because they make a better living than he does.

"What this has set up is the potential in law for anyone to have his or her children taken away by the courts and given to someone with a better parenting profile," he said.

That's an exaggeration, actually. Child custody cases aren't decided on precedents; the judge is expected to make a determination in each case based on what he thinks is best for the child. And kids aren't property to be claimed.

But the system wronged Adam the day his son was born, and made it far more difficult for him to make a strong claim to custody.

He learned of Rose's pregnancy in the spring of 2006 through Rose's family, and of her intention to see the child adopted by Dave and Linda, an upstanding couple with a \$100,000 income and their own acreage.

Adam's attempts to claim paternity were more or less ignored by the Saskatchewan government.

"To the authorities, he was simply a male voice on the phone asserting paternity," the judge wrote in the decision.

"Although the authorities were never explicitly dismissive of Adam ... (he) received all assistance short of help."

By the time the case came to court, Dave and Linda had been caring for the child for almost eight months - a very long time to an infant. That delay doubtless undermined his claim and strengthened that of the

guardian couple.

Bad luck for Adam, his own history worked against him as well. Adam's romantic record has been a series of ricochet, short-term relationships, none lasting longer than three years. His first resulted in a child, a girl, put up for adoption.

When asked, Adam couldn't remember when she was born.

He had a "brief and volatile" marriage in the mid-'90s. His relationship with Rose ended in booze-fuelled violence in 2005; Rose testified he "physically roughed" her.

Adam admits he's had trouble with alcohol abuse in the past, but insists he's been sober since the 2005 incident.

His employment history is spotty as well: odd jobs, construction work sidetracked by injury, one failed business. He declared bankruptcy in 2002. He runs a courier company, but he hasn't filed a tax return in three years.

He claimed to be earning \$35,000 per year, a sum the judge found was "the amount he hopes to earn, assuming everything works out.

"When one considers the path Adam has travelled it is ... not surprising that he presents as emotionally fragile."

All of these factors worked against Adam's custody claim, and supported the claim of Dave and Linda.

In custody cases a blood link is a factor, but it's not the only one. Again, children don't "belong" to anyone, and a blood link isn't enough in law to prevent an adoption.

And when a grudge match over custody reaches court, the judge is expected to make a decision that offers the child his best shot at a happy life.

The judge in this case had solid reasons for choosing Dave and Linda over Adam. That said, the judge's decision to suspend Adam's access for a year seems needlessly cruel.

Why hurt him more than he's been hurt already, just to cement the guardians' claim to the child?

"I thought, even if I lose custody, I can still see him. I can be part of his life," Adam told me. "I still can't believe it."

Custody cases always end in heartache for someone. In the judge's own words, "it cannot ... be said that any party has been in the wrong."

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