
June 25, 2013 – Alexandria, VA – On June 25, 2013, The Supreme Court of the United States released their opinion on Adoptive Couple v. Baby Girl, argued before the Court April 16, 2013. National Council For Adoption participated by submitting an amicus brief asking the Court to act in a way that would allow children’s complete best interests to be reviewed when their case was impacted by the Indian Child Welfare Act. We believe the Court has done just that by interpreting the provisions in question in a way that allow the Indian Child Welfare Act to continue to protect the culture and heritage within a family without harming the larger best interests of children.

The Court reversed the South Carolina Supreme Court in a 5-4 decision. The opinion of the Court delivered by Justice Alito (joined by Roberts, Kennedy, Thomas, and Breyer) addresses 3 key pieces of the Indian Child Welfare Act and decides the following:

1. “25 U.S.C. §1912(f) which bars involuntary termination of a parent’s rights in the absence of a heightened showing that serious harm to the Indian Child is likely to result from the parent’s ‘continued custody’ of the child – does not apply when, as here, the relevant parent never had custody of the child.”

2. “25 U.S.C. §1912(d) which conditions involuntary termination of parental rights with respect to an Indian child on a showing that remedial efforts have been made to prevent the ‘breakup of the Indian family’ – is inapplicable when, as here, the parent abandoned the Indian child before birth and never had custody of the child.”

3. “25 U.S.C. §1915(a), which provides placement preferences for the adoption of Indian children, does not bar a non-Indian family like Adoptive Couple from adopting an Indian child when no other eligible candidates have sought to adopt the child.”

“This is a wonderful victory for children and adoption” said Megan Lindsey, Director of Public Policy and Education. “The Court chose to prioritize and protect the best interests of children, preserving culture as a priority, but promising a balanced interpretation that allows a child’s
broader best interests to be considered. We at National Council For Adoption are so grateful to the Court for hearing and deciding this important case in a way that shows their commitment to children and families.”

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Passionately committed to the belief that every child deserves to thrive in a nurturing, permanent family, NCFA’s mission is to meet the diverse needs of children, birthparents, adopted individuals, adoptive families, and all those touched by adoption through global advocacy, education, research, legislative action, and collaboration.

More information is available on our website, www.adoptioncouncil.org.