

January 27, 2012

Dear United States Lawmaker:

We, the undersigned psychologists and psychiatrists, are writing to you because of an extreme injustice that recently has occurred to a 2-year-old South Carolina child named Veronica Rose Capobianco (see <http://saveveronica.org/> for more information). Over two years ago, Veronica's biological mother chose Mr. and Mrs. Capobianco to love, nurture and raise her biological child. Veronica's biological father did not provide financial or emotional support during the biological mother's pregnancy and signed documents agreeing not to contest the adoption. He further indicated in a variety of documented ways that he did not wish to obtain custody of Veronica. The Capobiancos were present at the birth of Veronica and have been her parents ever since. To this day, Veronica's birth mother remains committed to her decision and remained in Veronica's life as the adoption was open. Veronica was, until recently, a thriving, happy child residing in the stable, nurturing environment of the Capobianco's home. Several experts involved in this case have indicated that Veronica is securely attached to both Melanie and Matthew Capobianco, having spent more than two years in their loving care.

Veronica's biological father stated numerous times throughout the year before and after she was born that he did not intend to be a father nor did he want parental rights. However, because of a federal law known as the Indian Children Welfare Act (ICWA), on September 29, 2011, over two years later, in a South Carolina courtroom, a *newly* appointed family court judge ruled to remove Veronica from the only family she has ever known and placed her with her biological father – a man who signed away his right to contest the adoption. Because of the fact that Veronica has minimal Cherokee Indian heritage, her biological father and the Cherokee Nation abruptly interrupted the Capobianco's adoption proceedings. They demanded that this happy, healthy, securely attached, and thriving 2-year-old be abruptly handed over to her biological father, a man she had never met, and "officially" become a part of the Cherokee Nation. Pre-adoption inquiries did not reveal that the biological father was registered with the Cherokee Nation or was otherwise involved with Native American culture. Furthermore, her biological mother is Latina.

The ICWA was used to gain custody of a child he previously had no interest in parenting. Even the author of the law, Jim Abourezk, a former U.S. senator from South Dakota, believes the ICWA was misused in Veronica's case (please see Appendix for more information on the ICWA and how it applies to this case). The ruling unequivocally placed the rights of this absent biological father and the Cherokee Nation above the best interests of Veronica, despite the fact that experts in child-bonding and attachment testified during the adoption proceedings that removing Veronica from her home and the Capobianco family would be devastating and have long-lasting consequences. Despite requests from the Capobiancos, a transition period was not granted by the judge nor accepted by the biological father. On Dec. 31, 2011, Veronica was handed over to strangers, put into a truck and driven for 18 hours to Oklahoma. She is now in the custody of her biological father - a man she had never met. This occurred with virtually no transition period, giving Veronica zero opportunity to adjust to her new caregivers, environment, or the loss of the only parents she has ever known.

Psychological Aspects and Impact:

As mental health professionals, we are extremely concerned about the irreparable emotional damage this legal decision has and will continue to cause Veronica. Developmental research is very clear regarding the deep psychological and neurological damage that is likely to occur when a child, who is securely attached to her caregivers, as Veronica has been deemed to be by experts in the field, has that essential attachment severed. Attachment starts with the emotional bond that occurs between infant and caregiver(s). John Bowlby, a leading expert on attachment, has stated "the initial relationship between self

and others serves as blueprints for all future relationships." (Ainsworth, M. and Bowlby, J. 1965 & Bowlby, 1975). Attachment between a child and primary caregivers creates a template for all the child's relationships as she matures. A healthy attachment, that is 'ongoing' with the primary caregivers markedly aids a child in becoming aware of her emotions, helps her soothe herself when upset and allows her to be resilient from stressful situations. The key concept is that a positive attachment is formed in the first few years of life and then maintained as the child develops and matures. Attachment figures cannot be replaced!

When secure attachment is severed, a child may become embroiled in a variety of negative responses, including distress, anger, rage, fear, shame, and humiliation (Tomkins 1991, 1992). Children do not transfer their attachment from one or more caregivers to new caregivers, particularly when the change in caregivers is abrupt and severe. When attachment is interrupted, a child of Veronica's age and developmental level has a significantly increased risk of developing Reactive Attachment Disorder (RAD). According to the DSM-IV-TR (American Psychiatric Association), RAD of Infancy or Early Childhood is the, "markedly disturbed and developmentally inappropriate social relatedness" in most (if not all) contexts. It is caused by "pathogenic care" which can be defined by an abrupt change in caregiver(s), environment and social setting. A child with RAD will be chronically and severely "inhibited, hyper vigilant, or highly ambivalent" and will respond to the *replacement caregiver(s)* with fear, a mixture of "approach, avoidance, and resistance to comforting." (DSM-IV-TR). The ICD-10 (World Health Organization, 1994) states that the disorder does not have just temporary effects. It can cause "persistent abnormalities in a child's pattern of social relationships" and "fearfulness and hyper vigilance, poor social interaction with peers, aggression toward self and others, and misery (F94.1)."

Psychologists are well aware that the early experience of misery can be a pre-cursor to a lifetime of depression and/or anxiety. These disorders can become severe and chronic in nature, are resistant to change and can have a significant impact on emotional, social, and interpersonal functioning in adulthood. Attachment is a deeply emotional and neurologically motivated and determined process that affects the deepest expression of emotions and relatedness throughout the life-span. As long as Veronica is with her biological father, there will be no "getting over" the extreme trauma that she has experienced.

Conclusions:

Every day Veronica is away from her primary caregivers/attachment figures, the Capobiancos, increases the likelihood and severity of numerous problematic mental health outcomes. The trauma she will have to live with and reconcile, should she not be returned to the only home and parents she has ever known, cannot and will not be offset by living with a biological parent who is of minimal Cherokee heritage (as the tribe has suggested). If raising Veronica was so important, the biological father could have stepped forward, made his wishes known and filed a court order for custody during the biological mother's pregnancy. That the biological father changed his mind should not result in the long-term psychological scarring of Veronica.

We urge you, as leaders of our country, to help protect Veronica and bring her home. We ask that ICWA be reviewed and revised to protect children who are appropriately placed in loving, nurturing environments. We understand the premise of this law was to protect Native American culture. However, in Veronica's case, this federal law has been used inappropriately. It is clearly in Veronica's best interest to remain with the only parents she has ever known, the Capobiancos, where she will continue to be loved, cherished and educated about her heritage. Please help reverse this decision and bring Veronica back to her rightful home. Time is of the essence. We believe that significant psychological damage is being done to this innocent child every day she is away from her parents.

Thank you for your concern and time.

Sincerely,

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Appendix:

We have included the following information as an Appendix as it may be helpful to those unfamiliar with the ICWA and helps detail how we think it was misused in this case. The ICWA is a federal law that seeks to keep American Indian children with American Indian families. Congress passed ICWA in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress under ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" (25 U.S.C. § 1902). (From: http://www.nicwa.org/indian_child_welfare_act/). We believe the best interests of the child were not considered in this case and that the ICWA was not meant for children in Veronica's circumstance. Veronica has never resided on a reservation and was never removed from her home, since she has been raised by the Capobiancos since birth.

An attorney on the case recently released the following statement the first week of January:

Earlier this week, both the Cherokee Nation attorney and biological father's attorney filed a motion for a gag order to prevent the adoptive couple from speaking out further about this case. The adoptive couple is cooperating with the gag order request. Therefore, they were surprised to hear the statement made earlier by Ms. Jones [the biological father's attorney] and feel it is important to note the lower court ruled that the birth father's consent to the adoption was not necessary to finalize their adoption under South Carolina law. Based on state law, he had no voice as to the future of this child and would not have been able to obtain custody due to his abandonment of the birth mother. The state of South Carolina terminates a father's rights when he has not provided pre-birth support or not taken proactive steps to be a father before and shortly after birth. The birth father did not support the birth mother and was not deployed to Iraq during this time. The court would have issued an order relinquishing his parental rights and given the adoptive couple custody of the child. The issue in this case is that the lower court applied the federal Indian Child Welfare Act in such a way as to abrogate a South Carolina adoption law. This is one of the issues that is being appealed.

Also, according to an article in *The Post and Courier*, the senator who wrote the ICWA believes it is being misused in this case: Jim Abourezk, a former U.S. senator from South Dakota, authored the law. Reached by phone in Sioux Falls, S.D., Abourezk said the Indian Child Welfare Act began as a safety measure to keep outsiders from legally stealing children from their tribes.

WHAT IS THE LAW? Congress passed the Indian Child Welfare Act in 1978 in response to the increasing number of Native American children being removed from their homes. The federal law aims to preserve Native American families by placing an "Indian child" with blood relatives as a first preference and, as an alternative, in a home within the tribe..... After reviewing Veronica's story, Abourezk called the law's interpretation in this case "something totally different than what we intended at the time." "That's a tragedy," he said. "They obviously were attached to the child and, I would assume, the child was attached to them."

(<http://www.postandcourier.com/news/2012/jan/09/veronica/>)