

Lawyer Calls State's Custody of Kids Illegal

Polygamist Sect Cries Out After Judge Orders Extension of Custody and DNA Tests

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SAN ANGELO, Texas April 18, 2008 —

After two days of testimony, a judge ruled Friday night that all 416 children taken from the polygamous Texas compound will remain in state custody. The judge also ordered the adults to undergo DNA testing Monday to establish parental relationships.

The dozens of Yearning for Zion sect members who crowded the San Angelo courthouse didn't show any emotion following the ruling, but one of their lawyers said today that they are, in fact, "devastated" and called the trial "a mockery of justice."

"The law is clear: Unless there's imminent or immediate danger to the children, the children must be returned to the parents. What the judge is saying is, 'I'll just keep these children and send them into foster families while we sort this out.' That's directly contrary to what the law requires," said attorney Jim Bradshaw, who is helping members of the Fundamentalist Church of Jesus Christ of Latter Day Saints organize their legal defense.

Many observers felt the judge had no choice but to hold the kids for now, after hours of hearings filled with testimony about girls as young as 14-years-old being forced into marriages with older men.

"There may be sexual abuse under Texas laws taking place in these homes. We don't know which homes, we don't know exactly what yet. The prudent thing to do is keep the children safe," said children's attorney Susan Hays.

"I suspect any group has things that need to be addressed. They certainly could have been adequately addressed by keeping the children in the homes, going in the homes and then taking on those issues," Bradshaw said.

In the past week, mothers of the children taken into custody have gone on national media, pleading desperately to get their children back.

Bradshaw suggested today that in order to be reunited with their children the women might even testify against some of the men and acknowledge that girls as young as 14-years-old were married off.

"I've spoken to members of those households who are willing to say whatever it takes, and if that means a commitment that there will be no marriages within the home, if that means supervision within the home, if that means counseling within the home, they're willing to do what it takes to ensure their children are returned."

Underage and Pregnant

On Thursday, testimony in the giant custody case revealed that more than 20 girls taken from the polygamist Texas ranch became pregnant or gave birth before they were 16 or 17.

The testimony came from Angie Voss, a supervisor of investigations at the Texas Department of Child Protective Services, who was part of the weeklong raid by Texas authorities of the polygamist compound and was relying on the interviews and records taken from the sect's compound. "There is a culture of young girls being pregnant by older men," Voss testified under cross-examination.

Voss said that girls from FLDS had told child welfare interviewers that there is "no age too young to be married and they wanted to have as many babies as they could."

Voss' testimony was meant to bolster the argument that returning the children to their parents would put the children in danger of physical and sexual abuse.

Being interviewed on "Good Morning America Weekend Edition," Bradshaw said he didn't think there was sufficient "proof presented in the courtroom" to establish that there was a culture within the FLDS that encouraged girls younger than 18 to marry.

What's Best for the Children?

Bruce Perry, a child psychologist, testified Friday that the traditional foster care system could be destructive to children, but that the minors could also be at risk if they are returned to the ranch outside El Dorado, where he described as a very authoritarian atmosphere that promotes underage sex.

Perry said he interviewed three underage girls from the sect, and they told him they had a choice in whether they got married. However, he said, "It doesn't feel to me like it's a true choice."

"Obedience is a very important element of their belief system" and disobeying the sect's prophet is thought to lead to eternal damnation, he later added.

Perry also said that the youngest children are probably least at risk if returned to parents in the short term because they are not as likely to be influenced by FLDS unhealthy beliefs at such a young age. He added that he thought it would be OK for young mothers to continue to stay with their babies until a more long-term decision is made.

Children raised in such an authoritarian atmosphere have the "independent thinking capability of a much younger child," Perry said, comparing the critical thinking of a 15-year-old from the sect with that of an average 6-year-old.

Lawyers representing sect members, who were split into groups according to the age and sex of their clientele for cross-examination, countered Perry's recommendations with their own.

The representatives for the sect's girls ages 5 to 11 requested the children be returned to their parents, while state Children's Protective Services comes up with a long-term plan.

State District Judge Barbara Walther defended her ruling to keep the children from the parents who have, in some cases, allegedly abused them, saying, "This is the hardest, toughest decision a judge makes any day."

She also said each child is entitled to another hearing on or before June 5, although the judge is not required to rule by then.

The state has a year to make its case to take custody of the children, with a possible six-month extension, Texas lawyers said. If officials fail to make their case in that time, the children will be returned to their parents.

The Call That Sparked the Raid

Texas Rangers meanwhile continue to investigate a possible hoax behind phone calls made last month that prompted a police raid two weeks ago of the sect's compound. Separately, police have identified a Colorado woman as a "person of interest" in regard to telephone calls placed to a crisis center hotline in San Angelo.

As ABCNEWS.com reported Thursday, Texas Rangers met in Colorado Springs, Colo., Wednesday with local police to discuss a possible connection between Rozita Swinton, 33, of Colorado Springs, and telephone calls made regarding activities at the polygamist compound in Eldorado, Texas, that prompted the police raid and removal of the children April 3.

"Texas Rangers accompanied the Colorado Springs officers while they executed an evidentiary search warrant at Swinton's residence for items related to previous false reports to authorities in Colorado," Texas Rangers said in a statement. "During the search, officers found several items that indicated a possible connection between Swinton and calls regarding the [FLDS] compounds in Colorado City, Ariz., and Eldorado, Texas."

The sect's women have claimed the caller doesn't exist, but Voss said that when she first went to the ranch and spoke to some of the sect's girls, several said they knew who the girl was, but didn't know where she was.

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