

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

MARCIE FISHER-BORNE, for herself and
as guardian *ad litem* for M.F.-B., a minor;
et al.;

Plaintiffs,

v.

JOHN W. SMITH, in his official capacity as
the Director of the North Carolina
Administrative Office of the Courts; *et al.*;

Defendants, and

ROY COOPER, in his representative
capacity as the Attorney General of North
Carolina,

Intervenor.

CIVIL ACTION NO. 12-cv-00589

AFFIDAVIT OF MEGAN PARKER

MEGAN PARKER, being duly sworn, deposes and says:

1. I am over 18 years of age, legally competent to give this affidavit and have personal knowledge of the facts set forth in this affidavit.
2. I am a citizen and resident of Greensboro, North Carolina, where I have lived for six years.
3. I submit this affidavit in support of our Motion for a Preliminary Injunction, and describe the serious and imminent harm that my family faces as a result of North Carolina's refusal to recognize my marriage to my wife, Shana Carignan. The denial of our rights poses

particular risk to our son J.C., who has cerebral palsy. As I discuss below, J.C.'s condition requires numerous medical treatments, often on an emergency basis. In the past year, he has entered into a crucial stage in his growth and development and, because my marriage to Shana and her relationship with our son J.C. are not legally recognized, the medical treatment he needs is often delayed or denied. As a result, he not only suffers physically, but is deprived of developmental opportunities that are necessary right now for his growth and development.

4. Because Shana and I are spouses, her characterizations of our lives together, including many of the harms and deprivations she describes in her own affidavit, are the same as the ones I suffer. For the convenience of the Court and in order to avoid presenting identical information, I incorporate portions of the Affidavit of Shana Carignan ("Shana's Affidavit").¹

My Family

5. As Shana describes in paragraphs 7 through 12 of her affidavit, which I incorporate here, Shana and I have been in a stable, loving, and supportive relationship since 2008, and we intend and expect to be together forever. We had a commitment ceremony in Greensboro in 2010, in front of our friends, family and our son, J.C. We exchanged vows and rings, had wedding cake and received toasts from family and loved ones.

6. On September 13, 2012, we were legally married in the Commonwealth of Massachusetts. However, our marriage is not recognized under North Carolina law.

7. Shana and I always knew that we wanted children. Our work providing care for disabled individuals inspired us to adopt a child with special needs. Shana and I both underwent careful scrutiny in order to become certified as foster parents. We have committed to share equally in all of our parental responsibilities for the rest of our lives, but only one of us could

¹ In order to avoid duplicative statements of fact, I refer to Shana's Affidavit where I have reviewed and agree with her assessment of the factual situation.

legally adopt J.C. under North Carolina law. Shana and I decided that I would be the legal parent because my full-time occupation involved caring for individuals with cerebral palsy. However, we chose to give J.C. Shana's last name as a symbol of her role as his other parent. I adopted J.C. on March 24, 2011. Because the state does not recognize my marriage to Shana, and state law prohibits unmarried parents from getting a second parent adoption, she cannot obtain a second parent adoption of J.C.

8. J.C. has cerebral palsy, which means that he cannot walk and has limited ability to control his limbs or communicate verbally. As Shana describes, because of his condition, he requires considerable care from both of us

9. Although Shana and I consider ourselves equal parents of J.C., and we share both the delights and the burdens of our roles as parents, only I am legally recognized as a parent to our son. This deprives our family as individuals and as a whole of many opportunities and benefits. Since filing the original and the amended Complaints in 2012, new circumstances have made the deprivations we suffer an emergency.

10. As shown below, and in Shana's affidavit, J.C. is at a critical stage in his growth and development. Care and opportunities missed now will permanently and irreparably harm him.

J.C.'s Medical Needs Are Being Unacceptably Delayed or Not Met

11. J.C. is six years old. Shana and I have been told by J.C.'s medical providers that the care and attention he receives now will determine his overall health, his ability to successfully cope with his disabilities and his overall function as an adult. Because he was adopted from foster care, J.C. is covered by Medicaid. As discussed in paragraphs 13 through 28

of Shana's Affidavit, that means that the care he needs often is significantly delayed or unavailable.

12. J.C. has many medical needs which are not covered under Medicaid. As detailed in paragraphs 18 through 27 of Shana's affidavit, which I here incorporate, these include a properly fitting automatic wheelchair as well as repairs and adjustments to the chair as he grows, a circumcision in order to prevent infection from improper cleaning, high-quality formula for his nutrition, a condom catheter so he no longer has to suffer the indignity and embarrassment of diapers, and properly functioning medical equipment such as his communications system and his glasses.

13. This is a critical age for developmental growth for J.C., but Medicaid will not cover opportunities like one-on-one tutoring or alternative therapies that have been shown to help with certain aspects of cerebral palsy, and could improve the quality of his life.

14. There is a North Carolina program in which the state would pay premiums for J.C. to receive secondary coverage for the expenses Medicaid does not cover through a legal parent's private insurance. If Shana were J.C.'s legal parent, many of his medical needs would be covered by her Blue Cross insurance through this program. However, because she is not, he is deprived of the insurance he would receive if North Carolina recognized our marriage.

15. Because J.C. is not entitled to Shana's Blue Cross benefits, Shana and I pay for as many of J.C.'s uncovered medical expenses as we can afford. However, there are some things that we simply cannot afford, and J.C.'s health and development are being harmed because he is not receiving the care he needs.

Denial of Shana's Rights as a Parent

16. Because Shana is not J.C.'s legal parent, Shana and I often are faced with situations where her rights are not recognized, and she cannot assume the parental responsibilities that she otherwise would be able to exercise. Shana describes some of these situations in paragraphs 29 through 34 of her affidavit, which I incorporate here.

17. This also leaves me as J.C.'s only legal parent. Shana and I chose to become parents together and share equally in the responsibilities, joys and commitments that go along with that. However, because Shana's relationship with J.C. is not always recognized, there are times when we are not allowed to work as a team as his parents.

18. For example, I recently was called into J.C.'s school because they are implementing a new system under which Shana can no longer be identified as a parent to J.C. on school records. Shana is now listed on J.C.'s forms as an "emergency contact" and has none of the rights of a parent. I am worried about how this could impact J.C. in an emergency situation if I am unavailable. Without Shana as my co-parent, I must be constantly available in order to avoid leaving J.C. without a parent recognized by his school. I also worry about the psychological effect that this lack of recognition will have on J.C. when he learns of it. If he knows his school does not recognize his relationship with his mother, he will be confused and feel insecure in the stability of our family.

19. Because Shana is not J.C.'s legal parent, she has to ask special permission to take time off to be with him for a meeting at his school or when he is in the hospital. Moreover, on multiple occasions, Shana has been denied the right to stay with J.C. past visiting hours because of hospital policies allowing only legal parents to stay. Without legal recognition of Shana's relationship with J.C., I often am left alone to stay with J.C. during hospital visits. I feel a great

deal of pressure, because there is no one else to support me—if I leave to get food, or visit the restroom, J.C. may not have a parent there. If J.C. were Shana's legal child, her employer would recognize her commitments as a legal parent and she could always be there when J.C. has medical issues. This would greatly reduce the pressure and burden on me during an emergency.


20. These problems are exacerbated because J.C. regularly has extensive and often urgent medical needs. In the summer of 2010, J.C. required a surgical procedure at UNC-Chapel Hill. The hospital staff did not permit Shana to stay past public visiting hours because she has no legal parental relationship with J.C. As a result, in order to properly care for J.C. and provide him with a family presence at all times, I was forced to remain at the hospital around-the-clock, without any respite or support from Shana, J.C.'s other parent. All of us were distraught about our inability to remain together as a family at a time when J.C. needed us most.

21. Based on this history, Shana and I worry J.C. could require emergency medical care at any moment, and Shana could be unable to make medical decisions on his behalf, or be there for him as a parent. I am particularly worried that if I am ever unavailable, Shana may not be authorized to act in my stead. This adds pressure and anxiety to my role as J.C.'s parent.

22. If I were to die or become incapacitated, I believe it would be in J.C.'s best interests for Shana to continue to raise J.C. as his parent. However, absent a legal parent-child relationship with J.C., there is no way to ensure that she would be legally permitted to do so. Especially in light of my health issues, including my stroke last year, we live in a state of uncertainty because of Shana's not having a legal relationship with J.C. It terrifies me that I do not know what will happen to my son if I were to die.

Furthermore, the affiant saith not.

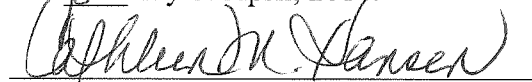
This the 8th day of April, 2014.



Megan Parker

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

Sworn to and subscribed before me
this 8th day of April, 2014.



Notary Public Signature

CATHLEEN M. HANSEN
Notary Public - North Carolina
Notary Public Forsyth County
My Commission Expires May 20, 2015

My Commission Expires: _____