



March 29, 2013
BREAKING NEWS

Tribal Supreme Court Project Statement Regarding *Adoptive Couple v. Baby Girl*

*Native American Rights Fund (NARF) | National Congress of American Indians (NCAI)
in partnership with the National Indian Child Welfare Association (NICWA)*



Amicus Briefs in Support of Brown Family Include U.S. Solicitor General, 19 States, and Broad Coalition of Supporters

*Twenty-Four Briefs Call for Brown Family-Daughter,
Veronica, and Father, Dusten-to Remain Together and
Indian Child Welfare Act to Remain Intact*

*Brown Family, Who Have Prevailed in Every Court So Far,
Will Have Fate Decided by the Supreme Court in a Case to
be
Heard on April 16th*

Washington, DC-The United States federal government and 19 states are among a broad coalition who filed amicus briefs yesterday with the United States Supreme Court supporting the rights of Native American father Dusten Brown and his daughter, Veronica, to remain together as a family, calling for the nation's highest court to uphold a previous South Carolina Supreme Court decision. The well-being of Veronica, the Brown family, and the importance of the Indian Child Welfare Act (ICWA) is a focus of all the briefs.

The case *Adoptive Couple v. Baby Girl*, to be heard by the Supreme Court on April 16, 2013, involves a South Carolina couple seeking review of a South Carolina Supreme Court ruling and attempting to force Dusten Brown, a member of the Cherokee Nation, to give his daughter Veronica up for adoption. Mr. Brown, who is now raising Veronica at their home in Oklahoma, has prevailed in every court that has considered this matter, including the South Carolina Family Court and the South Carolina Supreme Court.

Joining the U.S. Solicitor General Donald Verrilli and 19 states, including 18 state attorneys general, are a large array of groups who submitted 24 separate briefs in all. The overwhelming support includes 17 former and current members of Congress; Casey Family Programs, the Children's Defense Fund, and 16 other child welfare organizations; the American Civil Liberties Union; broad coalitions of psychology associations, child advocates, and legal experts; adult Native American adoptees; and tribal amicus briefs which include 333 American Indian tribes.

"The broad base of support in this case is historic. In the history of the work of the Tribal

Supreme Court Project, no Indian law case has generated more of a unified message to the Supreme Court about Indian law," said Richard Guest, staff attorney for the Native American Rights Fund (NARF), noting the outpouring of interest and support for Veronica, the Brown family, and ICWA.

Many of the briefs highlight the findings of the South Carolina Family Court, which found that "the birth father is a fit and proper person to have custody of his child" who "has convinced [the Court] of his unwavering love for this child," and were upheld by the South Carolina Supreme Court.

The amicus brief of the United States federal government emphasized the importance of ICWA, stating that "the United States has a substantial interest in the case because Congress enacted ICWA in furtherance of 'the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people.'" The brief further defends the constitutionality of ICWA, arguing that "ICWA, which is predicated on Congress's considered judgment that application of its protections serves the best interests of Indian children and protects vital interests of their parents and Tribes, does not violate any substantive due process protections." It concludes that "[t]he South Carolina courts properly awarded custody of Baby Girl to Father."

In the brief of leading national child welfare organizations, the best interest of the child is highlighted, in addition to the value of ICWA.

No one understands the human toll custody disputes can take more than amici, 18 child welfare organizations who have dedicated literally scores of years to the on-the-ground development and implementation of best practices and policies for child placement decision making. Amici have seen up close what works, and what does not. In amici's collective judgment, ICWA works very well and, in fact, is a model for child welfare and placement decision making that should be extended to all children. Much forward progress in the child welfare area would be damaged by rolling the law back.

A brief from Arizona Attorney General Tom Horne was joined by attorneys general from 17 other states-Alaska, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Maine, Michigan, Mississippi, Montana, New Mexico, New York, North Dakota, Oregon, Washington, and Wisconsin- and argued against interference in the relationship between states and tribes in matters regarding ICWA, asserting, "States and tribes have collaborated to ensure that the mandates and spirit of ICWA are fulfilled.... Early and complete compliance with ICWA ensures the security and stability of adoptive families as well as tribes and Indian families." The State of Minnesota Department of Human Services also filed a brief.

Not one state submitted briefs in support of Adoptive Couple.

"This brief includes nine Republican and nine Democrat attorneys general," said John Dossett, National Congress of American Indians (NCAI) general counsel. "Party affiliation does not matter. The federal trust responsibility is a nonpartisan commitment, which includes support for the rights of American Indian families and tribal governments to protect their Indian children-and in this case, for a loving father to be with his daughter and for her to be with her family."

Seventeen current and former members of Congress also reflected this bipartisan support, noting in their brief the circumstances that led to the enactment of ICWA in 1978, as well as asserting Congress's exclusive power to legislate with respect to Indian tribes. It stated:

In 1978, Congress enacted ICWA in direct response to state adoption policies that were draining Indian tribes of their future citizens. Such practices threatened the very existence of Indian tribes. Without children to grow up as their citizens, tribes would be left with no one to speak their language, carry on their traditions and culture, or participate in their tribal governments.... Ultimately, any decision limiting Congress's authority to pass legislation like ICWA...would effectively preclude Congress from exercising its plenary authority in Indian affairs, and render Congress unable to fulfill its historic duties as trustee to the Indian tribes.

Terry Cross, executive director of the National Indian Child Welfare Association (NICWA), commended former Senator James Abourezk for taking the lead on the brief, stating, "Senator Abourezk sponsored the bill that became ICWA because he recognized that the widespread removal of Indian children from their homes was a continuation of forced assimilation practices that had no place in our society. His leadership today sends an unmistakable message that there is unified support in defending his law from those who would return to the pre-ICWA era."

Two national tribal amicus briefs were submitted. The first, focused on the legislative history and importance of ICWA, was submitted by the Association on American Indian Affairs, NCAI, and NICWA, who were joined by 30 Indian tribes and five Indian organizations. A second national tribal amicus brief addresses the constitutional issues raised by the petitioners and also includes 24 tribal nations and organizations. The

members of the Tribal Supreme Court Project-NARF and NCAI-in partnership with NICWA, joined together to organize the briefs in support of the father. In all, 333 tribes submitted briefs in support of the father.

Oral arguments for Adoptive Couple v. Baby Girl will be held on April 16, with a decision expected shortly thereafter.

Resources: List and Links

Amici in Support of Respondents

- [Amicus Brief of the United States](#)
- [Amicus Brief of the State of Arizona and 17 States](#)
- [Amicus Brief of the State of Minnesota Department of Human Services](#)
- [Amicus Brief of Members of Congress](#)

Non-Indian Organizations

- [Amicus Brief of Casey Family Programs and 17 Other Child Welfare Organizations](#)
- [Amicus Brief of The Friends Committee on National Legislation, et al.](#)
- [Amicus Brief of the Psychologists Associations](#)
- [Amicus Brief of the American Civil Liberties Union](#)

Law Professors and Academics

- [Amicus Brief of Family Law Professors](#)
- [Amicus Brief of the Child Advocacy Clinic \(GAL\)](#)
- [Amicus Brief of Indian Law Professors](#)

Tribes and Indian Organizations

- [Amicus Brief of AAIA, NCAI, NICWA, et al. \(Legislative History\)](#)
- [Amicus Brief of the Seminole Tribe of Florida, et al. \(Constitutional Issues\)Â](#)
- [Amicus Brief of the Alaska Tribes](#)
- [Amicus Brief of the Arizona Tribes](#)
- [Amicus Brief of the California Tribes](#)
- [Amicus Brief of the Minnesota Tribes](#)
- [Amicus Brief of the Navajo Nation](#)
- [Amicus Brief of the Oklahoma Tribes](#)
- [Amicus Brief of the Seminole Nation of Oklahoma](#)
- [Amicus Brief of the Wisconsin Tribes](#)
- [Amicus Brief of the National Native American Bar Association](#)

Individuals

- [Amicus Brief of Adult Native American Adoptees](#)
- [Amicus Brief of the Yurok Chief Justice](#)

All of the briefs filed by supporters of Dusten Brown's right to raise his daughter can be found at: <http://bit.ly/ZrIS22>

All filings for the case can be found at: <http://bit.ly/11TpaDY>

More information about the case can be found at: <http://www.nicwa.org/babyveronica/>

Founded in 1944, the National Congress of American Indians is the oldest, largest and most representative American Indian and Alaska Native organization in the country. NCAI advocates on behalf of tribal governments, promoting strong tribal-federal government-to-government policies, and promoting a better understanding among the general public regarding American Indian and Alaska Native governments, people and rights.

Find us on Facebook 

Follow us on 



[Forward email](#)

 SafeUnsubscribe

 Constant Contact
Try it FREE today

This email was sent to jfinkbonner@npaihb.org by ncai@ncai.org |
[Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

National Congress of American Indians | Embassy of Tribal Nations | 1516 P Street NW | Washington | DC | 20005