

High Court to Get Adoption Appeal

By Robin Topping

A Syosset couple plans to petition the U.S. Supreme Court in an effort to overturn a state Court of Appeals decision this month that said they could not reclaim the child they gave up for adoption, their attorney said yesterday.

A Suffolk Family Court hearing has been scheduled for Dec. 3 to make final the adoption of the 2-year-old girl known as Marissa to her adoptive parents, Timmy and Lisa Stamatis of Coram.

But John Halpin, attorney for the natural parents, Warren and Christine Kosher, said, "An application for review of the Supreme Court will be made in any event." Next week, Halpin added, the Koshers will seek an order staying the adoption hearing pending action on the petition to appeal, which could be denied.

Fred Magovern, who represents the Stamatises, said that if no stay is granted and the adoption goes through, that the Koshers have no right to petition the Supreme Court. "I would argue that the appeal would be moot and that, since the adoption is final, the natural parents' rights have been terminated."

The Koshers have 60 days from the Nov. 14 Court of Appeals decision to file the petition, and it could take months before the petition is acted on. The Koshers declined comment on their move, but the Stamatises, who have been fighting the Koshers in court for two years, said, "We're just praying that everything turns out all right."

An appeal would place an even greater financial load on the Stamatises, who, despite greatly reduced legal fees, have still incurred some \$40,000 in court costs and debts to three different attorneys. Already, that burden has prompted Timmy Stamatis, a waiter, to put the family's house on the market, and friends have formed a fund to collect money for the family.

The case began in December, 1983, after the Koshers gave up the child they named Sarah the day after her birth because she had Down's syndrome. They changed their minds about the decision, however, shortly before the final adoption hearing, claiming state law was not clear enough as to their rights as natural parents. But the Court of Appeals, reversing a lower court decision, said the couple was not denied their rights and it reaffirmed the adoption.