

## LI Couple Keep Adopted Child Appeals Court Affirms Finality of Adoptions

Author: Topping, Robin

**Abstract (Abstract):** A Family Court judge ruled in favor of the Stamatises, but the [Koshers] won in the Appellate Division of State Supreme Court. The Court of Appeals decision says the Koshers were "single-minded in their resolve that [Sarah] be adopted immediately, and they sought out - and found - the quickest way to accomplish their objective. . .{they} held the consent forms for two weeks before signing them, then remained steadfast in their decision for three months thereafter, knowing the child was meanwhile making a life" with the Stamatises. The court said the Koshers could not prove "that the consent was signed under compulsion or threat, or against one's free will, or based upon fraudulent statements."

The Matter of Sarah K., according to the court, was a "tragic case," involving two couples "each found to be fit as parents." It began on Nov. 7, 1983, when the Koshers decided to put their child up for adoption. The consent form the Koshers signed said they believed the Stamatises "are far more capable of dealing" with the child's Down's syndrome.

**Full text:** In a decision reaffirming the finality of adoptions statewide, the Court of Appeals ruled yesterday that a Syosset couple who gave up their daughter to a Coram couple two years ago cannot reclaim that child.

The court's unanimous opinion did not address the constitutionality of the law governing how and when parents can revoke the consent to give up their children for adoption. But Judge Judith Kaye, who wrote the 20-page decision, said it would be "highly desirable" for the state Legislature to re-examine that law.

The decision comes after an emotional two years of legal wrangling over a child known as Sarah to her natural parents and Marissa to the adoptive parents with whom she has lived since shortly after birth.

"We have always felt that she was ours," said Timmy Stamatis, Marissa's adoptive father. "Right now, the decision really hasn't hit home yet. We're still numb. But when the adoption goes through, we're going to have a big bash."

Warren and Christine Kosher, who gave up the child after doctors told them she had Down's syndrome, declined comment yesterday. Their attorney, Katherine Thompson, said, "I can't tell you anything until I read the opinion." But Fred Magovern, the attorney representing Timmy and Lisa Stamatis, said the decision "should bring a sigh of relief" to parents in the process of adopting.

The statute involved spells out time limits which natural parents can revoke the adoption consents, and the effects of those consents. Adoption experts agree that, had the law been found unconstitutional, it would have opened the door to numerous challenges to the finality of recent adoptions.

"I know of many pending processes sitting in drawers of adoption clerks waiting for this decision," said Miriam Gelband of Gruberg, McKay and O'Keefe, a Manhattan law firm that represents several New York adoption agencies. "What this basically means is that the statute has withstood the attacks."

Aaron Britan, attorney for the Adoptive Parents Committee of New York, called the Court of Appeals judges "seven Solomons," but added that he had already discussed proposed changes in the law with state legislators.

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Adoption proceedings began Dec. 19, 1983, in Suffolk County Family Court, and a hearing was scheduled for March 2, 1984. But on Feb. 29, the Koshers changed their mind. They challenged the adoption, saying they did not know a court hearing would be necessary if they should decide they wanted Sarah back. And while state

law says parents can revoke their consent within only 30 days of the beginning of adoption proceedings, the Koshers said they didn't know when that 30-day clock started running.

A Family Court judge ruled in favor of the Stamatisses, but the Koshers won in the Appellate Division of State Supreme Court. The Court of Appeals decision says the Koshers were "single-minded in their resolve that Sarah be adopted immediately, and they sought out - and found - the quickest way to accomplish their objective. . .{they} held the consent forms for two weeks before signing them, then remained steadfast in their decision for three months thereafter, knowing the child was meanwhile making a life" with the Stamatisses. The court said the Koshers could not prove "that the consent was signed under compulsion or threat, or against one's free will, or based upon fraudulent statements."

Throughout the court battle, the Koshers have maintained that they can support the child better financially - Warren Koshers is an attorney while Timmy Stamatiss is a waiter - and that they had two normal siblings to serve as role models. The Stamatisses, who have since adopted another Down's syndrome child, say they have shaped their lives around care for their children's special needs. "I'd rather die than give up one of my kids," said Lisa Stamatiss.

Yesterday, Timmy Stamatiss said Marissa, now 2, had only an inkling of the day's events. "We have tried not to let her know what has been going on. But she knows that today is a special day. We're doing a lot of laughing, and we haven't done that in a long time."

**Illustration**

Newsday Photo by Cliff De Bear

**People:** Stamatiss, Timmy

**Publication title:** Newsday, Combined editions

**Pages:** 7

**Number of pages:** 0

**Publication year:** 1985

**Publication date:** Nov 15, 1985

**Year:** 1985

**Section:** NEWS

**Publisher:** Newsday Inc.

**Place of publication:** Long Island, N.Y.

**Country of publication:** United States

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