

Lisa Bierly  
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IN THE THIRD DISTRICT JUVENILE COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

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STATE OF UTAH, in the interest of	:	AFFIDAVIT IN SUPPORT OF MOTION FOR ORDER TO SHOW CAUSE
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BIERLY, Jordan (DOB 04/09/93)	:	Case No. 128961
BIERLY, Leigh (DOB 06/13/98)	:	Case No. 129142
BIERLY, Peter (DOB 09/17/84)	:	Case No. 970973
	:	
Minor children under eighteen years of age.	:	Judge Johansson

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Comes now, Lisa Bierly, natural mother of the above named children, having been sworn and being under oath, to respectfully assert the following facts to this Court which are true to the best of her knowledge and ability:

1. I am the natural mother of the above named children.
2. My son, Jordan Bierly has insulin dependent juvenile diabetes. I have been his sole care provider since his diagnosis at eleven months of age.
3. Jordan had been seeing an endocrinologist, Dr. Marvin Rallison, M.D., at the University of Utah Pediatric Endocrinology/Diabetes Clinic and a pediatrician, Dr. Allen, M.D., University Health Network, and had been in good health.
4. While Jordan has been in my care and custody, he has never required emergency hospitalization for his diabetes.
5. Dr. Rallison retired and was replaced by Dr. Dana Hardin, MD.

Richards then presented me with a copy of the aforementioned book with the following handwritten inscription, "To Leesa (sic): May you stretch your mind and change your perspective via the truth and light available in this book. Peace – Adieu." It was signed "Barry M. Richards feature author." – *I still have this book!*

12. Mr. Richards said that he was "studying me," and would mention me in his upcoming lecture in Provo, and in a future book. He further informed me that the "bad news" was that Jordan would stay in foster care.

13. Leigh Bierly was removed by DCFS the day of the shelter hearing as a "Sibling at Risk." Leigh does not have diabetes. There are no allegations that Leigh has ever sustained harm while in my care.

14. At a pretrial hearing before this Court on October 18<sup>th</sup>, 2000, the Court ordered that the children remain in foster care. Leigh was to be returned after a safety plan was in place and after I submitted to an evaluation.

15. I submitted to the evaluation with Dr. Kathleen Care PhD on October 28<sup>th</sup>, 2000.

16. I received and signed a "Safety Plan" from DCFS Caseworker Kellie Lewis, dated November 8<sup>th</sup>, 2000. I have complied with all of the provisions of the safety plan: (1) Provision One - Notify DCFS for prior approval regarding plans for individuals, other than the children and herself to reside in the home. Notify DCFS of change of residence. DCFS is and has been aware of my current address and living arrangements.

(2) Provision Two - Children will be registered for and attend school. Peter attends school and works part-time. Jordan is in foster care. Leigh does not yet attend school.

(3) Provision Three - Mother will arrange an appropriate caretaker for Leigh when personal supervision cannot be provided. This has not been a factor as I have provided personal supervision for Leigh when she has been home.

(4) Provision Four - Mother will keep all scheduled appointments related to family members. I have attended all meetings at DCFS, all clinic appointments, all court appointments, and all permitted visitations.

(5) Provision Five - Mother will have a working phone so that appropriate communication can be maintained. I have maintained a working phone with voice message capacity and a cell phone. I am in regular contact with DCFS caseworker Kellie Lewis, supervisor Dan Reid, and manager Patty VanWagoner.

(6) Provision Six - Appropriate food, clothing, and shelter for children at all times. I have fully complied with this provision.

(7) Provision Seven - Comply with conditions stated in the service plan. I have had three service plans, dated September 29<sup>th</sup>, December 13<sup>th</sup>, and January 29<sup>th</sup>, 2001. I signed the third service before this Court on January 30<sup>th</sup>, 2001. I have complied with the provisions of the service plans.

(8) Provision Eight - Assure that the children are safe from emotional harm and/or physical maltreatment. I have complied with this provision.

(9) Provision Nine - Submit to random UAs. As required, I submitted to drug testing at the order of the DCFS caseworker. The results were negative. I do not abuse drugs. There has been no allegation of substance use or abuse.

17. Pursuant to the current service plan objectives:

(1) Objective One – Attend Therapy. I have attended with Dr. Ted Harris since February 7<sup>th</sup>. DCFS has arranged for and has paid for this therapy. I have also been in contact with Lisa Gustofsen of South Valley Mental Health who is Jordan’s therapist. It is my understanding that she will facilitate reunification when instructed to do so by DCFS caseworker Kellie Lewis.

*and then quit, citing this as failure to comply -*

(2) Objective Two – Diabetic Training. I have attended and completed diabetes classes at Primary Children’s Medical Center in October. I also completed and passed a diabetes test on February 12<sup>th</sup>.

(3) Objective Three – Working Phone. I have had a cell phone and a home phone with voice mail messaging capacity. I have maintained regular and frequent contact with DCFS caseworkers.

(4) Objective Four – Peer Parent. I have cooperated with Stuart Karen, DCFS Therapist, in allowing access to my home when my child/children were present during visits. DCFS is supposed to arrange for a “peer parent” to come to my home after the children are returned home. I have voiced my willingness to participate in this program when arranged.

(5) Objective Five – Provide Legitimate Income & Rent Receipts. I am not receiving public assistance of any kind. I have provided Patty VanWagoner, Dan Reid, and Kellie Lewis (all of DCFS) with income receipts and rent receipts on March 9<sup>th</sup>.

18. Leigh had been returned to my physical custody following the Court hearing of November 17<sup>th</sup>, 2000. At the January 11<sup>th</sup> Dispositional Hearing, Leigh was taken from me at the courthouse and returned to foster care.

19. I attended a meeting at the DCFS Cottonwood Office on February 27<sup>th</sup>, 2001 to discuss the trial home placement. At that meeting, I was informed that I would have unsupervised visits, overnight visits and an extended weekend. Trial home placement was to begin on March 19<sup>th</sup>, 2001. Present were DCFS representatives Dan Reid, Patty Van Wagoner, and Kelly Lewis.
20. On Friday, March 2<sup>nd</sup>, 2001, I appeared at the DCFS Office for a scheduled visit with my children. Jordan appeared to be very ill. I asked the receptionist for assistance; she called supervisor Dan Reid. Jordan appeared to be convulsing. I called 9-1-1. Paramedics responded and administered glucose at the DCFS Office. Paramedics then transported Jordan to Cottonwood Hospital Emergency Room at about 12:45 p.m. According to medical records, he was nonverbal and his blood sugar was 37 upon arrival. Jordan received an IV. I stayed with Jordan and Leigh in the emergency room. The children were returned to foster care when Jordan was medically cleared to leave at or about 4:30 p.m., March 2<sup>nd</sup>, 2001.
21. While waiting at the Cottonwood Hospital, I expressed my concerns to Kellie Lewis and Dan Reid, DCFS, in person, and to Heber Tippetts, DCFS, by phone, that the foster care providers were not managing Jordan's diabetes properly. This was the second time that Jordan required emergency medical treatment while in state custody. I was informed that the Guardian-ad-litem, Liz Knight, had objected to a return of the children at this time.
22. On Monday, March 5<sup>th</sup>, 2001, Bonnie Macri, JEDI for Women, accompanied me to Primary Children Medical Center to meet with Dr. Harden. The meeting was rescheduled for and conducted on Wednesday, March 7<sup>th</sup>, 2001. I had requested

the meeting seeking explanation about Jordan's extreme hypoglycemic episodes while in foster care. (See #25 below).

23. It is my understanding that severe fluctuations in blood sugar can result in brain damage and/or death. Jordan's blood glucose records while in foster care indicate extreme fluctuations:

(1) February 20<sup>th</sup> readings: 176 (0632 hrs.), 82 (1104 hrs.), 500 (1643 hrs), 441 (1715 hrs), 407 (1744 hrs), 198 (0642hrs), 333 (2019 hrs).

(2) February 21<sup>st</sup> readings: 95 (0725 hrs), 68 (1106 hrs), 38 (1207 hrs) 98 (1610 hrs), 92 (1833 hrs).

(3) February 22<sup>nd</sup> readings: 327 (0641 hrs), 251 (1113 hrs), 207 (1818 hrs), 30 (1957 hrs), 38 (2007 hrs), 91 (2259 hrs).

(4) February 23<sup>rd</sup> readings: 56 (0528 hrs), 187 (0718 hrs), 264 (1527 hrs), 323 (2132 hrs).

(5) February 24<sup>th</sup> readings: 319 (0816 hrs), 47 (1231 hrs), "Lo" (1549 hrs), 144 (2128 hrs).

(6) February 25<sup>th</sup> readings: 80 (0813 hrs), 552 (1058 hrs), 123 (1404 hrs), 289 (1758 hrs), 239 (1926 hrs).

(7) February 26<sup>th</sup> readings: 63 (0809 hrs), 229 (1109 hrs), 94 (1144 hrs), 253 (1751 hrs), 207 (1918 hrs).

(8) February 27<sup>th</sup> readings: 275 (0713 hrs), 59 (1159 hrs), 393 (1742 hrs).

(9) February 28<sup>th</sup> readings: 166 (1734 hrs), 28 (0856 hrs), 74 (2057 hrs).

(10) March 1<sup>st</sup> readings: 284 (0230 hrs), "Lo" (1053 hrs), 178 (1055 hrs),

(11) March 2<sup>nd</sup> readings: 27 (0829 hrs), 101 (0831 hrs), 53 (1118 hrs).

24. On Friday, March 9<sup>th</sup>, 2001, scheduled visitation was canceled by DCFS.
25. On Friday, March 16<sup>th</sup>, 2001, DCFS Manager Patty VanWagoner informed me that since my rent was paid, and since I had submitted the receipts as requested informed me, she saw no reason why Leigh could not remain in my home for the trial home placement.
26. *DCFS rejected the receipt claiming it didn't have the landlord's name on it.*  
After an extended weekend visitation, I was ordered by DCFS Caseworker Kellie Lewis to surrender my daughter Leigh back to foster care on Tuesday, March 20<sup>th</sup>, 2001. I was given no explanation as to why the trial home placement was not proceeding as scheduled. I surrendered my daughter to DCFS as required.
27. On March 21<sup>st</sup>, 2001, Bonnie Macri accompanied me to a meeting with Ivy Earl and Linda Winnegar, Constituent Services, DCFS, 120 North 200 West, SLC. I requested the meeting because local DCFS agents would not offer any explanations regarding the canceled visits or the indefinitely postponed trial home placement. Winnegar and Earl noted discrepancies between the court minutes and the order submitted to the Court. Winnegar informed us that "Leigh never should have been taken, and if they had known that Jordan was such a brittle diabetic, they would have never removed him."
28. Linda Winnegar and Ivy Earl informed me that a meeting would be set up with Abel Ortiz, DCFS, and Dave Carlson, Attorney General's Office, on Friday, March 23<sup>rd</sup> at 9:30 a.m. I have not been able to confirm whether it occurred.
29. On Friday, March 23<sup>rd</sup>, 2001, I was granted a restricted two-hour supervised visitation with my children.

30. On Tuesday, March 27<sup>th</sup>, 2001, I was granted a restricted two-hour supervised visitation with Leigh. The visit was supervised by a woman identified as "Katina," a social worker from the office of the Guardian-ad-Litem.
31. Since the last Court hearing, I have been informed by DCFS supervisors Dan Reid and Patty VanWagoner that Leigh should be returned home. I have not been given any reason as to why the trial home placement has not occurred and why my visitation is being restricted. I believe the changes in visitation and placements are very traumatic and confusing for Leigh.
32. Since the last Court hearing, Jordan has needed emergency medical treatment for the second time while in foster care. I believe he is at risk for medical problems due to the severe fluctuations in his glucose levels.
33. I love my children and believe that it is in their best interests to return home.

Dated this \_\_\_\_\_ day of March 2001.

Lisa Bierly \_\_\_\_\_

In the County of Salt Lake, State of Utah, on this \_\_\_\_\_ day of March 2001, before me the undersigned notary, personally appeared \_\_\_\_\_ who proved to me her identity through documentary evidence in the form of a \_\_\_\_\_ to be the person who signed the preceding document in my presence and who swore or affirmed to me that the signing was voluntary and the document truthful.

NOTARY PUBLIC \_\_\_\_\_