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■ texasnews

Vowels drops 3½-year custody fight

Although courts finally ruled she had standing to bring custody suit, Vowels says continuing the fight would have harmed her daughter

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Kristie Vowels vividly remembers the last day she saw her daughter Meghan. It was the morning of April 24, 2007.

"I took her to school that morning. She had on her khaki shorts, and her black t-shirt and her little black Crocs," Vowels said.

Meghan was 3 years old then. And Vowels has spent the 3½ years since that day fighting for the right to see her daughter again — right up until Friday afternoon, Oct. 8.

That's when Vowels signed the papers to drop her lawsuit seeking joint custody of her daughter.

"I'm doing this for Meghan," Vowels said in an interview at her attorney's office. "I'm doing this because I want to do what's best for her. I love her enough not to be selfish."

Vowels and her former partner, Tracy Scourfield, had lived together for several years, since December 1998, when they decided to have a child together. Scourfield gave birth to their daughter on May 21, 2004, and the couple gave their baby girl both their last names — Scourfield-Vowels.

Vowels and Scourfield ended their relationship a little more than a year later, in August 2005, and Scourfield and Meghan moved out, into an apartment near Vowels' home. For nearly two years, the two women shared custody of their daughter, with Meghan spending part of her time with Scourfield, and the rest with Vowels.

On Aug. 3, 2006, Scourfield had Meghan's last name changed to Scourfield. And nine months later, she cut off contact between the little girl and Vowels. Less than a month later, on May 23, 2007, Vowels filed suit seeking joint custody.

Less than a month after the suit was filed, 302nd Judicial District Court Associate Judge Christine Collie ruled in the case, saying that while Vowels had standing as a "person with substantial past contacts" to sue to adopt the child, she had no standing to sue for custody. Judge Tena Callahan confirmed Collie's rulings in November and then again in January 2008, and in April that year, Callahan signed the order, based on a motion by Scourfield, to dismiss the suit.

By the end of April, Vowels had appealed the ruling, but it took a little over a year for the appeals court to issue its decision, finally affirming the dismissal on Aug. 11, 2009. Vowels asked for a rehearing and an en banc review, and on Dec. 1, the appeals court handed down a new ruling, this time in Vowels favor, saying she did, in fact, have legal standing to sue for joint custody.

Scourfield's motion for a rehearing was denied



THE LAST WORD | Kristie Vowels, seated, watches through tears as her attorney, Michelle May O'Neil, standing left, adds her signature under Vowels' to paperwork informing the court Vowels is dropping her lawsuit seeking joint custody of the daughter she shared with her former partner. Even though attorney Ashley Russell, standing right, had located a clause in the Texas Family Code that might have helped win, Vowels and her attorneys felt the price of victory would have been too great. (Tammye Nash/Dallas Voice)

by the appeals court, as was her appeal to the Texas Supreme Court. And on July 26 this year, the appellate court issued the mandate to return the case to trial court.

Vowels was ready for the next stage of the battle. But she and her attorneys, Michelle May O'Neil and Ashley Russell, knew it would be a hard fight, thanks to legal precedent set in a 2000 ruling by the U.S. Supreme Court in the case of *Troxel v. Granville*.

In that case, a Washington couple were suing for visitation rights with their dead son's children. But the Supreme Court ruled that a parent has the constitutional right to rear their children as they see fit, and that to abridge that right, the court had to find the parent unfit.

It is, O'Neil said, a very high standard to meet. "It's really hard to disprove the fitness of a parent. Look at Britney Spears and everything she went through, and she was never ruled unfit," O'Neil said.

Still, there was a chance. In fact, Russell had found a clause in the Texas Family Code that might have even lowered the bar so that Vowels and her attorneys wouldn't have to try to prove Scourfield unfit to win their case.

To gain standing to sue, Vowels and her attor-

neys had already proven that she had "actual care, control and possession" of her daughter — through the joint custody arrangement with Scourfield that lasted almost two years — within six months of the date she filed suit.

And then Russell found a clause in the code that said if a parent "relinquishes actual care, control or possession" of a child for six months, that overcomes the presumption of fitness. And the courts had already ruled that Scourfield had relinquished partial control to Vowels over the course of those two years.

It was the chink in Scourfield's armor, and if Vowels and her attorneys could prevail, it would likely set precedent, O'Neil said.

But, the attorney added, "If we win, what would that look like?"

On Sept. 1, O'Neil met with Scourfield's attorney to try and reach an agreement that would allow Vowels to see her daughter and end the court battle. After all, Vowels said, "For me, this was never about winning a court case. It was just about being able to see my daughter. That's all I wanted, to see Meghan."

But during the meeting with Scourfield's attorney, O'Neil said, it became blisteringly clear that

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Scourfield would never settle.

"I tried everything to get him [Scourfield's attorney] to make a settlement. I hoped that after 3½ years, she would soften some and agree to something. I used every persuasive argument I could think of," O'Neil said. "But it became painfully obvious to me that no matter what her lawyer thought or said, or what I said or what Kris said, there was never, ever going to be a settlement offer."

Vowels recalled that day and her conversation with O'Neil.

"Michelle and I walked outside after she met with Tracy's lawyer and sat down, and I remember her telling me what took place. Then she said, 'You know Kris, I don't know if I can win this for you.'" Vowels said. "I was so taken aback. I said, 'Yes, you can.'"

But O'Neil wasn't swayed. "I asked her, if we do win, what will that look like? I really wanted her to think about that, about what it meant to keep fighting and what it would mean if we won," she said.

"We could go through this horrible, protracted fight, and I knew that on every ruling from the judge that didn't go her way, Tracy would appeal it, all the way to the Supreme Court. If we go through three or six or nine more years of court battles, even if we win everything, what does that really look like? Even if the court gives you cus-

tody, will Tracy support your relationship with Meghan? What will it do to Meghan?"

And that was what cemented Vowels' decision. She and O'Neil set an appointment for later to make the final decision, but Vowels already knew what she had to do.

"I was OK that night. I was OK that next week. But not really," Vowels said. "Grief was knocking on my heart, and it was knocking hard. I realized that I had been in some phase of grief for 3½ years. I hadn't been living; I had just been functioning. I functioned at a high level, yes, but I had limited myself emotionally."

O'Neil said Vowels had stayed positive throughout the fight, always putting up a brave front. But she knew the struggle was wearing on her client.

"Every hearing, every meeting, Kristi came to that courthouse thinking, 'Today's the day that I'll get to see Meghan again.' Every time, even when she knew that it wouldn't actually happen, she came with that attitude. It was really affecting her ability to just live her life."

And so Vowels decided to end the fight. With her attorneys standing behind her, as they had done for more than three years, Vowels signed her name with a shaking hand to the papers that would end the case.

It's been a long, hard battle, but Vowels said she is ready now to move on with her life, even though she will always love her daughter and will always think of herself as Meghan's mom.

For the two attorneys, who describe themselves as "two straight, white, Republican women with husbands and children," this case has been life-changing.

"I had just been practicing maybe a year when Kristi came to us with this case," Russell said. "I was just learning to navigate the family courts system and figure out where everything fit. Then this case came along and blew that all wide open. I realized that there were all these people, all these families and children who don't fit into these neat little slots made for us by the law."

"This case really heightened the awareness for me that in reality, people are not all treated fairly under the law, and that is not right," Russell added. "You can only do the best with what you have, but we all have to fight for what is right."

O'Neil said that she already had an idea of the legal barriers that LGBT people face, thanks to her time as a young lawyer working in the Texas attorney general's office.

"That was when the attorney general was defending the sodomy statute in the case that eventually went to the Supreme Court," O'Neil said. "And as a Baylor Baptist bow-head girl, that was a real shock to my system, believe me! But through that, I got exposed to the prejudices so many people are subjected to, and I really learned compassion [LGBT people and the defendants in the case], even though I was defending the statute."

"That experience really broadened my

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