

## CASE 5

In 1999, Anna Mae He was born prematurely to parents Shaoqiang and Qin Luo He. Because of Anna Mae's premature birth, Shaoqiang and Luo struggled to provide for her medical needs with inadequate health coverage.

Friends from church, Jerry and Louise Baker, with four of their own children, agreed to take in three-week-old Anna Mae. The Hes arranged a 90-day foster care placement with the Bakers through a local agency. During this time, the Hes' financial situation deteriorated dramatically, both now having to work at local restaurants to make ends meet. Shaoqiang was accused by a fellow student of sexual assault, and lost his research position at the university. Though the charges were dismissed, Shaoqiang did not return to work and study at the university. This turn of events made an extension of Anna Mae's placement with the Bakers the best option for the child. When the initial 90-day term ended, both couples agreed to continue the arrangement, and the Hes signed papers agreeing to grant the Bakers custody.

The Hes visited Anna Mae weekly until the relationship between the families deteriorated. Because Shaoqiang's student visa was now expired, the couple faced deportation proceedings, which would force the family to return to China. They refused to leave without Anna Mae. The conflict between the families peaked in 2002 when the Bakers called police after the Hes again requested that Anna Mae be returned to them. Believing they would be arrested if they tried to visit Anna Mae again, their visits stopped, as did the child support they had been paying the Bakers for Anna Mae's care. Four months later, the Bakers filed for termination of the Hes' parental rights, a necessary precursor to legal adoption of Anna Mae.

Responding to the Bakers' claim that the child no longer had any connection to her biological parents, Chancery Court Judge Robert Childers of Memphis terminated the Hes' parental rights, ruling that they had abandoned their daughter. In his ruling, the judge characterized the couple's fight for their daughter as selfishly motivated by their fear that they would be deported and their assumption the child (a United States Citizen) could provide them with a claim to remain in the United States. Childers agreed with the Bakers' claim that it was in Anna Mae's best interest to remain in the US because her life would be endangered if she were taken to China, citing a high infant-mortality rate for girls and China's 'one child' policy.

According to a report in the Los Angeles Times (February 17, 2005), when they heard the decision, Shaoqiang said, "We couldn't even speak. We couldn't even breathe."

In January 2007, ruling on the Hes' appeal, the Tennessee Supreme Court said Judge Childers wrongly terminated the couple's parental rights. According to the ruling, the Supreme Court concluded, "Financial advantage and affluent surroundings simply may not be a consideration in determining a custody dispute between a parent and a non-parent." The ruling included an order to reunite the child with her biological parents.

Commenting on the Supreme Court Ruling in the same Los Angeles Times report, “It’s not the job of the court to find a better set of parents for a child,” said Christina A. Zawisza, associate professor of clinical law at the University of Memphis. “The state doesn’t have the right to second-guess parents unless the child would be in danger.”

The Bakers’ subsequent appeal to the US Supreme Court has since been refused. The now 8-year-old Anna Mae will be required to leave the only family she has ever known and return to her biological parents. According to an Associated Press report from January 24, 2007, Larry Parrish, the Bakers’ attorney, claims Anna Mae “has not wanted to have any conversation about it. She will close up her ears and run in another room. It’s just how you make the best of the worst situation.”

Responding this turn of events, Shaoqiang (quoted by the Associated Press on January 24, 2007) said, “We want our child to remember their kindness and their love.” The Hes had two more children during this period. “When she wakes up each morning, she’ll wake up and see her mother and daddy and her brother and sister, and we’ll all have the same faces she has.”