



The Wilson Moot 2014

*British Columbia (Director of Child, Family and Community Services)
and Don Sterling v. Keith Baxter and Jasmine Liu*

Clarifications to the Official Problem

1. The facts are as found by Justice Murakami. Mooters may conduct any research they see fit in the course of developing their arguments. Mooters are also permitted to refer to foreign law in their written and/or oral arguments. However, no reference shall be made, in written or oral arguments, to any facts (legislative or adjudicative) beyond those found by Justice Murakami.
2. Justice Murakami made the following additional findings of fact:
 - a. Keith and Jasmine's efforts to contact Don were reasonable in the circumstances. However, they do not rely on paragraph 17(1)(b) of the *Adoption Act* as a ground for dispensing with Don's consent to the adoption.
 - b. Don has been sober since August 2012.
 - c. The study referred to in paragraph 29(g) of the Official Problem compared aboriginal children adopted by non-aboriginal families to aboriginal children adopted by other aboriginal families in their home communities.
3. The parties are those identified in the style of cause in the title of the Official Problem. The Director of Child, Family and Community Services also represents the position of the British Columbia Attorney General. Xavier is not a party to the litigation. There are no issues as to any party's standing, and the High Court of the Dominion of Canada will not entertain any submissions on the issue of standing.
4. Justice Murakami accepted that the purpose of the enactment of subsection 17(5) was to ensure that the cultural heritage and identity of aboriginal children and the rights of aboriginal biological parents would be given increased protection in direct placement adoptions. She also accepted that the amendment followed consultations between the provincial government and various aboriginal stakeholders, though no specifics of those consultations were put into evidence on the application.
5. The parties have not been granted leave to address any non-constitutional issues on the appeal to the High Court of the Dominion of Canada, including whether the best interests of the child test under section 3 of the *Adoption Act* was properly applied by Justice Murakami.
6. The High Court of the Dominion of Canada will not entertain submissions on the issue of remedy. The parties agree that if the appeal is allowed, the adoption order is vacated, and there is no legal impediment to Don taking custody of Xavier.