

# Custody

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"I did not kidnap my son. His mother and I were in agreement when I left Canada that I should bring him with me since it was the best living situation for him. He needed a stable environment and my family here was willing to help," says Merritt who has lived on-and-off in Canada since 1992 but had moved to the U.S. temporarily to shepherd a specialty auto business he had founded with a friend.

"I think she became afraid and made up the kidnap charge because our marriage was on the rocks," he adds.

According to the U.S. State Department, there are currently thousands of cases where spouses have taken children out of the country unilaterally—depriving the other spouse of their parental privileges. A Department spokesperson told the *Informer* that international custody disputes are governed by treaty that requires every parent be given a fair hearing to determine the best place where the child should live. In Merritt's case, however, D.C. Child and Family Services circumvented the process by sending Tyrone II back to his mother without a proper hearing.

The city agency would not comment on the case but court records indicate a federal prosecutor told a judge that U.S. courts had not made a determination whether Merritt or Elzy-Robert could have custody of the child. Merritt, who remains free on bail, was shocked to find that Child and Family Services had taken the child back to Canada while he was going through a hearing for an extradition request that Canada had filed with the U.S. government following his wife's kidnap charge.

Elzy-Robert has given conflict-

ing accounts whether her husband kidnapped the child or not. Almost immediately after her husband's arrest, she recanted that he kidnapped their son in a letter to one of Merritt's attorneys. She repeated the assertion in another letter in December. She has since changed her story, telling a local newspaper last week that it was indeed a kidnapping.

Court records indicate Elzy-Robert told the Canadian police she was afraid for her son's life because her husband had been unstable since "his mother died." But Merritt's mother, Elizabeth Merritt, 78, is alive, living in Virginia. She also cited his FBI record of criminal behavior and arrest. Though he does admit to two arrests for minor offenses, he says his FBI record is clear and he has no convictions.

"She made up things and they did not go back to check if she was lying," says Merritt. Court records indicate D.C. police trailed Merritt for several days before his arrest and found his behavior and interaction with the child quite normal. "And that's something that suggests domestic tranquillity, if nothing else, rather than flight," said prosecutor Kenneth Cowgill.

"They were laughing at me. It was a provocation...a taunt. Ms. Overton said I would never see my son again," said Merritt of Elaine Overton, the agency employee who decided Tyrone II's fate.

"I never had any intention on cutting his mother out of his life. She knew where we were living, she called him, and I called her and his grandmother, so they could talk to him," he adds.

According to Richard Visek, a legal advisor with the U.S. State Department, the U.S. was obligated by treaty to follow up on Canada's request for Merritt's extradition. The terms of the treaty though have troubling aspects that may leave



Americans vulnerable to another country's legal machinations.

In Merritt's case, the inconsistencies in his wife's charges would have warranted a lengthy hearing. "There are a lot of untruths in the statements she gave Canadian police," says Merritt.



PHOTOS BY MAURICE FITZGERALD

*Tyrone Merritt held a one man demonstration on Capitol Hill, protesting his son's removal from the District to Canada by the D.C. by Child and Family Services agency. (Inset) The youth in question.*

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## Father Sues D.C. Agency for Taking Son to Canada

By Njuguna Kabugi  
Washington Informer Staff Writer

The D.C. Child and Family Services agency, under pressure from Congress, local courts and the city government for mishandling numerous child cases, is in hot water again. This time the agency has been sued for \$150 million by a District man who alleges his 6-year-old son was forcibly taken from him and sent to the youngster's mother in Canada without proper cause.

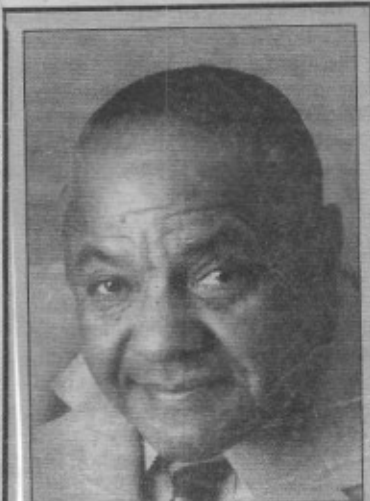
District resident Tyrone Merritt's problems with the city agency started in August 1999 after he flew

to Washington from Montreal, Canada, with his son Tyrone II. Merritt's Canadian-born wife, Valerie Elzy-Robert, filed a complaint with Montreal police alleging that he had kidnapped the boy. Within days D.C. police and federal agents swooped on the Washington apartment Merritt was sharing with the boy after a justice of peace in Montreal issued a warrant.

"They came to my house the way they raided that Gonzalez family in Florida," said Merritt alluding to the case of Elian Gonzalez, the Cuban boy whose Miami relatives defied for months a federal order

to release the boy to his father in Cuba. "We were scared to death. The swat teams came armed for combat and my son could not understand what was going on," said Merritt. After he was arrested, the agency returned the child to Canada, ignoring procedures government agencies must follow during international custody disputes.

"It hurts that my own government would violate my rights and my son's rights but go all the way to protect the rights of someone from another country. My 14th Amendment rights have been violated," he says.



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Journalist,