

# Father Faults D.C. Agency in Custody Fight

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A District man who is fighting extradition to Canada on charges that he kidnapped his son has accused D.C. Child and Family Services of sending the 6-year-old back to his mother in Montreal without properly investigating the matter.

At a hearing after Tyrone Merritt's arrest in August 1999, a federal prosecutor acknowledged that no court had determined whether Merritt or Valerie Elzy-Robert should have lawful custody of Tyrone II. Merritt's attorney said at the time that an employee at Child and Family Services said she would bring the matter before a D.C. Superior Court judge to decide. Instead, later that day, without informing Merritt or his attorney, D.C. social workers took the child to Canada.

Merritt, 40, who faces an extradition hearing today, has not seen the boy since. He has been free without bail since his arrest, after prosecutors agreed that he was not a flight risk and expressed doubt about the charge against him.

Robert almost immediately recanted her claim that Merritt kidnapped the child. She said there was "no kidnapping" in a letter she wrote to one of Merritt's attorneys, an assertion she repeated in another letter in December. On Friday, however, she said in a telephone interview that Merritt "kidnapped our son and fled from Montreal."

She declined to discuss the different account in her letters.

Merritt, who lives in Northeast Washington on \$532 a month in disability payments, said: "There was no kidnapping. Me and my son came into that country [Canada] together three days before that. Tyrone had always been with me, his whole life."

After a justice of the peace in Montreal issued a warrant, D.C. police and federal agents raided the apartment where Merritt and the boy were staying.

Barry Boss, Merritt's court-appointed attorney, said, "Mr. Merritt denies he committed any crime in Canada or here when he brought his son with him to the U.S., and we believe the evidence will show that in the upcoming hearing."

Boss declined to say more about the extradition proceeding, but he said he is troubled by the separate issue of the city's handling of the custody question. "Child and Family Services deprived Mr. Merritt of his day in court," he said.

After subpoenaing agency files, Boss said in a second hearing last fall that it was unclear whether the agency had a lawful order granting custody to Robert as a basis to send the boy back to Canada.

Serving as his own lawyer, Merritt recently filed a civil suit against Child and Family Services and Elaine Overton, the agency employee who he said decided his son's fate. Overton and a spokeswoman for the D.C. corporation counsel declined to comment.

Merritt has spent the last year amassing evidence that he says

proves him innocent. He grows misty-eyed when he speaks of his son, whom he talks to on the telephone. He said that Robert's address and telephone number have changed several times in the last year and that sometimes he has been unable to reach his son.

Merritt has plane ticket stubs, hotel receipts and other paperwork that he said shows that his wife

sent the boy to spend some time with him and that he took the boy back to Montreal. When Robert disappeared for a few days, he and the boy returned to Washington.

Once here, he learned that Robert might have filed a complaint against him. He went to police and child protection authorities here and was told he was not being sought. He also initiated paper-

work to formalize his custody and enroll the boy in school.

These records were what persuaded a federal magistrate judge and a federal prosecutor last year that there might be more to the story than an international kidnapper on the lam.

"It's been very hard for me," Merritt said. "I can't even describe it in words. Your only child."

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