

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA**

CASE NO: 07-0824

FEBRUARY 22, 2007

CROSS- EXAMINATION OF LARRY BIRKHEAD BY MR. PIRTLE:

Q My name is Tom Pirtle and I am from Houston, Texas. May I proceed?

THE COURT: Yes.

Q Mr. Birkhead, how are you doing?

A Fine.

Q We met during the course of these events?

A Yes.

Q Spoke a couple of times in casually and in passing?

A Yes.

Q Sir, I don't plan to get up here and attack you and I don't plan on reading stacks of e-mails like has been done, but I want to know is, you had a close relationship with Anna Nicole Smith?

A Yes, sir.

Q And –

MS. BARTH: Is this Direct or Cross, Your Honor, so I can make the appropriate objections?

MR. PIRTLE: Cross.

THE COURT: Cross.

Q Would you say that it was a passionate relationship?

A Yes, sir.

(Objection by Ms. Barth)

Q Was it a passionate relationship?

A Yes, sir.

Q And did sometimes those passions blow over?

A Yes.

Q And sometimes do they blow over on the paper?

A Yes, sir.

Q Did that change how you felt about Anna Nicole?

A No, sir.

Q Does that change how you feel about Dannielynn?

A No, sir.

Q The judge has encouraged us to try and talk and get along, you've heard him?

A Yes, sir.

Q I want to ask you straight up. You're here and you claim to be – and I'm not disputing, we're not disputing it – to be Dannielynn's father. You know Virgie is Dannielynn's grandmother?

A Yes, sir.

Q I saw you reach out to her; true?

A Yes, sir.

Q Was there a reason why you reached out to Virgie?

A I feel sorry for her and I think – for her loss, double loss and triple loss for not being able to see her granddaughter.

Q And at some point in time, she's going to be the grandmother of your daughter?

A Yes, sir.

Q And do you plan on including Virgie in raising the granddaughter as a grandmother?

A Yes, sir. I'll need all the help.

Q As well as your parents in Kentucky?

A Yes, sir.

Q And a whole lot of people down in Texas?

A Yes, sir.

Q Some of them from the Arthur side and some of them, evidently, from your side?

A Yes, sir.

Q And do you believe that would be in the best interest of Dannielynn?

A Yes, sir.

Q That she could have her whole family around?

A yes, sir.

Q Now, I want to ask you. Virgie is in here and asking and petitioning this Court for the body of her daughter, you know that?

A Yes, sir.

Q As the biological father, if that be true of Dannielynn, do you have a problem with this Court releasing Anna Nicole Smith's body to Virgie and then I want to ask you some more stuff?

A Can you ask me one more time?

Q Yes. What I'm saying is –

THE COURT: Repeat the exact question.

Q Sir, do you have a problem with this judge releasing Anna Nicole Smith's body to her mother?

A No, sir.

Q So you don't?

A No, sir.

Q And I think that's as far as I thing the ad litem and I think that this should go, not trying to waive any other arguments. Let's go on and talk about something that is not Hollywood, but which is more down home. Would you like to, after the body is released, as a person, and I'm going to tell you probably as the biological father, sit down with this family, turn off the camera and talk about, hey, where are we really going to bury Anna Nicole Smith?

A Yes, sir.

Q And would you be open to that conversation?

THE COURT: We tried that, Houston.

MR. PRITILE: No, this is between these two parties.

A Yes, sir.

Q Let's talk about it for a minute. One thing that hadn't come up in this courtroom is, hey, these people over here, she's operating on a deputy sheriff's salary. She's not down here asking Broward County to pay for the burial. She's down here to get her daughter and we haven't even talked about, hey, what is this going to cost. That would be something that would be relevant and we probably need to talk about it, right?

A Yes, sir.

Q I remember yesterday, you said that you're not quite shopping in the Tiffany's catalogue either?

A No, sir.

Q That's okay. And so we'd have to look at, for one – and let's take the Camelot, for example, Camelot is great, but I've also heard Camelot is a fantasy and I know and I believe you know that at one point in time, Anna Nicole had said, I want to be buried not in Hollywood but next to Marilyn Monroe?

A Yes, sir.

Q Camelot. However, I think Mr. Stern even admits, we have no idea what that would cost. I understand from testimony in this Court that a man named Hugh Hefner owns the grave next to Marilyn Monroe.

(Objection by Ms. Barth)

Q So we don't know what that's going to cost?

A I don't personally.

Q And it would be relevant to the conversation we would have behind closed doors, I would assume?

A Yes, sir.

Q Because we're not all made of money?

A Yes, sir.

Q Let's take, for example, the Bahamas, the only reason why you give the Bahamas any deference is you know she loved her son, Daniel?

A Yes, sir.

Q You don't want her buried in the Bahamas in truth?

A No, sir.

(Objection by Mr. Rale)

Q You don't believe the Bahamas was her home?

A No, sir.

Q You don't believe that she was going to stay in the Bahamas?

A No. She told me otherwise.

Q You actually thought she was coming back to her home in California and hoped that you all would get married?

A Or at least work out our differences for our daughter.

Q And raise your daughter?

A Yes, sir.

Q And that was her home, California?

A Yes, sir.

Q And you didn't for one minute believe that she was going to stay and be a resident of the Bahamas and exclude you from your daughter's life?

(Objection from Mr. Rale)

A Could you repeat the question?

Q Sure. I said you didn't for one minute believe that she was going to permanently stay in the Bahamas and exclude you from your daughter's life?

A No, because she told me otherwise.

Q And you believed that to be her true intentions, to come home?

A Yes, sir, once we were –

Q And let's face it – and I'm not going to even dignify this drug use stuff. We've talked about it ad nauseam and I think the judge got a good impression.

THE COURT: You suggested California. Where does that come into play now?

MR. PIRTLE: I'm giving you what his family should do which is get with him and sit down and talk about where –

THE COURT: I got Stern, too.

MR. PIRTLE: Quite frankly, Mr. Stern may be a problem. There could only be one father. That is the bottom line.

MS. BARTH: Objection to this line of questioning.

MS. OPRI: Which requires a DNA test.

THE COURT: Houston, you've been good. Stay with me.

(Discussion between the lawyers and The Court regarding the paternity issue)

THE COURT: Houston, Texas, you may proceed.

Q Thank you very much, Your Honor. To the extent – and I know you're not ordering any tests – and I don't want to go into that. See the trouble we cause when we start getting along. But I do think this is an important thing as it goes to the credibility of the witness. Larry, are you willing to take any test, do anything to establish that you're Dannielynn's father?

THE COURT: We're not going to have drama here.

MS. BARTH: Objection for the record.

THE COURT: I know, everyone wants to get their shot in.

MR. PIRTLE: I'll withdraw. Let's go back to what I was talking about, the various things that we would need to talk about. We've talked about Camelot and we talked about – out there and cost.

THE COURT: Let the parties know what Camelot is.

MR. PIRTLE: Camelot being the Utopian Court of the fantasy. I think of the Kennedys when I hear Camelot. That's me. We also, I think, sat around and talked that although you live in California now, you've got a whole lot of family I understand in Kentucky who would probably want to see Anna?

A Excuse me?

Q Who would probably want to see Anna, where she was buried?

A Yes.

Q And then you've got folks in Texas?

A No, not in Texas.

Q Dannielynn's got folks in Texas?

A Yes. Yes.

Q And it would be a consideration as to if we're going to go outside of like, say, out of Texas for this burial – and I'm just hypothetically talking now – whether or not family members could get to these gravesites because the whole family is not made of money? In order to see –

THE COURT: We're on repeat. You're done. Thank you. Thanks a lot. You were good. You were distinct and succinct. Next.