Court to Mom: ’Don’t Milk It’

HEALer with HIV forbidden to breast-feed

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Kathleen Tyson was breast-feeding her newborn baby in a Portland, Oregon, maternity ward last December when a state social worker—alerted by Tyson’s doctor and accompanied by three police officers—entered and took custody of her son, Felix. So began the battle between HIV positive Tyson, who doesn’t believe HIV causes AIDS, and the state of Oregon, whose health department does.

After a three-day trial that ran from soup to nuts when it came to HIV transmission theories and the meaning of “substantial risk,” Tyson, 39, and her husband, David, were denied legal custody of Felix. While witnesses in Tyson’s corner—including a leader of the “Rethinking AIDS” movement, UC Berkeley biochemist David Rasnick, PhD—argued that HIV can’t be passed through breast milk, Judge Maurice Merton favored testimony by state witness Arthur Ammann, MD, who said breast-feeding carries a 15 percent to 30 percent risk of transmission. “Tyson left the state no choice but to step in,” Merton told the court. “The parents may choose to run that risk, but the court may second-guess that decision.”

Representing Tyson was Hilary Billings, a Maine attorney who won the right last year for HIVer Valerie Emerson to withhold AZT from her son. “The instinctive question is, ‘Why would Tyson put her son at risk?’” Billings told *POZ*. “But considering that breast milk is an infant’s primary way to develop a strong immune system, a better question is, ‘What’s the risk to Felix if she doesn’t breast-feed?’”

The Tysons are members of HEAL, a nonprofit known for its HIV-is-not-the-cause-of-AIDS agitprop. “Apparently, a doctor’s ‘recommendation’ is now an enforceable command,” wrote dad David Tyson, who is HIV negative, on his “Free Felix” webpage. When Tyson was diagnosed with HIV during prenatal screening, she immediately went on HIV meds, said Billings. But three weeks before delivery “she started educating herself about alternate causes” of AIDS and decided to discontinue the drugs and to breast-feed.

Felix has completed a court-ordered six-week AZT regimen and has twice tested HIV negative. He lives with his parents, who retain physical custody, and is monitored weekly to ensure that the breast ban is honored. At press time, the state worker on Tyson’s case said Felix showed no behavior typical of a breast-fed baby.

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