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## Twice the victim of a rapist

Mother of a 6-year-old boy conceived through statutory rape wants the father's parental rights terminated before he wins full custody



Angelica Curtis sits with her son, Jonathan Torres, at their rented home in Haines in early April. Angelica's parents are trying to regain legal custody of Jonathan, conceived by statutory rape when Angelica was 13 in Petersburg. Currently, the father's parents in Petersburg have legal parental rights even though Jonathan has lived with the Curtis' since he was born.

It's been six years since Angelica Curtis gave birth to a child she conceived through statutory rape, and she still remembers the name she wanted to give her baby boy.

"I had a different name picked out for him," she said. "Jeremy."

But nothing about her baby's birth was normal or planned out. Angelica was a 13-year-old middle school student living in Petersburg with her mom and dad when she found out she was pregnant. The child's father, Jonathan Torres Chim, was a 19-year-old man whom Angelica thought she was in love with. But really, she now says in hindsight, he introduced her to a world of drugs and emotional abuse, although that's something he contests to this day.

Before their son was born, Chim at 19 was sentenced to serve three years in prison for attempted sexual abuse of a minor for his relationship with Angelica, which was statutory rape. During that same time, Angelica said she realized she was trapped in a type of prison, too — bound to the man she now considers her tormentor through a child she felt forced to name after him.

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"Me being 14 when I gave birth, thinking that I needed his help, I named him Jonathan," Angelica, now 20, said of her baby during an interview at her parents' home in Haines where she lives.

Her son's first and last name, Jonathan Torres, is a constant reminder of her rapist. Angelica believes that Chim, knowing he would be sent to prison for his relationship with a juvenile, intentionally impregnated her, then told her she would be left without financial help if she didn't give the boy his family's name.

From the beginning, Angelica said decisions that were seemingly hers were really controlled by others.

"I just wasn't psychologically ready to be a parent," Angelica said, adding that at that time, she was under the influence of a wide spectrum of drugs and the influence of Chim, whom she kept in contact with while he was imprisoned.

"When he was in jail he would call me every day and make me feel like I had to talk to him on the phone for hours because he would say that it was my fault he was in there and it wasn't fair that I got to be out and free," she said.

Today, even though Angelica is off drugs and is trying to regain a sense of well-being, her torment continues. This time, she could lose her son. For three years now, she's been in a legal battle, fighting her rapist for custody of their son.

### Little Jonathan

The custody battle over Little Jonathan — as his family calls him to distinguish him from his father, who goes by Jon — started one year after Jonathan was born. His mother was caught rifling cars in Petersburg with a friend while the two were ditching class to get high. She was sent to the McLaughlin Youth Center in Anchorage for 16 months and, with Chim still behind bars at Lemon Creek Correctional Center in Juneau (he's now out of prison), Angelica's parents Miles and Tonya applied for legal guardianship. In order to do that, they had to notify the biological father, giving way to the years-long custody battle.

"I don't think it's fair that if you commit a crime you should be able to get something out of it," Miles said, sitting beside Tonya in their living room while Jonathan played by himself off to the side. "I don't think that (Chim) should have that."

Miles and Tonya consider themselves "psychological" parents to Jonathan, although Angelica is now present and out of the detention center. During long periods of absence by both parents, Jonathan has lived with his maternal grandparents, first in Petersburg, and now in Haines.

Chim has seen his son throughout the years, too. He first saw his son through a glass window when the Curtis family took the baby to LCCC. Miles said he took the boy to see his father because his family is forgiving and wanted to do what they thought might be best at the time. From Miles' perspective, Chim looked like a caring father back then, proud of his new son, but later Chim would lose interest in his son and never acknowledged the severity of the crime he committed against Angelica. Miles said Chim and Chim's family tell Angelica often — still to this day — that nothing criminal took place because the sex was consensual between Angelica and Chim. Again, Angelica was a 13-year-old girl at the time, and not capable of consenting to a sexual relationship with someone so many years her elder, which is acknowledged in Alaska law and something Miles is of course emphatic about. Alaska statutes make it illegal for anyone 17 years of age or older to engage in sexual activity with someone 13, 14, or 15 years of age and at least four years younger than the defendant.

It's Miles and Tonya who have actively fought to make sure Jonathan could stay near his mother while she dealt with behavioral and mental health issues, which stem from her adolescence.

"I always check with her to make sure what I'm doing is something she would want to do if she could do it, but she's just not really capable of doing it at this time, so I've taken on that role," Miles said, explaining his exhaustive role in the court proceedings.

It was Miles who first investigated legal options for stripping Chim of his rights as a father because of the statutory rape Chim committed. Miles found an Alaska statute he believed was reserved for adoption cases. He asked Angelica's lawyers (there were changes over the years based on court appointments) to look into the law, but each failed to see how it applied in the case at hand. The law did, after all, reside within an adoption clause.

Without a lawyer to fight the case of parental rights termination, Angelica and her parents were left to battle Chim and his parents in the courts, going back and forth, filing motions for temporary guardianship as the larger battle continues.

## The defense

In an affidavit Chim's attorney Fred Triem, of Petersburg, filed in 2014, Chim reported having a good father-son relationship with Jonathan. When he would visit Chim in Petersburg, Chim said the boy anxiously awaited for him to return home from work and

that he was also teaching his son to speak Spanish. Chim described his son as "happy" when the two were together.

Just as Miles advocates for his daughter and grandson, Chim's father Victor Torres is seemingly doing the same for his son. Torres is listed as the potential guardian, should Chim win the custody battle, although Miles said the real driving force is Chim and the Torres grandparents aren't as invested as the Curtis grandparents.

Chim only answered one of many phone calls the Empire made over the course of several months to discuss the case, and referred questions to his lawyer, Triem. The Empire sent a request to Triem that he contact Chim and the Torres family for an interview, but that did not happen. Triem did say Chim is as invested in Jonathan's care and well-being as the Curtis family. Triem also called the idea of taking a child from his father — even one convicted of statutory rape — as "draconian."

"(Termination of parental rights) would just be draconian in its penalty on young people who engage in intercourse," Triem said in a phone interview in April. "It was dumb luck the two were (caught together) on the day after the father (Chim) had his 19th birthday, which made him eligible for a draconian criminal procedure."

Sitting on a recliner with Jonathan fidgeting in her lap, Angelica did not use the word "luck" in any sense to describe the events that led to her pregnancy.

"Yeah, at the time (it seemed like a relationship), but since then ... I've received a year of treatment where I got counseling every day, and they helped me see it differently," she said. "When I was in treatment, I was 17, 18 years old, which was about the same age as Jon was at the time (the relationship started), and I wouldn't think it was right to have a child with a 13-, 14-year-old when I was 18 or 19. And I don't see why he didn't see it that way."

Moving from side to side in sync with her child, and often escaping eye contact, Angelica pulled at the ends of her sweater. She said that her situation is hard to talk about generally, it's hard to talk about to a reporter, and it's hard to talk about in a courtroom. Her parents, Miles and Tonya, often speak up for her, fighting for her and her son while she continues to fight her own battles with drug addiction and psychological trauma.

"I see that he was the adult in that situation," Angelica said, recounting feedback she has received in counseling, which she said helps her cope. "And he was the one that had to go to jail, and he was the one that should have been responsible to make the better decision. In treatment, they told me that I shouldn't ... feel responsible for something that he should have been responsible for," she said.

She was interrupted by Jon who suddenly joined the conversation at the sound of a familiar word.

"Who's going to jail again?" he asked. "My dad?"

### **Murky law**

Angelica's story is a familiar one across the country where upward of an estimated 17,000 women become pregnant through rape each year, according to the Rape, Abuse & Incest National Network. To protect those women, 33 states provide rape victims the ability to reduce or terminate the rights of their rapist. In Alaska, the law is less clear.

To help his daughter, Miles pleaded with several state lawmakers to do something about a piece of legislation he thought was missing on Alaska's books. Then, when one senator reached back, he found out the legislation wasn't missing; it was just misplaced.

From inside her downtown office in the Capitol, Sen. Berta Gardner, D-Anchorage, said it's "egregious" that women who conceive children through rape then have to fight for custody of their child.

"When we first heard the (Curtis family) story we thought, 'Well that's pretty egregious that a convicted rapist could potentially get custody of the child,'" Gardner said in an interview. "While it's always a little bit sticky to try to have legislation based on a single case, we said, 'Well, let's look into this and see what the status is. How could this really happen?'"

Gardner attempted to clarify the state's legislation after Miles reached out to her a year ago (and continually since) and told her his family's story.

This session, Gardner sponsored a bill that would spell out a statute created after a case in 1986 in which a child conceived through rape and given up for adoption was at risk of being adopted by the convicted rapist/father. The statue was eventually updated to allow rape victims in all proceedings to terminate a rapist's parental rights, but Gardner's research team found that some courts still require a child be in danger or be the subject of an adoption before applying the termination rule.

Gardner said in speaking with family law attorneys in advance of supporting the legislation, she discovered many practicing law were not aware the statute even existed. There also aren't statistics in Alaska to prove how often people miss the opportunity to use the statute

because family law proceedings can be sealed, or rape victims are unwilling to drag a case out in court or they just don't know they have the right.

"It's not well-known that we have that (law)," Gardner said. "We're not creating new policy, we are simply clarifying it by putting it into the appropriate statute title."

Gardner said she wanted her bill, Senate Bill 162, to roll into another bill, SB 91 — a criminal justice reform bill — but recognizes that probably won't happen. SB 162 has yet to receive a hearing, but Gardner said that doesn't mean she is giving up on it.

"We'll keep lugging away because we think it's a really important issue," Gardner said, again emphasizing that it's a matter of clarifying an existing right, not creating a new one. "When I was in town for the democratic caucus, a woman told me, 'Thank you for introducing SB 162. This is my daughter, she is a child of rape and I want to use your statute.' And I told her, 'You already can.'"

## Lasting consequences

In February, Juneau magistrate James Curtain recommended Chim's father, Victor Torres, gain sole legal and primary custody of Jonathan, according to court documents. The recommendation only becomes an order once Superior Court Judge Louis Menendez approves of it (that's a hearing that's still a ways off since the Curtis family is contesting it.)

Under the current recommendation, if Chim wanted to live alone with Jonathan, he would only need Torres' permission. Angelica and her parents would have limited visitation rights based on the Torres' wishes.

The case seems to never end, Miles said. He and his family want to move forward with their lives, but the legal case keeps them at a standstill.

He said if their opposing motion is ignored and they must give Jonathan to his paternal grandparents, they plan to move to Petersburg to be close to him.

Angelica worries it will be traumatic for her son, whom she says does not know the Torres family like he knows her parents. Miles said the boy cries and becomes upset at the idea of having to stay with his father's side of the family, contrary to what Chim has reported to the court.

For Angelica, the longer the custody battle drags on, the less capable she feels of becoming a better mother. She said she'd like to not rely so heavily on her parents for support in her child's upbringing. She also has a passion for drawing that she would like to pursue, which she incorporates into playtime with her son.

"Mama sometimes helps me with stuff, and I help her," Jonathan said, sitting in his mother's lap while she talked about different art styles she was trying to learn. "She also (has) drawings and some kinds of stuff."

Focusing on art or mothering skills is difficult, Angelica said, when her past keeps creeping up to the forefront of her mind, and in the courtroom where she is literally judged time and again.

She believes her motherhood experience is too tainted to ever consider extending her family.

"Because I was so young it was really stressful and my parents kind of took over being the primary caretakers," she said. "And I don't feel like I'll ever have any more kids."

She wiped away tears and walked out of the room.

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