

09-103374-A

FILED

JAN 19 2010

CAROL G. GREEN
CLERK OF APPELLATE COURTS

**IN THE COURT APPEALS
OF THE STATE OF KANSAS**

**Anthony Anguiano, deceased
And Tasha Anguiano Appellant**

Vs.

Larry's Electric Contracting, LLC

And

**Continental Western Ins. Co.
Respondent and Insurance Carrier/ Appellee**

BRIEF OF APPELLANT

**Appeal from
The Appeals Board for the Kansas
Division of Workers' Compensation
Docket Number 1,036,237**

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ORAL ARGUMENT REQUEST 15 minutes

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STANDARD OF APPELLATE REVIEW

-Tracy Herrera-Gallegos v. H & H Delivery Service, Inc. and Commerce & Industry Insurance Co. 42 Kan. App. 2d 360, 212 P.3d 239

The court noted a change in the standard of review. In 2009, the Kansas Judicial Review Act was amended. Specifically, K.S.A. 77-621(d) was amended as follows:

“For purposes of this section ‘in light of the record as a whole’ means that the adequacy of the evidence in the record before the court to support a particular finding of fact shall be judged in light of all the relevant evidence in the record cited by any party that detracts from such finding as well as all of the relevant evidence in the record, compiled pursuant to K.S.A. 77-620.

Stafos v. Missouri Pac. R. Co., 367 F.2d 314 p. 5

Browning v. Crouse, 336 F.2d 178, certiorari denied 86 S. Ct. 1854, 384 U.S. 973, 16 L. Ed 683 p. 6

Leroy Black Lumber Co. Inc., v. Bremen Farmers’ Mut. Ins. Co., 530 P.2d 1209, 216 Kan. 147 p.6

Cain v. Grosshans & Petersen, Inc. 389 P.2d839, 192 Kan. 474 p.6

Kansas Bar Workers Compensation Guide, section 10 pgs. 16, 21, 33 p.8

Shobe v. Tobin 179 Kan. 43 292 P.2d 729 page 9

ISSUE 2

2. The ALJ and Boards application of K.S.A. 44-510(b) makes proving common-law marriage virtually impossible and unconstitutional. Standard of Appellate review is strict scrutiny Earnest v. Faler and Roe v. Wade

Gillaspie v. Blair 192 Kan. P.458 page 16 Larson Desk Edition 64.30 Dependency and Death Benefits p. 14

Earnest v. Faler 237 Kan. 125 697 P.2d 870 pgs. 11, 16

Roe v. Wade 410 US 113 pgs. 11, 16

CONCLUSION PAGE 16

CERTIFICATE OF SERVICE PAGE 18

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NATURE OF CASE

This is an appeal from the Appeals Board for the Division of Workers' Compensation, Docket No. 1,036,237, in which the Appeals Board upheld the Administrative Law Judge's award, granted on May 7, 2009. The board illegally excluded all benefits for the widow/dependent Tasha Anguiano.

STATEMENT OF ISSUES

- 1) The appeals board and ALJ Avery ruling excluded all benefits to the widow/dependent ignored unconverted evidence and stipulated evidence. All parties stipulated into evidence Tasha Anguiano's discovery depositions and are bound by the stipulation.
- 2) Marriage is a fundamental right under the constitution and the ALJ and Boards application of common-law marriage is unconstitutional.

STATEMENT OF FACTS

On May 7, 2009, Administrative Law Judge Avery awarded the four children of Anthony Anguiano. Tasha Anguiano widow was excluded all benefits. Tasha Anguiano is currently also receiving social security widows benefits from Anthony Anguiano, has two children with deceased Anthony Anguiano, Tasha Anguiano lived with deceased and was dependent on Anthony Anguiano, deceased. Claimant in the course of employment at Larry's Electric fell to his death. Tasha Anguiano immediate and extended family signed affidavits of marriage to deceased, which were stipulated into evidence on January 9, 2009.

STANDARD OF REVIEW

Tracy Herrera-Gallegos v. H & H Delivery Service, Inc. and Commerce & Industry

Insurance Co. 42 Kan. App. 2d 360, 212 P.3d 239.

Now, the court must examine the record as a whole and consider evidence, which supports the agency as well as that which does not. K.S.A. 77-621(d) requires that the court consider both the credibility determinations that the hearing officer “who personally observed the demeanor of the witness’ made, and if the agency head, there the Board, does not agree with those credibility determinations, the agency should give its reasons for disagreeing. In essence the ALJ and Board must necessarily provide some basis for the findings and any credibility determinations. The court noted the legislature directed it to look more closely at the record.

Thus, there is a new standard of review when a matter is appealed from a Board order to the appellate courts.

The ALJ and Boards did not follow K.S.A. 77-621(d).

All attorneys stipulated into evidence Tasha Anguiano’s deposition and are bound by the stipulation. Uncontroverted evidence cannot be ignored.

In Stafos v. Missouri Pac. R. Co., 367 F .2d 314 is was found that evidence whether controlling, positive, Uncontradicted and unimpeached may not be disregarded even

though adduced from interest witnesses and is all evidence, expert or non expert, is all one way, there is no room for contrary finding.

In Browning v. Crouse, 356 F.2d 178, certiorari denied 86 S. Ct. 1864, 384 U.S. 973, 16 L. Ed2d 683 it was found that unimpeached, positive testimony may not be disregarded, even though adduced from interested witnesses, and no question of credibility or issue of fact is presented for determination by trier of fact.

In Leroy Black Lumber Co. Inc., v. Bremen Farmers' Mut. Ins. Co., 530 P.2d 1209, 216 Kan. 147 it was also found that the jury is not authorized arbitrarily or from partiality or caprice to disregard uncontradicted or unimpeached testimony, or to disregard only evidence upon material question in controversy and return verdict in direct opposition thereto.

It was also found in Cain v. Grosshans & Petersen, Inc., 389 P.2d 839, 192 Kan. 474 that uncontradicted and undisputed evidence, cannot be ignored.

UNCONTROVERTED AND STIPULATED EVIDENCE CANNOT BE IGNORED

It is uncontroverted that Tasha Anguiano holds out to the *public* her married name, present intent to be married, at 200 Woodward, Topeka, Kansas a public place, with their children of Anthony Anguiano deceased, and a wedding ring on her finger. Vol. 3 *Discovery deposition Tasha Anguiano Exhibit 1. Exhibit 1 attached. Appendix.*

It is uncontroverted that Social Security Administration found Tasha Anguiano and Anthony Anguiano to be a married couple, *Vol. 6 regular hearing page 31. See attached exhibits 5 – 8. Appendix.*

It was also found in Cain v. Grosshans & Petersen Inc., 389 P.d 839, 192 Kan 747, that uncontradicted and undisputed evidence cannot be ignored.

It is uncontroverted that Mrs. Anguiano states anytime after 2004 she was common law married to Anthony Anguiano. Tasha Anguiano's discovery deposition *Vol. 5 p. 143. See attached exhibit 3. Appendix.*

The Anguiano family's testimony is uncontroverted of Tasha Anguiano and Anthony Anguiano's marriage. *See attached exhibits 4 – 8. Appendix and Vol. 3.*

Unrebutted evidence was a matter of law must be considered true.

It is uncontroverted that Anthony Anguiano publicly referred to Tasha as his wife. *Vol 3 page 104. See attached exhibit 4 and exhibit 8. Appendix.*

Tasha and Anthony Anguiano referred to Tasha as his wife to Tasha's brother, her friends and Tasha's grandmother. Tasha Discovery Deposition *Vol. 6 exhibit 21 & Tasha*

Discovery Deposition Vol. 3 p. 104. The public affirmation of marriage is by the exchange of rings.

The parties even publicly held them out as married by placing a carved stone with the married name, placed in the front of the marital home. There are few more public ways to tell a community of your household name by placing a stone in front of your marital home located on a corner lot. A place where the children of the deceased slept and the parties wore wedding rings while they slept, ate, and cleaned the marital home. *Vol. 3 exhibit 1. See attached exhibit 1.Appendix.*

The KBA Workers' Compensation handbook provided:

§8.04 A. Wholly Dependent Persons

K.S.A. 44-510b provides:

- (a) If an employee leaves any dependants wholly dependent upon the employee's earning at the time of the accident, all compensation benefits under this section shall be paid to such dependent persons. Such dependents shall be paid weekly compensation, except as otherwise provided in this section, in a total sum to all such dependents, equal to $66 \frac{2}{3}$ % of the average gross weekly wage of the employee at the time of accident, computed as provided in K.S.A. 44-511 and amendments thereto, but in no event shall such weekly benefits exceed, nor be less than, the maximum and minimum weekly benefits provided in K.S.A. 44-510 (c) and amendments thereto, subject to the following:

- i. If the employee leaves a surviving legal spouse or a wholly dependent child or children, or both, who are eligible for benefits shall be paid to any other wholly or partially dependent persons.
- ii. A surviving legal spouse shall be paid compensation benefits for life or until remarriage, except as otherwise provided in this section.

§ 8.15 3. Surviving Wholly Dependent Spouse and Children

If the employee leaves a surviving legal spouse and wholly dependent child or children, the surviving spouse receives one-half of the compensation to be paid and the other one-half is equally divided among the children.

K.S.A. 44-510b(c) states:

(c)Where the employee leaves a surviving legal spouse and dependent children who were wholly dependent upon the employee's earning and are eligible for benefits under this section $\frac{1}{2}$ of the maximum weekly benefits payable shall be apportioned to such spouse and $\frac{1}{2}$ to such dependent children.

In our example, if there is a surviving spouse and two children, the spouse receives \$175.50 per week, and \$87.75 per week is paid to the benefit of each child. If the spouse would remarry or die, the children would then split the \$351 per week or receive \$175.50 each per week. When the oldest child stops receiving benefits, the other child would receive \$351 per week until payment was terminated by statute.

The Shobe case is analogist to the case at hand. Shobe v. Tobin 292 P2nd. 729. 179 Kan.

43. The Shobe finding of P.45 is below.

“Findings”

“The Examiner finds that at the time of death of William S. Shobe, he left as dependents, Hazel Shobe, widow; Sharon Rae Shobe, age 10 and William Gene Shobe, age 14; that the widow and the minor children were wholly dependent upon deceased for their support at the time of his death. That they should receive the maximum allowance under the law to be apportioned one-half to the widow, Hazel Shobe, and one-half to Warren D. Shobe—guardian of the estate to Sharon Rae Shobe and William Gene Shobe, minor children, for the use and benefit of said two minor children. That the allowance of burial expenses in the statutory amount of \$450.00 be paid to Warren D. Shobe.

Tasha Anguiano is Anthony Anguiano’s widow. Anthony agreed to be married, had capacity to marry and held themselves out as a married couple. The deceased, Anthony Anguiano fathered two (2) children with Tasha; lived as husband and wife; supported Tasha, bought weddings rings; professed his love to Tasha; told both families they were married; and Tasha was dependent on the deceased, Anthony Anguiano. The ex-wife Patty Noriega has not produced evidence to refute Tasha Anguiano’s claims. The deceased was divorced from Patty Noriega on May 24, 2004. Anthony Anguiano gave a wedding ring to Tasha in late 2005. Tasha Anguiano believed, felt, and acted married in 2005 when the rings were exchanged.

ISSUE 2

The ALJ and Boards application of common-law marriage is unconstitutional. The Appellant standard of review is strict scrutiny. Earnest v. Faler 237 Kansas 123 and Roe v. Wade 410 US 113

FACTS

Tasha Anguiano's father-in-law, Victor Anguiano stated that Tasha and Anthony were husband and wife. *See exhibit 2 Vol. 3 deposition of Tasha.*

Victor Anguiano, father of deceased, states that Tasha and Anthony Anguiano referred to one another as husband and wife. *See exhibit 2 Vol. 3 deposition of Tasha.*

Victor Anguiano refers to Tasha as his daughter-in-law. *See exhibit 2 Vol. 3 deposition of Tasha.*

Tasha Anguiano's brother, Jessi Burns states Tasha and Anthony "Tony" referred to each other as husband and wife. *Vol. 3 depositions of Tasha Exhibit 2.*

Jessi Burns states that Tasha and Anthony maintained a home and lived together as husband and wife. *Vol. 3 deposition of Tasha Anguiano.*

Social Security Administration found Tasha and Anthony Anguiano to be married. *Vol. 6 regular hearing page 31.*

Tasha Anguiano states she was married to Anthony Anguiano. *Vol. 6 regular hearing pages 9-20.*

Tasha and Anthony “Tony” Anguiano had wedding rings. *Regular hearing page 10-11. See exhibit 21 Vol. 5 deposition of Tasha.*

Tasha stated she has two (2) children – Acario Thomas and Antonia A. Anguiano with deceased. *Vol. 6 regular hearing pgs. 11 & 12.*

Tasha Anguiano believed she was married to Anthony Anguiano in November 2005, when wedding rings were exchanged. *Vol. 6, regular hearing p. 10, exhibit 21 Vol. 5 deposition of Tasha, Vol. 3 deposition of Tasha exhibit 1.*

Tasha Anguiano was dependent on Anthony Anguiano. *Vol. 6, regular hearing page 13.*

Tasha depended on the deceased to love her, celebrate special occasions, buy clothing, pay bills, provide mental stability, and share in their spirituality. *Vol. 6, regular hearing page 13.*

Tasha and Anthony lived as husband and wife; Tasha was dependent on the deceased to, dress the children, diaper, feed and pay the babysitter. *Vol. 6, regular hearing page 16.*

Tasha and Anthony were able and had capacity to marry on Mary 29, 2004, intended to marry in November 2005. Tasha and Anthony had an agreement to marry in November 2005, held each other out to public as his/her spouse, and exchanged rings in November 2005. *Vol. 6, regular hearing pages 9-12, exhibit 21, deposition of Tasha Vol. 3 and exhibit 1 deposition of Tasha. Exhibit 10.*

Susie Anguiano, sister of the deceased, states Tasha and “Tony” were husband and wife. *Vol. 3 deposition of Tasha exhibit 16.*

Susie Anguiano states Anthony and Tasha had two (2) children together, were dependent on one another, Tasha dependent on Anthony’s income, wrote love notes, made a home and lived as a married couple. *Vol. 3 deposition of Tasha Exhibit 16.*

Anthony Anguiano professed his love for Tasha. *Vol. 3 deposition of Tasha Anguiano exhibit 11.*

Mr. and Mrs. Anguiano received thank-you notes from their landlord. *Vol. 3 deposition of Tasha exhibit 6.*

Tasha paid a large part (\$2,666.67) of Anthony's funeral bill. *Vol. 3 deposition of Tasha exhibits 14 & 15.*

Tasha and Anthony Anguiano purchased insurance together on March 31, 2004. *Vol. 3 deposition of Tasha, exhibit 159.*

Felipe Anguiano, Felix Anguiano, Victor Anguiano, and Susie Anguiano referred to Tasha as Anthony's wife. *Vol. 3 Tasha Anguiano pages 7 – 9.*

Anthony Anguiano referred to Tasha, as Mrs. Anguiano, his wife. *Vol. 3 deposition of Tasha page 86.*

Mr. Anguiano divorced Patty Noriega on May 29, 2004. *Vol. 2 deposition exhibit 22.*

The ALJ and Boards ruling make it almost impossible to prove common-law marriage and are unconstitutional.

Larson's Desk Editor provides in part:

§64.30 DEPENDENCY AND DEATH BENEFITS

Usually this involves the fixing of some priorities, and in most statutes the total dependents, or at least those conclusively presumed to be totally dependent, which class usually included the widow and children living with decedent, take first 13, and the partial dependents share only what is left. 14.

Surviving legal spouse conclusively presumed wholly dependent; entitled to benefits without proof of dependency. Brinkmeyer v. City of Wichita, 223 K. 393, 394, 395, 396, 397, 573 P.2d 1044.

Also see Gillaspie v. Blair 192 Kan. P.458. Kansas has long recognized the validity of common-law marriage. It is *not necessary that we hear detail the various elements of proof* to establish the existence of the marriage, but it may be said the basic elements essential in creation of such a relationship are a capacity to marry, a present marriage agreement, and a holding out of each other to the public as husband and wife. State v. Hughes, 35 Kan. 626, 12 Pac. 28, 57 Am. Rep. 195;

Pearl Gillaspie was found to be the legal widow.

The Kansas Constitution requires that citizens be given equal protection under all laws. Kans. Const., Bill of Rights, 102. The Kansas Supreme Court has recognized that when legislation treats some citizens differently than others concerning their “fundamental” rights, this Court is to apply a “strict scrutiny”: to determine whether the legislation is rational. The Court has held that the right to family, marriage and criminal rights are “fundamental” rights, because of Section 18 of the Constitution. When “strict scrutiny” is applied to the Court making it impossible to prove marriage, it is clear it is a violation of the requirement of equal protection. In fact, the governmental action cannot meet even a

rational basis test. The analysis of equal protection starts with a determination whether legislation affect rights that can be considered “fundamental”.

In Ernest v. Faler, 237 Kan. 125, 131, 697 P.2d 870, 873-874 (1985), this Court explained the standards for equal protection analysis in Kansas.

Writing for an unanimous court, Justice Prager explained the following: *“when considering to question of whether a statute offends the equal protection clause, traditionally, the yardstick for measuring equal protection arguments has been the ‘reasonable basis’ test...A more stringent test emerged, however, in cases involving... ‘fundamental interests’.* Under this test, the courts peel away the protective presumption of constitutionality and adopt an attitude of active and critical analysis, subject the classification to strict scrutiny.”

This Court has previously recognized that legislation that alters common-law remedies requires “strict scrutiny.” 237 Kan. at 129-30, 697 P.2d at 873.

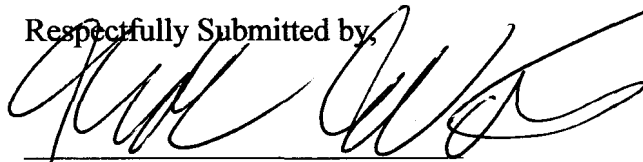
The recognition in Ernest that Section 18 establishes a “fundamental” right is even more appropriate in the context of cases involving attempts to limit the rights to liberty and privacy as expounded by Roe v. Wade, supra.

CONCLUSION

This State of Kansas has always taken care to protect individual rights specified in the Bill of Rights to mean that administrative changes in individual law rights are unconstitutional unless they are sufficiently defined, not vague or overboard. Moreover, is has interpreted the requirement of equal protection in the Kansas Constitution to mean that a standard of ‘strict scrutiny’ applies to legislation that affects the “fundamental” right provided in Section 2 & 18 of the Bill of Rights. The access to marriage/marry is such a fundamental right. The Courts application of common-law marriage and K.S.A. 44-510 makes proving common-law marriage a virtual impossibility and unconstitutional.

Marriage is a fundamental, constitutional right and must be protected. Uncontroverted evidence and stipulated evidence must be taken as true. The Boards and ALJ ruling did not consider stipulated uncontroverted evidence. This Court should consider Tasha Anguiano to be the legal wife and dependent of the deceased, Anthony Anguiano.

Respectfully Submitted by,



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CERTIFICATE OF SERVICE

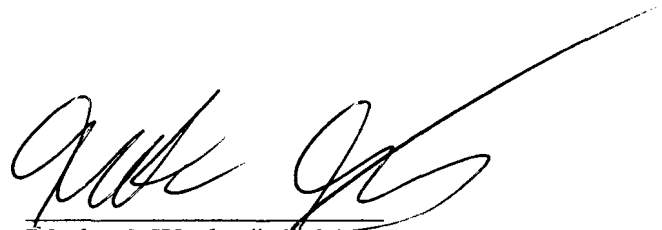
I HEREBY CERTIFY that on the 20th day of January 2010, a true and correct copy of the above and foregoing was delivered, first-class in the United States mail, postage pre-paid, to the following:

Workers' Compensation Director
800 SW Jackson
Topeka, Kansas 66612
HAND DELIVERED

Thomas G. Lemon
Cavanaugh & Lemon
2942A SW Wanamaker Drive, Suite 100
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Attorney for Acario and Antonia Anguiano



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425 South Kansas Avenue
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Attorney for Tasha Anguiano

APPENDIX



EX. 2

1 there that you've indicated your name is
2 anything but Tasha Burns?

3 A. No.

4 Q. At what point did -- did you and
5 Mr. Anguiano determine that you were
6 common law married?

7 A. Probably a year after we got
8 together.

9 Q. And again, what year did you
10 believe that was?

11 A. That -- what, that we got
12 together or?

13 Q. What year do you believe that you
14 --

15 A. Probably in '04.

16 Q. So any time after 2004 you were
17 common law married to him?

18 A. I believe, yeah.

19 Q. So anything after 2004 that you
20 completed, oh, say, any -- any
21 documents, any forms, any applications,
22 that asked for your marital status,
23 married or asked for the name of your
24 spouse, you would have put you were
25 married and you would have noted Tony

1 A. Not legal stuff.

2 Q. Okay.

3 A. Just towards me and Tony.

4 Q. Have you ever called yourself
5 Tasha Anguiano?

6 A. All the time.

7 Q. Where? To whom?

8 A. In front of my mother, around
9 Tony. Tony would call me Tasha
10 Anguiano.

11 Q. Okay. Besides Tony and your
12 mother?

13 A. My brother, my friends. My
14 grandma thinks I'm Anguiano, she just
15 don't know how to spell it.

16 Q. Have you ever written your name
17 on any document of any sort as Tasha
18 Anguiano?

19 A. No. I just doodle it on paper.

20 Q. Does your son have -- did your
21 son at any time have health insurance?

22 A. Through the SRS. He still does.

23 Q. Okay. And is that the -- is that
24 the medical card?

25 A. Yes.

Appr

le

EX. 4

STATEMENT OF MARITAL RELATIONSHIP (By one of the parties)

(Do not write in this space)

All items on this form requiring an answer must be answered or marked "U"

I understand that the information given by me will be used in connect application filed for insurance benefits payable under Title II of the Social Sec amended, based on the earnings of the wage earner or self-employed pe below.

EX. 5

The following information is given pursuant to the Privacy Act of 1974. The Social Security Administration is authorized to collect information about your marital status under section 216(h) of the Social Security Act, as amended (42 U.S.C. 416(h)). While completion of this form is voluntary, failure to provide all or part of the requested information could prevent an accurate and timely decision on your claim and could result in the loss of some benefits. The information on this form may be disclosed by the Social Security Administration to another person or agency for the following purposes: (1) to assist the Social Security Administration in establishing the right of beneficiary to Social Security benefits, (2) facilitate statistical research and audit activities necessary to assure the integrity and improvement of the Social Security programs, and (3) to comply with laws requiring authorizing the exchange of information between the Social Security Administration and another agency.

1. PRINT NAME OF WAGE EARNER OR SELF EMPLOYED PERSON Anthony Anguiano		SOCIAL SECURITY NUMBER 5 1 3 7 2 1 8 2 6	
2. PRINT YOUR FULL NAME (First, middle initial, last) Tasha Burns		3. NAME OF PERSON WITH WHOM YOU WERE LIVING: Anthony Anguiano	
4. WHEN DID YOU BEGIN LIVING TOGETHER IN A HUSBAND AND WIFE RELATIONSHIP? MONTH: June YEAR: 2004		WHERE DID YOU LIVE? 200 NE Woodruff Ave CITY OR TOWN: Topeka STATE: KS	
5. A. DID YOU LIVE TOGETHER CONTINUOUSLY SINCE THAT TIME? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "No," give the periods of separation and the reasons why you did not live together.			
B. Where have you lived together as husband and wife and for what periods of time?			
CITY OR TOWN		STATE	DATES FROM TO
Topeka		KS	Mar-2004 Aug-2007
6. DID YOU HAVE AN UNDERSTANDING AS TO YOUR RELATIONSHIP WHEN YOU BEGAN LIVING TOGETHER? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO A. If it was in writing, furnish a copy, if it was not in writing, what did you say to each other about your living together? We were a committed couple and planned to spend the rest of our lives together.			
B. WAS THIS UNDERSTANDING LATER CHANGED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If "yes," what were the changes and when and why were they made?			
7. DID YOU HAVE AN UNDERSTANDING AS TO HOW LONG YOU WOULD LIVE TOGETHER? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "yes," what did you say to each other about how long you would live together? Forever			

COPY SENT
Social Security A 9-
10/VER1
Fax 785-232-314

8 A DID YOU HAVE ANY UNDERSTANDING AS TO HOW YOUR RELATIONSHIP COULD BE ENDED? YES NO
 B IF "YES," WHAT DID YOU SAY TO EACH OTHER ON THIS SUBJECT?

9 A DID YOU BELIEVE THAT YOUR LIVING TOGETHER MADE YOU LEGALLY MARRIED? YES NO
 B IF "YES," WHY DID YOU BELIEVE SO? We were committed to each other and we were told in the state of Kansas we were.

10 A WAS THERE AN AGREEMENT OR PROMISE THAT A CEREMONIAL MARRIAGE WOULD ALSO BE PERFORMED IN THE FUTURE? YES NO
 B IF "YES," EXPLAIN WHY THE CEREMONY WAS NOT PERFORMED.

11 A WERE ANY CHILDREN BORN OF THIS RELATIONSHIP? YES NO
 B. IF "YES," LIST BELOW:

FULL NAME AT BIRTH	DATE OF BIRTH (OR AGE)	PLACE OF BIRTH
Acario Anguiano	08/23/2006	Topeka, KS

12 BY WHAT NAMES WERE YOU AND THE PERSON WITH WHOM YOU WERE LIVING KNOWN?
 A. BEFORE YOU LIVED TOGETHER (MAN'S NAME) Tony Anguiano
 B. BEFORE YOU LIVED TOGETHER (WOMAN'S NAME) Tasha Burns
 C. SINCE YOU LIVED TOGETHER (MAN'S NAME) Tony Anguiano
 D. SINCE YOU LIVED TOGETHER (WOMAN'S NAME) Tasha Burns
 E. IF YOU BOTH DID NOT USE THE SAME LAST NAME AFTER YOU BEGAN LIVING TOGETHER, STATE THE REASONS
 It didn't matter to us.

13 A. AFTER YOU STARTED LIVING TOGETHER, WERE THERE ANY TAX RETURNS FILED, DEEDS OR CONTRACTS EXECUTED, INSURANCE POLICIES TAKEN OUT, BANK ACCOUNTS OPENED UP, ETC? YES NO
 B. IF "YES," GIVE THE FOLLOWING INFORMATION:

TYPE OF DOCUMENT	DATE MADE OUT	WERE YOU SHOWN AS THE OTHER'S HUSBAND/WIFE
		<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO

14 A. DID YOU HAVE JOINT BUSINESS DEALINGS WITH OTHER PERSONS OR JOINT CHARGE ACCOUNTS IN STORES? YES NO
 B. IF "YES," GIVE THE NAMES AND ADDRESSES OF SUCH PERSONS OR STORES:

NAME OF PERSON OR STORE	ADDRESS	DATE OF TRANSACTION

5 A. HOW DID YOU INTRODUCE THE PERSON WITH WHOM YOU WERE LIVING TO RELATIVES, FRIENDS, NEIGHBORS, BUSINESS ACQUAINTANCES AND OTHERS? As my man or just Tony
 B HOW DID THAT PERSON INTRODUCE YOU TO RELATIVES, FRIENDS, NEIGHBORS, BUSINESS ACQUAINTANCES AND OTHERS? As mama or Tasha

6 HOW WAS MAIL ADDRESSED TO YOU? Tony & Tasha Anguiano

YOUR RELATIONSHIP: THE NAMES OF YOUR AND THE OTHER PERSON'S EMPLOYERS AND NEIGHBORS WHO

18. LIST BELOW YOUR CLOSEST RELATIVES (other than children) WHO KNEW OF YOUR RELATIONSHIP:

NAME	ADDRESS	RELATIONSHIP
Jessi Burns	430 NE Oakland Ave Topeka KS 66616	brother
Janice & Alan Brown	PO Box 24 Tecumseh KS 66542	aunt & uncle

19. LIST BELOW THE CLOSEST RELATIVES OF THE PERSON WITH WHOM YOU WERE LIVING (other than children) WHO KNEW OF YOUR RELATIONSHIP:

Susie Anguiano	232 NE Freeman Topeka KS 66616	sister
Victor & Linda Anguiano	3635 SW Westview Ave Topeka KS 66611	parents

20. One or more of the employers and/or relatives shown above may be contacted regarding knowledge they may have of your marriage. If you object to our contacting any of the above, please list the name(s) and give the reason(s) your objection(s).

21. A. DID YOU EVER LIVE WITH ANY OTHER PERSON AS HUSBAND AND WIFE? YES

B. IF "YES," GIVE THE FOLLOWING INFORMATION:

Dates	Kind of Relationship (Ceremonial, etc.)	Name of Person	How Relationship Ended	Date and Place Relationship Ended

22 A DID THE PERSON NAMED IN ITEM 3 EVER LIVE WITH ANYONE ELSE AS HUSBAND AND WIFE? YES NO
 B. IF "YES," GIVE THE FOLLOWING INFORMATION

Dates	Kind of Relationship (Ceremonial, etc.)	Name of Person	How Relationship Ended	Date and Place Relationship Ended
04-01-2003	Ceremonial	Patricia Noriega	divorce	06/04 Topeka KS

ANSWER ITEM 23 IF EITHER OF YOU HAD AN EARLIER CEREMONIAL OR COMMON-LAW MARRIAGE THAT WAS STILL IN EFFECT AT THE TIME YOU BEGAN LIVING TOGETHER.

23 A DID YOU AT THE TIME YOU BEGAN LIVING TOGETHER KNOW THAT THE EARLIER MARRIAGE WAS STILL IN EFFECT? YES NO
 IF "NO," ANSWER (B) AND (C):
 B WHEN AND HOW DID YOU FIND OUT THAT THIS MARRIAGE WAS STILL IN EFFECT?
 C. WHEN AND HOW DID THE PERSON WITH WHOM YOU WERE LIVING FIRST LEARN THAT THIS MARRIAGE WAS STILL IN EFFECT?

ANSWER ITEM 24 ONLY IF EITHER OF YOU HAD AN EARLIER CEREMONIAL OR COMMON-LAW MARRIAGE THAT ENDED AFTER YOU BEGAN LIVING TOGETHER.

24 A. WHEN AND HOW DID YOU FIRST LEARN THAT THIS MARRIAGE HAD ENDED?
 B. WHEN AND HOW DID THE PERSON WITH WHOM YOU WERE LIVING FIRST LEARN THAT THIS MARRIAGE HAD ENDED?
 C AFTER BOTH OF YOU LEARNED THAT THE EARLIER MARRIAGE HAD ENDED, DID YOU SAY ANYTHING TO EACH OTHER ABOUT YOUR RELATIONSHIP? YES NO
 IF "YES," WHAT DID YOU SAY TO EACH OTHER?

25 REMARKS:

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 30 minutes to read the instructions, gather the facts, and answer the questions. SEND THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE. To find the nearest office, call 1-800-772-1213. Send only comments on the time estimate above to: SSA, 1938 Annex Building, Baltimore, MD 21235-0001.

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge. I understand that anyone who knowingly gives a false or misleading statement about a material fact in this information, or causes someone else to do so, commits a crime and may be sent to prison, or may face other penalties, or both.

SIGNATURE OF APPLICANT (First name, middle initial, last name)		DATE (Month, day, year)
SIGNATURE HERE <u>Shasha D. Burns</u>		<u>08/28/07</u>
MAILING ADDRESS (Number and Street, Apt. No., P.O. Box or Rural Route)		TELEPHONE NUMBER(S) at which you may be called during the day.
<u>200 NE Woodruff Ave</u>		<u>785-215-1604</u>
County (if any in which you now live)	State	AREA CODE
<u>Shawnee</u>	<u>KS</u>	
		City
		<u>Topeka</u>
		Zip Code
		<u>66606</u>

Witnesses are required only if this application has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the applicant must sign below, giving their full addresses

SIGNATURE OF WITNESS	2 SIGNATURE OF WITNESS
ADDRESS (Number and Street, City, State, and ZIP Code)	ADDRESS (Number and Street, City, State, and ZIP Code)

TOE 410

SOCIAL SECURITY ADMINISTRATION

STATEMENT REGARDING MARRIAGE

All questions must be answered or marked "Unknown." If you need more space for answers, continue them under "Remarks" on reverse side.

PRIVACY ACT NOTICE: The Social Security Administration is authorized to collect the information on this form under section 216(b)(1)(A) of the Social Security Act. Giving us this information is voluntary. You do not have to do it, but your cooperation is needed to help establish the applicant's eligibility to Social Security benefits. The Social Security Administration will use the information on this form to determine if a marital relationship exists so that an accurate determination may be made regarding entitlement to spouse's benefits. We may routinely give out the information on this form without your consent for a variety of reasons.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information you provide us may be used or given out are available in Social Security Offices. If you want to learn more about this, contact any Social Security Office.

Paperwork Reduction Act Statement: This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate it will take about 9 minutes to read the instructions, gather the facts, and answer the questions. **SEND THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE.** The office is listed under U.S. Government agencies in your telephone directory or you may call Social Security at 1-800-772-1213. You may send comments on our time estimate above to SSA, 1338 Annex Building, Baltimore, MD 21235-6401. Send only comments relating to our time estimate to address, not the completed form.

Print Name of Wage Earner or Self-Employed Person (Herein referred to as the "Worker")	Enter His (Her) Social Security Number
Anthony Anguiano	513-72-1426
Print Name of Applicant	
Tasha Burns	

I understand that this statement will be considered in connection with an application by the applicant named above for payment of benefits under the provisions of Title II of the Social Security Act, as amended, based on the earnings of the Worker named above.

Print Your Full Name (First name, middle initial, last name)

Victor or Linda Anguiano

1. What is your relationship to the Worker? (Mother, child, cousin, etc. - if not related, state "None.")

5 father

To the Applicant? (Mother, child, cousin, etc. - if not related, state "None.")

Daughter in law

2. How long have you known the Worker?

4 years

The Applicant?

5 yrs

3. How often and on what occasions did you meet the Worker?

Everyday coffee in morning and in evening to or and see grandson.

The Applicant?

Same as above they lived together

4. To your knowledge, were (are) the Worker and Applicant generally known as husband and wife? Yes No

5. Did (do) you consider them husband and wife? Yes No

Give facts and explain fully the reasons for your belief. They lived together like husband and wife

EX. 6.

6. Did you hear them refer to each as husband and wife? Yes No
 // "Yes," when and where?

7. In your opinion, did (do) they maintain a home and live together as husband and wife? Yes No
 // "Yes," where and when?

CITY OR TOWN	STATE	DATES	
		FROM-	TO-
Tapeka	Ks	Not sure of dates	

8. To your knowledge, did they live together continuously? Yes No
 // "No," explain.

9. To your knowledge, has either the Worker or the Applicant entered into any other marriage? Yes No
 // "Yes," give the following information regarding all such marriages.

STATE WHETHER WORKER OR APPLICANT	TO WHOM MARRIED	DATE AND PLACE OF MARRIAGE	HOW MARRIAGE TERMINATED	DATE AND PLACE MARRIAGE TERMINATED

(This space may be used for explaining any answers to the questions. If you need more space, attach a separate sheet.)

Remarks _____

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge. I understand that anyone who knowingly gives a false or misleading statement about a material fact in this information, or causes someone else to do so, commits a crime and may be sent to prison, or may face other penalties, or both.

SIGNATURE OF PERSON MAKING STATEMENT

Signature (First name, middle initial, last name) (Write in ink) _____
 Date (Month, day, year) 08-30-07
 Telephone Number 785 267-5153
 Area Code

SIGN HERE → [Signature]
 Mailing Address (Number and Street, Apt. No., P.O. Box, or Rural Route)
3635 Westover Ave

City and State Tapeka Ks ZIP Code 66616

Witnesses are required ONLY if this statement has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the person making the statement must sign below, giving their full addresses.

1. Signature of Witness _____	2. Signature of Witness _____
Address (Number and Street, City, State, and ZIP Code) _____	Address (Number and Street, City, State, and ZIP Code) _____

STATEMENT REGARDING MARRIAGE

All questions must be answered or marked "Unknown." If you need more space for answers, continue them under "Remarks" on reverse side.

PRIVACY ACT NOTICE: The Social Security Administration is authorized to collect the information on this form under section 216(h)(1)(A) of the Social Security Act. Giving us this information is voluntary. You do not have to do it, but your cooperation is needed to help establish the applicant's eligibility to Social Security benefits. The Social Security Administration will use the information on this form to determine if a marital relationship exists so that an accurate determination may be made regarding entitlement to spouse's benefits. We may routinely give out the information on this form without your consent for a variety of reasons.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information you provide us may be used or given out are available in Social Security Offices. If you want to learn more about this, contact any Social Security Office.

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Print Name of Wage Earner or Self-Employed Person
(Herein referred to as the "Worker".)

Enter His (Her) Social Security Number

ANTHONY ANGIUANO

513-72-1926

Print Name of Applicant

TASHA BURNS

I understand that this statement will be considered in connection with an application by the applicant named above for payment of benefits under the provisions of Title II of the Social Security Act, as amended, based on the earnings of the Worker named above.

Print Your Full Name (First name, middle initial, last name)

JESSI BURNS

1.	What is your relationship to the Worker? (Mother, child, cousin, etc. - if not related, state "None.") Brother - in - LAW	
	To the Applicant? (Mother, child, cousin, etc. - if not related, state "None.") Brother	
2.	How long have you known the Worker? 5 yrs	The Applicant? 28 yrs
3.	How often and on what occasions did you meet the Worker? 3 to 4 times a week / Any Occasions	
	The Applicant? 3 to 4 times a week / Any Occasion	
4.	To your knowledge, were (are) the Worker and Applicant generally known as husband and wife?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5.	Did (do) you consider them husband and wife? Give facts and explain fully the reasons for your belief: Treated each other as so, Tony also asked me for permission several times, made Baby's, Took real good care of my sister, as if they were married.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

EX. 7

6 Did you hear them refer to each as husband and wife? Yes No

If "Yes," when and where?
Front porch, Back porch, in the house, everywhere, all the time

7 In your opinion, did (do) they maintain a home and live together as husband and wife? Yes No
 If "Yes," where and when?

CITY OR TOWN	STATE	DATES	
		FROM-	TO-
Topeka	KS	3-3-03	present
Topeka	KS	3-3-03	present

8 To your knowledge, did they live together continuously? Yes No
 If "No," explain.

N/A

9 To your knowledge, has either the Worker or the Applicant entered into any other marriage? Yes No
 If "Yes," give the following information regarding all such marriages.

STATE WHETHER WORKER OR APPLICANT	TO WHOM MARRIED	DATE AND PLACE OF MARRIAGE	HOW MARRIAGE TERMINATED	DATE AND PLACE MARRIAGE TERMINATED
worker	?	?	?	?

(This space may be used for explaining any answers to the questions. If you need more space, attach a separate sheet.)

Remarks: I've heard about it, but never really cared about his other marriage.

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge. I understand that anyone who knowingly gives a false or misleading statement about a material fact in this information, or causes someone else to do so, commits a crime and may be sent to prison, or may face other penalties, or both.

SIGNATURE OF PERSON MAKING STATEMENT

Signature (First name, middle initial, last name) (Write in ink) _____ Date (Month, day, year) 8-30-07
 Telephone Number 785 817-1085
 Area Code

Mailing Address (Number and Street, Apt No., P.O. Box, or Rural Route)
430 NE OAKLAND
 City and State Topeka, KS ZIP Code 66616

Witnesses are required ONLY if this statement has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the person making the statement must sign below, giving their full addresses.

1 Signature of Witness _____ 2 Signature of Witness _____
 Address (Number and Street, City, State, and ZIP Code) _____ Address (Number and Street, City, State, and ZIP Code) _____

COPY SENT
Emily A
f 237-316

TO WHOM IT MAY CONCERN:

I am Susie Arquigne, Tony's Sister:

I am writing this note so others will know how we feel as a family. Tasha and Tony have been together for the past five years. The last three and a half years they have lived together at 200 NE Woodruff, Topeka, Kansas. They lived as husband and wife. They shared family holidays, birthdays, and their faith.

They even share two beautiful children together. Their first son was born four years into their relationship and their daughter was delivered this past year. Tony loved all his children. Both Tasha and Tony worked together to make sure they could celebrate life together. Tasha was dependent on Tony's income as was Tony dependent on Tasha's income, they shared their combined income to provide for Tony's four children.

Tony and Tasha showed their love for each other, Tony by writing love notes and digging into the chores. Tony helped with the children daily. While pregnant with Tony's daughter, Tasha cooked and the three older children would have dinner at Tasha and Tony's home.

We know Tasha and Tony were dependant on each other. They made a home together, and lived as a married couple.

S. Dy O
232 NE Freeman

EX. 8