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Thursday, January 17, 2008

Soldier returns home to custody battle

Updated: 1/17/2008 9:48 AM
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CANAJOHARIE, N.Y. -- Tanya Towne couldn't wait to finish her mission in Iraq to return to her mission back home as mom to two young sons.

While she was deployed, her youngest lived with his father, Towne's husband at the time. Custody of 8-year-old Derrell, who had spent his whole life in New York, was given to his father in Virginia. Towne and her son planned on reuniting when she returned, but they never got the reunion they were waiting for.

You shouldn't have to go fight for your country and then come home and fight for your children. It's not a choice you should have to make," said Towne.



About a month before she left Iraq, Towne asked to have the original arrangement put back in place. But the boy's father said no, he wanted full physical custody.

Towne battled the courts for more than two years, eventually ending up at the New York State Supreme Court. But the appellate division ultimately decided Darrell should stay in Virginia and not be uprooted again.

Greg Rinkey, a former Army JAG officer, said this ruling could have big implications for all soldiers engaged in custody battles. With few protections for active service members, deployed soldiers could be fighting a military battle overseas -- and a custody battle on the home front.

"It's absurd to have a mother or father who's deployed trying to defend a change in custody while they are fighting in Afghanistan or Iraq," said Rinkey.

Congress is considering a bill that would expand the Service Members Civil Relief Act to cover custody cases, but right now that bill sits in committee.

Towne can still appeal to the state's highest court, but she has little hope they'll take the case. And this appeal has already taken an emotional toll.

"I feel that people are going to judge me because nobody is going to believe that the only reason you lost your child is because you went over seas. Who's going to believe that because it's just not possible," said Towne.