

**STATE'S PROPOSED
FINAL DISPOSITIONAL FINDINGS OF
FACT AND CONCLUSIONS OF LAW
(NON ICWA)**

STATE OF SOUTH DAKOTA:
SS:

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

THE PEOPLE OF THE STATE OF SOUTH
DAKOTA IN THE INTEREST OF,

(DOB: _____)
Child(ren), and concerning

(DOB: _____)

(DOB: _____)
Respondent(s),

File No: _____

**STATE'S PROPOSED
FINAL DISPOSITIONAL FINDINGS OF
FACT AND CONCLUSIONS OF
LAW
(NON ICWA)**

The above-entitled matter having come before the Court for a Final Dispositional Hearing on the (DAY) day of (MONTH), (YEAR); the Honorable (ENTER NAME), presiding; the State of South Dakota represented by (DEPUTY STATE'S ATTORNEY / STATE'S ATTORNEY), (ENTER NAME); the South Dakota Department of Social Services appearing through Family Services Specialist, (ENTER NAME); (ENTER NAME), the Respondent (MOTHER / FATHER), (APPEARING / NOT APPEARING) in person (AND / BUT) (REPRESENTED BY COUNSEL / NOT REPRESENTED BY COUNSEL),(ENTER NAME); (ENTER NAME), the Respondent (MOTHER / FATHER), (APPEARING / NOT APPEARING) in person (AND / BUT) (REPRESENTED BY COUNSEL / NOT REPRESENTED BY COUNSEL),(ENTER NAME); (ENTER NAME); the minor children (APPEARING / NOT APPEARING) in person (AND / BUT) represented by counsel, (ENTER NAME); CASA(APPEARING THROUGH ITS DESIGNATED AGENT / NOT APPEARING); the Court, having reviewed the records and files herein and being fully informed in the

premises, does now hereby make and enter its Findings of Fact and Conclusions of Law for Final Disposition by clear and convincing evidence, as follows:

FINDINGS OF FACT

1.

Proper notice has been given and the parties have been given the opportunity to participate.

2.

The Court has jurisdiction and this is the proper venue.

3.

(ENTER NAME) is a minor child who is in the legal and physical custody of the Department of Social Services and who was a resident of (COUNTY NAME) County at the commencement of these proceedings.

4.

(ENTER NAME) is the biological (ENTER TEXT) of the minor child. (HE / SHE) (HAS RECEIVED NOTICE OF THESE PROCEEDINGS / HAS NOT RECEIVED NOTICE OF THESE PROCEEDINGS / HAS RECEIVED NOTICE THROUGH PUBLICATION REGARDING THESE PROCEEDINGS), and has been fully apprised of his rights and obligations in these proceedings, including the possibility of termination of (HIS / HER) parental rights. (ENTER NAME) (APPEARED / HAD NOT APPEARED) at these proceedings and was (REPRESENTED BY COUNSEL / WAS NOT REPRESENTED BY COUNSEL).

5.

(ENTER NAME) is the biological (ENTER TEXT) of the minor child. (HE / SHE) (HAS RECEIVED NOTICE OF THESE PROCEEDINGS / HAS NOT RECEIVED NOTICE OF THESE PROCEEDINGS / HAS RECEIVED NOTICE THROUGH PUBLICATION REGARDING THESE

PROCEEDINGS), and has been fully apprised of (HIS / HER) rights and obligations in these proceedings, including the possibility of termination of (HIS / HER) parental rights. (ENTER NAME) (APPEARED / HAD NOT APPEARED) at these proceedings as (HE / SHE) is incarcerated and being held on (STATE / FEDERAL) charges, and was (REPRESENTED BY COUNSEL / WAS NOT REPRESENTED BY COUNSEL).

6.

The Department of Social Services has provided reasonable efforts to prevent or eliminate the need for the removal of the minor child from the home. Removal of the minor child from the home was necessary because continued presence of the child in the home was contrary to the welfare of the child.

7.

The minor child has been in the legal and physical custody of the Department of Social Services since (ENTER TEXT).

8.

The child has been adjudicated to be an abused or neglected child as defined by SDCL §26-8A-2.

9.

The minor child is not an Indian Child as defined by the Indian Child Welfare Act and therefore the Indian Child Welfare Act does not apply to these proceedings.

10.

The Department of Social Services has made reasonable efforts to return the child to the home and those efforts have been appropriate for the child's parents and have been available pursuant to a comprehensive plan of preventive services of the Department; or those services could have been available without undue financial burden on the Department; or those services would have a significant likelihood of protecting the child from substantial danger to the child's physical health or from severe

emotional damage while enabling the child to be returned to the home. The Court has considered the assistance, services, and efforts of the Department as well as the good faith efforts or lack of good faith efforts made by the child's parents to cooperate with the Department and to effectively utilize the assistance or services for the benefit and welfare of the child.

11.

The Department of Social Services has made reasonable efforts to achieve the permanent plan of reunification of the child with the parents and these efforts have been (SUCCESSFUL / UNSUCCESSFUL) and (IT WOULD BE CONTRARY TO THE / WOULD NOT ENDANGER THE) welfare of the minor child (TO BE / IF) returned to the legal and physical custody of the parents; those efforts include but are not limited to the following: (EXAMPLE)

- Initial Family Assessment
 - Assignment of Specialist
 - Initial Family Assessment completed
 - Safety Plan Determination and Conditions for return
 - Safety Checks
 - 24 hour check
 - Weekly checks
 - Monthly home visits
 - Transportation
 - Funding
 - Relative Searches
 - Visitation
 - Referral for Supervised Visitation at the United Families Visitation Center
- Ongoing Services
 - Assignment of Specialist
 - Assignment of Specialist
 - Protective Capacities Assessment and Evaluations
 - Safety Plan Determination and Conditions for Return
 - Transportation
 - Funding
 - Supervised Visitation
 - Urinalysis
 - Referrals
 - Referrals and funding for Mental Health Evaluation
 - Collateral contacts
 - Behavior Management Systems
 - Addiction Recovery Center
 - Hope it Forward (Mindy King)

- Kinship Care Services
 - Contact with the kinship providers
 - Transportation assistance
 - Assistance with TANF
 - Daycare assistance
 - Kinship Home Study
 - PRIDE referral
 - Home Visits
- Child Services
 - Medical Services
 - Medical
 - Dental
 - Vision
 - Mental health
 - Transportation
 - Clothing voucher
 - Child Case Plan and Evaluation
- Family Group Coordinator Services
 - Assignment of Family Group Coordinator
 - Placement Team Meeting
 - Development of Concurrent Plan
 - Team Decision Making Meetings
- Kinship Search Services
 - Assignment of Specialist
 - Ongoing contact with relatives
 - ICPC initiated for paternal grandfather in Missouri
 - PRIDE referral
- Supervisor Consultation and Review

12.

All reasonable efforts have been made to rehabilitate the family.

13.

The conditions that led to the child's removal (STILL EXIST / HAVE BEEN REMIDIED) and (THERE IS LITTLE LIKELIHOOD THAT THOSE CONDITIONS WILL BE REMIDIED IN THE NEAR FUTURE SO / THERE IS A LIKELIHOOD) that the child can be returned to the custody of the parents.

14.

There is good cause to terminate the parental rights of the Respondent parents.

15.

Termination of parental rights in this case is the least restrictive alternative commensurate with the best interests of the child with due regard for the rights of the parents, the public and the state.

16.

The Court considers the young age of the child and the history of the parents and the mother's relationship with the Respondent father. Those bonds are difficult to separate. It takes time to change. This is a young child who has been subject to horrible torment of a chaotic lifestyle. The Respondent parents have thought of themselves far beyond what they thought was in the best interest of the minor child.

17.

The Respondent mother was making some progress and this Court gave her additional time. She received a Penitentiary sentence that has placed this case on re-set. The Court finds that more time is not in the child's best interest. The child should not be made to wait any longer for changes that may never come.

17.

The Court has considered the argument for a guardianship; however, the Court finds that option is not the least restrictive alternative commensurate with the best interests of this child. The focus of these cases is what is best for the child. The Court finds that termination of parental rights and permanency for this child is the least restrictive alternative commensurate with the best interest of the child.

19.

The history of this case shows a scope of what the child has been through in (HIS / HER) (ENTER TEXT) years of life and considering where the parents are in their lives. This Court must prevent the opportunity for the parents to cause further harm for this child.

20.

The Department of Social Services is vested with custody and guardianship of child for the purpose of placing the child for adoption and authorizing appropriate personnel of the Department to consent to adoption of the child.

21.

Termination of parental rights is final and unconditional. Based upon the foregoing Findings of Fact, the Court now makes and enters the following Conclusions of Law;

CONCLUSIONS OF LAW

1.

Any Conclusion of Law deemed to be a Finding of Fact or vice versa shall be appropriately incorporated into the Findings of Fact or Conclusions of Law.

2.

This Court has jurisdiction over the parties and subject matter of this action.

3.

The child has been adjudicated to be an abused or neglected child through the actions and/or omissions of the Respondent parents.

4.

The fundamental rights of the Respondent parents to raise their child has been appropriately balanced with the best interests of the minor child and the public, and the Court finds and concludes that it is the least restrictive alternative commensurate with the best interest of the minor child that parental rights of the Respondent parents be terminated and for the child to be placed in the adoptive custody of the Department of Social Services.

Dated this (DAY) day of (MONTH), (YEAR), effective, however, the (DAY) day of (MONTH, YEAR), being the date of the hearing affording judicial basis for this order.

BY THE COURT:

ATTEST:

Clerk of Court

BY:

Deputy (ENTER NAME)

(SEAL)

The Honorable (ENTER NAME)
Judge of the Circuit Court