

**STATE'S PROPOSED FINAL DISPOSITIONAL FINDINGS
OF FACT AND CONCLUSIONS OF LAW
(RETURN TO PARENTS 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: _____)

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

(DOB: _____)

(DOB: _____)

(DOB: _____)

Respondent(s),

Intervenor(s)

File No: _____

**STATE'S PROPOSED
FINAL DISPOSITIONAL FINDINGS
OF FACT AND CONCLUSIONS
OF LAW**

(Return to Parents-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 ANEM); (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); the minor child(ren) (APPEARING / NOT APPEARING) in person (AND / BUT) represented by counsel, (ENTER NAME); CASA (APPEARING THROUGH ITS DESIGNATED AGENT / NOT APPEARING); the Tribe (REPRESENTED BY COUNSEL / NOT REPRESENTED BY COUNSEL) , (ENTER NAME); 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 all parties have been provided an opportunity to participate.

2.

The Court has jurisdiction and this is the proper venue for these proceedings.

3.

(ENTER NAME) is a minor child who is in the legal 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 (MOTHER / FATHER) of the minor child. (SHE / HE) (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 at these proceedings and (WAS REPRESENTED / WAS NOT REPRESENTED) by counsel.

5.

(ENTER NAME) is the biological (MOTHER / FATHER) of the minor child. (SHE / HE) (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 at these proceedings and (WAS REPRESENTED / WAS NOT REPRESENTED) by counsel.

6.

The minor child is an Indian Child as defined by the Indian Child Welfare Act and thus the Indian Child Welfare Act applies to these proceedings.

7.

The minor child is eligible for enrollment in the Tribe as the Respondent (FATHER / MOTHER) is an enrolled member. The minor child (IS ELIGIBLE / IS NOT ELIGIBLE) for enrollment in the Tribe as the Respondent (MOTHER / FATHER) is an enrolled member. The Tribes were notified of these proceedings in accordance with the Indian Child Welfare Act. The Tribe (WAS REPRESENTED / WAS NOT REPRESENTED) by counsel. The Tribes (HAVE INTERVENED / HAS NOT INTERVENED) in these proceedings.

8.

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 but 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.

9.

The minor child was placed into the legal and physical custody of the Department of Social Services on (ENTER DATE) and was returned to the physical custody of the Respondent parents on (ENTER DATE).

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

12.

The Court takes judicial notice of the reports to the Court and exhibits entered here today, as a further factual basis for making this determination.

13.

The Department of Social Services has made reasonable efforts to achieve the permanent plan of reunification of the child with her parents and these efforts have been successful regarding the Respondent parents and it would not be contrary to the welfare of the minor child to be returned to the legal or physical custody of the Respondent parents; those efforts include but are not limited to the following:

- Ongoing Services
 - Parenting Classes
 - CPR Classes
 - Funding provided for the CPR Classes

- Protective Capacity Assessment
- Initial Family Assessment
- Safety Plan Determination Worksheet and Conditions for Return
- Kinship Care Services
 - Home Visits
 - PRIDE referral
 - Food vouchers
 - Transportation assistance and reimbursement
 - Funding requests
- Visitation
 - Referral to United Families Visitation Center
 - Supervised visitation
- Medical Services
 - Conference calls with Sanford Children's Hospital
 - Reimbursement for travel to medical appointments
 - Funding for hotel in Sioux Falls offered
- Child Services
 - Transportation
 - Referral for services
 - Medical services
- Relative Search
 - Requested names from Oglala and Rosebud Sioux Tribes
 - Assignment of Family Locator
 - Ongoing contact with relatives and the Tribe
- Contacts with the Tribes
 - Rosebud Sioux Tribe
 - Oglala Sioux Tribe
 - Request for enrollment information
 - Ongoing contacts and updates
- Trial Reunification

14.

All efforts have been made to rehabilitate the family.

15.

There is not good cause to terminate the parental rights of the Respondent parents.

16.

The conditions which led to the child's removal no longer exist and the conditions have been remedied so that the child can be returned to the custody of the Respondent parents.

17.

The least restrictive alternative commensurate with the best interest of the minor child is for the child to be returned to the full legal and physical custody of the Respondent parents.

18.

The Court hereby takes judicial notice of the entire court file (ENTER TEXT), including The Report to the Court entered as States Exhibit 1, as a further factual basis to support these Final Dispositional Findings of Fact and Conclusions of Law.

19.

The Department of Social Services has made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and these efforts have proved successful.

20.

Continued custody, or return of custody of the child to the Respondent parents would not likely result in serious emotional and/or physical damage to the child.

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 due to the actions and/or omissions of the Respondent father.

4.

The fundamental rights of the Respondent parents to raise their child have been appropriately balanced with the best interests of the minor child and the public, and the state and the Court finds and concludes that the least restrictive alternative in the child's best interest is for the parental rights of the Respondent parents to not be terminated and for the minor child to be returned to the full legal and physical custody of the Respondent parents.

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