

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

STATE OF SOUTH DAKOTA:

IN CIRCUIT COURT

SS:

COUNTY OF _____

_____ JUDICIAL CIRCUIT

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

File No: _____

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

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

(DOB: _____)

(Return to Parent Non-ICWA)

(DOB: _____)
Respondent(s),

The above-entitled matter having come before the Court for a Final Dispositional Hearing on the (DAY) day of (MONTH), (YEAR); the Honorable (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); 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 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 provided an 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 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 / DID NOT APPEAR) 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 / DID NOT APPEAR) at these proceedings and (WAS REPRESENTED / WAS NOT REPRESENTED) by counsel.

6

The minor child is not an Indian child as defined by the Indian Child Welfare Act and the Indian Child Welfare Act does not apply to this case.

7.

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.

8.

The minor child was placed in the legal and physical custody of the Department of Social Services on (ENTER DATE) and was placed in the care of (ENTER NAME) and was placed in trial reunification with the Respondent mother on an In-Home Safety Plan on (ENTER DATE). The child has been in the Respondent mother's physical custody since (ENTER DATE).

9.

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

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 Respondent parents and these efforts have been unsuccessful with the Respondent father and it would be contrary to the welfare of the minor child to be returned to the legal and physical custody of the Respondent father; those efforts include but are not limited to the following: (EXAMPLE)

- Initial Family Assessment Services
- Ongoing Family Services
 - Supervisor Consultation and Review
 - Transportation and funding for transportation offered
 - In Home Safety Planning
 - UAs
 - Protective Capacity Assessments and Evaluation
 - Collateral Contacts
 - South Dakota Unified Judicial System
 - Probation
 - Pennington County Inmate Search
 - Family
- Kinship Services
 - Safety checks
- Ongoing Relative Search
- Contact with the mother
 - In person
 - Correspondence
- Contact with the father
 - Attempted to locate
 - Social media
 - Phone
 - In person
- Child Services
 - Medicaid for all medical/dental and optical needs
 - Mental health services
 - Home visits

- Child Case Plan
- Visitation
 - Weekly visitation offered for father

12.

The conditions which led to the child's removal still exist and there is little likelihood that those conditions will be remedied so that the child can be returned to the custody of the Respondent father.

13.

The conditions which led to the child's removal have been remedied regarding the Respondent mother.

14.

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

15.

The State has met its burden of proof by clear and convincing evidence that there exists compelling reasons to not terminate parental rights of the Respondent parents and that this is commensurate with the best interest of the minor child.

16.

The Court must at all times consider what is in the best interests of the minor child.

17.

There is good cause to return full custody of the minor child to the Respondent mother.

18.

The least restrictive alternative available commensurate with the best interest of the minor child is for the minor child to be returned to the custody of the Respondent mother, it no longer being contrary to the welfare of the minor child to return custody to the Respondent mother.

19.

The fundamental rights of the Respondent parents have been appropriately balanced with the best interests of the minor child and the public, and the Court finds and concludes that it is in the best interest of the minor child to not terminate parental rights of the Respondent parents, but rather to return the minor child to the legal and physical custody of the Respondent mother.

20.

Return of custody to the Respondent father would be contrary to the welfare of the minor child and would likely be injurious to the child's welfare.

21.

The Court takes judicial notice and incorporates herein by reference the entire abuse and neglect file (ENTER TEXT) as a further factual basis in support of these Final Dispositional Findings of Fact, Conclusions of Law, and Order.

Based upon the foregoing Findings of Fact, the Court now makes and enters its Conclusions of Law for Final Disposition, as follows:

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 as applicable.

2.

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

3.

The minor child involved in these proceedings has been adjudicated to be an abused or neglected child within the meaning of SDCL § 26-8A-2.

4.

The fundamental rights of the Respondent parents to raise their child have been appropriately balanced with the best interest of the minor child and the public, and the Court finds and concludes that it is in the best interest of the minor child to be returned to the legal and physical custody of the Respondent mother.

5.

That it is the least restrictive alternative commensurate with the best interest of the minor children that the parental rights of the Respondent parents not be terminated.

Dated this (DAY) day of (MONTH), (YEAR), effective the (DAY) day of (MONTH, YEAR), that 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