

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

**(APPLA – Non ICWA)**

The above-entitled matter having come on 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); 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 Final Dispositional Findings of Fact and Conclusions of Law 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 over these proceedings and this is the proper venue.

3.

CHILD (DOB: [ENTER DATE]) is a minor child who is in the legal and physical custody of the Department of Social Services and who was a resident of Pennington County at the commencement of these proceedings.

4.

(MOTHER NAME / FATHER NAME) is the biological mother of the minor child. (HE / SHE) (HAS RECEIVED NOTICE OF THESE PROCEEDINGS / HAS RECEIVED NOTICE THROUGH PUBLICATION REGARDING THESE PROCEEDINGS) and has been apprised of (HIS / HER) rights and obligations in these proceedings, including the possibility of termination of (HIS / HER) parental rights. (MOTHER NAME / FATHER NAME) (APPEARED AT THESE / DID NOT APPEAR AT THESE) proceedings (AND / BUT) (WAS REPRESENTED BY COUNSEL / WAS NOT REPRESENTED BY COUNSEL).

5.

(MOTHER NAME / FATHER NAME) is the biological mother of the minor child. (HE / SHE) (HAS RECEIVED NOTICE OF THESE PROCEEDINGS / HAS RECEIVED NOTICE THROUGH PUBLICATION REGARDING THESE PROCEEDINGS) and has been apprised of (HIS / HER) rights and obligations in these proceedings, including the possibility of termination of (HIS / HER) parental

rights. (MOTHER NAME / FATHER NAME) (APPEARED AT THESE / DID NOT APPEAR AT THESE) proceedings (AND / BUT) (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 but removal of the minor child from the home was necessary because continued presence of the child in the home would be 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 DATE)

8.

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.

9.

The child has been adjudicated to be an abused or neglected child as defined by SDCL 26-8A-2 through the actions and/or omissions of the Respondent parents.

10.

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 and it would be contrary to the welfare of the minor child to be returned to the legal and physical custody of the Respondent parents; those efforts include but are not limited to the following:

- Initial Family Assessment Services
  - Assignment of Specialist Plank
  - Initial Family Assessment completed
  - Safety Plan Determination Worksheet and Conditions for Return
  - Transportation
  - Visitation
- Child Services
  - Basic Foster Care Services
  - Therapeutic Foster Care Services
  - Child Case Plan and Activities and Evaluations
  - Medicaid for medical, dental and vision services
  - Contact with placement resource
  - Transportation
  - Regular Safety Checks
- Ongoing Services
  - Assignment of Specialist Franchetti
  - Protective Capacity Assessment and Activities and Evaluations
  - Safety Plan Determination and Conditions for Return
  - Funding request for gas
  - Transportation
  - Referrals
    - Behavior Management Systems
    - Therapy
    - Parenting Classes
- Supervised Visitation Weekly
  - Letter
  - Pictures
  - In person
  - At church
    - Collateral Contacts
      - CASA
      - Behavior Management

- Youth and Family Services
- Victims Assistance
- State's Attorney
- Big Brothers/Big Sisters Program
- Kinship Locator Services
  - Assignment of Kinship Locator Specialist Mundt
  - Ongoing relative search for placement and connections
- Family Group Coordinator Services
  - Assignment of Family Group Coordinator Cummings
  - Placement Team Meetings
  - Concurrent Planning Meeting

11.

All reasonable efforts have been made to return the adjudicated child to the home of the child's parents but those efforts have not been successful and the child has been referred for Another Planned Permanent Living Arrangement (APPLA).

12.

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

13.

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

14.

The least restrictive alternative available commensurate with the best interest of the minor child is for the child to remain in the legal and physical custody of the Department of Social Services in Another Planned Permanent Living Arrangement (APPLA).

15.

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

16.

This Court must at all times consider what is in the best interest of the child.

17.

The fundamental rights of the Respondent mother 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 (MOTHER / FATHER), but rather to place the minor child in the permanent custody of the Department of Social Services in Another Planned Permanent Living Arrangement (APPLA).

18.

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.

19.

Continued custody of the child by the Respondent parents would be injurious to the minor child's welfare.

20.

The least restrictive alternative available commensurate with the best interest of the minor child is to place the minor child in the permanent custody of the Department of Social Services in Another Planned Permanent Living Arrangement (APPLA), it being contrary to the welfare of the minor child to return legal or physical custody to the Respondent parents.

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 minor child has been adjudicated to be an abused or neglected child within the meaning of SDCL 26-8A-2 due to the actions and/or omissions of the Respondent parents.

4.

That compelling reason exists to not terminate parental rights of the Respondent parents and good cause has been shown to place the minor child in the permanent custody of the Department of Social Services in Another Planned Permanent Living Arrangement (APPLA).

5.

In making this determination the Court has balanced the rights of the parent, the child and the State and finds that this decision is the least restrictive alternative and in the minor child's best interest.

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