

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE INTEREST OF

Name _____

Case No. _____

Year of Birth _____ A male female

INDIAN CHILD WELFARE ACT
COMBINED JOURNAL ENTRY AND ORDER
OF REHEARING OF DISPOSITION

Pursuant to K.S.A. 38-2203(a), 38-2256, 42 U.S.C. 671 *et seq.* and 25 U.S.C. § 1901 *et seq.*

Now on this _____ day of _____, _____, the above-captioned matter comes on for rehearing of disposition on the Court's own motion on the motion of _____.

The petitioner appears by _____ County/District Attorney or designee other _____.

The child appears in person and not in person, but by the child's guardian *ad litem*, _____.

_____, the mother appears in person *pro se* appears in person, and through her attorney, _____ appears not in person, but by and through her attorney _____ does not appear.

_____, the father putative father of _____, appears in person *pro se* appears in person, and through his attorney, _____ appears not in person, but by and through his attorney, _____ does not appear.

Indian Custodian _____

The _____ Tribe appears by _____, attorney/representative or does not appear.

Interested parties appearing: _____

The Secretary appears through: _____

Also present: _____

THE COURT FINDS AND ORDERS:

1. The child named above has been adjudicated a Child in Need of Care and the Court's previous findings and orders:

- shall remain in full force and effect.
 - shall remain in full force and effect to the extent that they are not inconsistent with any findings or orders in the present order, and except that it is now in the best interest of the child
-

2. The Court asked each participant if the participant knows or has a reason to know the child is an Indian child. The Court has **sufficient evidence to determine the child is an Indian child as defined in the Indian Child Welfare Act** **the following reason to know the child is an Indian child:**

3. The ICWA Notice of the proceeding has been received, at least 10 days prior to this hearing, by registered or certified mail, as evidenced by the filed return receipt, to:

- _____, the mother
- _____, the father putative father
- _____, the child's Indian custodian
- the following Tribe(s): _____
- _____, the Bureau of Indian Affairs
- _____

4. Proper notice of this dispositional hearing to parties, interested parties and those required to receive notice has been given as required by K.S.A. 38-2254.

5. The child's membership in a Tribe is not yet determined, but the following efforts have been made to identify the child's Tribe:

The child is a member of _____

The child is eligible for membership in _____
_____ (insert names of Tribes).

The child is eligible for membership in more than one Tribe. The child's Tribe in this case is _____ because _____

(See 25 C.F.R. 23.109 for guidelines for determining how the court determines which Tribe is the child's Tribe)

6. A request to transfer jurisdiction to the Tribe:

has not been made.

was made on _____ by _____ and the transfer of jurisdiction was declined by the Tribe.

was made on _____ by _____ and the transfer of jurisdiction was denied by the Court because:

the following parent(s) object(s) to the transfer: _____

after receiving arguments from all parties, the Court finds good cause exists for denying the transfer. (*Document specific findings that good cause exists.*)

see findings of fact and conclusion of law in the court's order filed _____.

was made on _____ by _____ and the transfer of jurisdiction to _____ was granted. See attached Order Transferring Jurisdiction (Form 214).

7. Appropriate public and private agencies **have made** **have not made** reasonable and active efforts to facilitate the permanency plan. (*Specify basis for finding for the child.*)

8. The Court **approves and adopts the proposed permanency plan as the plan for permanency in the present matter and the permanency plan meets the requirements of active efforts** or **does not approve the proposed permanency plan and orders a new permanency plan submitted to the Court within 30 days.**

9. **Custody**

(If this order places the child in the custody of someone other than a parent or Indian Custodian, even if this is not the first order of removal in the case, complete and attach Form 209.)

The above named child **shall be** **shall remain** placed in the custody of:

_____, a parent. This placement is compliant with ICWA.

_____, an Indian custodian. This placement is compliant with ICWA.

_____, a member of the child's extended family. (*Complete the placement section below.*)

_____, an unlicensed person approved or specified by the Tribe with close emotional ties to the child. (*Complete the placement section below.*)

- _____, a youth residential or shelter facility approved or specified by the Tribe or operated by an Indian organization. *(Complete the placement section below.)*
- The Secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental or emotional or sexual abuse. *(Complete the placement section below.)*

Placement *(Complete either section A, B, or C.)*

(If the child is not placed in the custody of a parent or Indian custodian, complete either section A, B, or C. If the child is placed in the custody of the Secretary, ICWA requires the court to determine if and how the Secretary's choice of placement complies with ICWA.)

A. ICWA order of preferred placements

The child:

(Complete each numbered placement option below including and above the placement option where the child is placed.)

(1) is is not placed with the following **member of the child's extended family** _____. If child is not placed with a member of the child's extended family, it is because: *(Specific findings of fact must be written here)*

(2) is is not placed with the following **foster home licensed, approved, or specified by the Indian child's Tribe** _____. If child is not placed with a foster home licensed, approved, or specified by the Indian child's Tribe it is because: *(Specific findings of fact must be written here)*

(3) is is not placed with the following **Indian foster home licensed or approved by an authorized non-Indian licensing authority** _____. If child is not placed with an Indian foster home licensed or approved by an authorized non-Indian licensing authority, it is because: *(Specific findings of fact must be written here)*

(4) is is not placed with the following **institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs** _____. If child is not placed with an institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs, it is because: *(Specific findings of fact must be written here)*

OR

B. Tribe's order of preferred placement

The child's Tribe has a different order of placement preferences, which is:

The child is placed _____, pursuant to the child's Tribe's placement preference order.

OR

C. Child is not in a preferred placement

The child is placed _____.

The court, after considering evidence and arguments from all parties, finds that there is clear and convincing evidence that there is good cause to deviate from the placement preferences based on one or more of the following considerations:

- the request of one or both of the Indian child's parents, if they attest that they have reviewed the placement options, if any, that comply with the order of preference.
- The request of the child, if the child is of sufficient age and capacity to understand the decision that is being made.
- The presence of a sibling attachment that can be maintained only through a particular placement.
- The extraordinary physical, mental, or emotional needs of the Indian child, such as specialized treatment services that may be unavailable in the community where families who meet the placement preferences live.
- The unavailability of a suitable placement after a determination by the court that a diligent search was conducted to find suitable placements meeting the preference criteria, but not has been located.

(Specific findings of fact must be written here)

10. A child support order shall issue.

Each parent shall submit information to the child support office for a child support order to be prepared, or present documentation of a current child support order within ____ days.

11. All providers of services including educational services, treatment, education or care of the child and family, even if not specifically referred to herein, to provide information including any and all educational records to the secretary, any entity providing services to the child and family, counsel for the parties including the county or district attorney, appointed CASA, Citizen Review Board members, the court, and each other to the extent needed to ensure the safety of the child, prevent further abuse or neglect, and to provide appropriate treatment, care and services to the child and family. This order encompasses and complies with the provisions of the Family Education Rights and Privacy Act (20 U.S.C. 1232g; 34 C.F.R. 99 and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 C.F.R. 164.512(e)(1).

12. THE COURT FURTHER ORDERS:

_____.

13. A restraining order shall be filed against _____.

14. The Secretary Court Services _____ shall complete reports and submit them to the Court by _____.

THE COURT FURTHER ORDERS this matter set for review hearing before the Court the CRB on the ____ day of _____, _____, at ____:____ a.m. p.m. and for permanency hearing before the Court the CRB on the ____ day of _____, _____, at ____:____ a.m. p.m.

IT IS SO ORDERED THIS ____ day of _____, _____.