

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE INTEREST OF

Name _____ Case No. _____
Year of Birth _____ A male female

***INDIAN CHILD WELFARE ACT**
PERMANENCY HEARING JOURNAL ENTRY AND ORDER

Pursuant to K.S.A. 38-2203(a), 38-2264, 42 U.S.C. 671 *et seq.* and 25 U.S.C. § 1901 *et seq.*
(Orders pertaining to more than one child must include findings specific to each child listed in the caption.)
(If this is the first order removing custody from a parent or Indian custodian, complete and attach Form 209.)

NOW on this _____ day of _____, 20_____, the above-captioned matters come before the Court to **determine progress being made to achieve the current permanency plan goal(s) of _____.**

THE COURT FINDS jurisdiction and venue are proper. Notice to parties, interested parties and those required to receive notice has been given as required by law.

The child is 14 years of age or older and has been given notice of the time and place of the permanency hearing.

The Court finds that **each child named above or** **the child** _____ is an Indian child as defined by the Indian Child Welfare Act (ICWA) **the Court has the following reason to know the child is an Indian child:**

Copies of the petition, reports, other information concerning the child, and notice of this hearing as required by ICWA have been timely provided to the Tribe. The Tribe has been given a full opportunity to participate in this proceeding.

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

The child appears **in person, and** **not in person, but** by the child 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.

(Other parent appearances) _____

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

Interested parties appearing are: _____

The Secretary appears through: _____

Also present: _____

The Court has received and considered evidence.

1. A request to transfer of 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 to _____ was granted. See attached Order Transferring Jurisdiction (Form 214).

2. There is clear and convincing evidence that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. *(Provide specific findings.)*

3. *(Select either a., b., or c.)*

a. Appropriate public or private agencies have made **reasonable and active efforts** to assist and support the family to accomplish the current permanency goal(s) set out in the permanency plan.

(Specify what active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and to eliminate the need for out of home placement and whether the efforts were successful.)

OR

b. Appropriate public or private agencies have made **reasonable but not active efforts** to assist and support the family to accomplish the current permanency goal(s) set out in the permanency plan.

OR

c. Appropriate public or private agencies **have not made reasonable or active efforts** to assist and support the family to accomplish the current permanency goal(s) set out in the permanency plan.

4. The progress of the parents or child to achieve the permanency plan goal(s) of _____ is is not adequate.

5. The child's needs are are not being adequately met. *(If the child's needs are not being met, explain.)* _____

6. The reasonable and prudent parenting standard has been has not been met. _____

7. The child **has had** **has not** had regular, on-going opportunities to engage in age or developmentally appropriate activities. _____

8. Custody

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.)*

(If this is the first order removing custody from a parent or Indian custodian, complete and attach Form 209.)

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 none has been located.

(Specific findings of fact must be written here)

- 9. a. Reintegration **continues to be** a viable goal and:
 - the child should not be reintegrated until further order of the Court as returning the child to the custody of the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
 - the child may return home **immediately** **with a target date of _____ day of _____, 20____,** **if the following conditions are met:** _____
 - within 30 days, a new plan for reintegration should be prepared and submitted to the Court with measurable goals, objectives and time frames.
 - the new plan for reintegration shall include a concurrent goal of
 - adoption (consistent with the ICWA adoptive placement preferences).
 - permanent custodianship.
 - placement with a relative.

OR

- b. Reintegration **is no longer** a viable goal as returning the child to the custody of the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and (*Check choice(s).*)
 - the child is in a stable placement with a relative.
 - either adoption or permanent custodianship might be in the best interests of the child; services set out in the permanency plan necessary for the safe return of the child have been made available to the parent(s) with whom reintegration was planned; the County/District Attorney or designee shall file a pleading to terminate parental rights or a pleading to establish a permanent custodianship within 30 days; a new plan should be prepared and submitted to the Court with measurable goals, objectives and time frames to achieve
 adoption **permanent custodianship.**
 - adoption and permanent custodianship have been considered but are not in the child's best interest at this time, and a new plan should be prepared and submitted to the Court with measurable goals, objectives and time frames to achieve another planned permanent living arrangement of (*Identify*) _____

10. **The child is 14 years of age** or older and the court finds that the Secretary has made the following efforts to help the child prepare for the transition from custody to a successful adulthood. _____

11. The previous orders of this Court **shall continue in full force and effect** **except as hereby modified** **are hereby rescinded and the following orders are hereby issued pursuant to K.S.A. 38-2255:** _____

THE COURT FURTHER FINDS:

THE COURT ORDERS:

THE COURT FURTHER ORDERS 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).

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

THE COURT FURTHER ORDERS this matter set for _____ hearing before **the Court** **the CRB** on the _____ day of _____, 20____, at _____:____ **a.m** **p.m.**

IT IS SO ORDERED THIS _____ day of _____, 20_____.