

IN THE JUVENILE COURT OF ANDERSON COUNTY, TENNESSEE

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REC'D AC JUVENILE COURT

STATE OF TENNESSEE
DEPARTMENT OF CHILDREN'S SERVICES,

Petitioner,

vs.

No. [REDACTED]

'19 JUN 4 PM 3:05:59
FILED AC JUVENILE COURT

[REDACTED], Mother

and

[REDACTED], Father

Respondents.

IN THE MATTER OF:

[REDACTED] DOB: [REDACTED]
[REDACTED] DOB: [REDACTED]
Children Under Eighteen (18) Years of Age

ORDER TERMINATING PARENTAL RIGHTS AND
FINAL DECREE OF FULL GUARDIANSHIP

I. PROCEDURAL HISTORY

This cause came to be heard on May 16, 2019 before the Honorable Brian Hunt, Judge of the Juvenile Court of Anderson County, Tennessee at Clinton, upon the sworn petition of the State of Tennessee, Department of Children's Services seeking termination of the parental rights of the mother, [REDACTED] and father, [REDACTED] to the children, [REDACTED]; and termination of the rights, responsibilities and obligations of each to the children and likewise of all rights and obligations of the children to their parents arising from the parental relationship.

Appearing before the Court were Michelle Greer, counsel for the mother; the Guardian ad Litem, Carolyn Linge; Tennessee Department of Children's Services representatives Leah Baird and Crystal Hill, and State's Attorney, Amanda L. Rucker. Neither parent appeared, despite having been properly served with process and notice of this matter, and thus the Court proceeded in their absence.

For the reasons set forth below, based upon clear and convincing evidence, the Court concludes that the Petition filed by the Department is well taken, should be sustained, and the relief sought be granted. Accordingly, the Court concludes that the parental rights of Mother and Father to the children should be terminated and that such termination is in the children's best interest.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact: As required by Tenn. Code Ann. §36-1-113(k), the Court makes the following findings of fact by clear and convincing evidence based on the testimony of witnesses, the exhibits presented during the trial of this cause, as well as the entire record in this action. The Court received multiple exhibits and heard testimony from Family Service Worker (FSW) Leah Baird and Family Service Worker Crystal Hill.

The children, [REDACTED] were placed in DCS custody on January 4, 2018 due to the mother's homelessness and substance abuse issues, as well as domestic violence between the mother and the maternal grandmother. At the time the children were mostly living with the maternal grandmother, although the mother maintained custody of the children.

After the children came into DCS custody, the parents were contacted and informed. Both parents participated in an initial Child and Family Team Meeting. FSW Leah Baird was assigned to work with the family at that time until March 2019. FSW Baird testified that she was able to maintain contact with the mother, but father's contact was sporadic at best.

In the first four months after the children came into DCS custody, DCS tried to assist the mother in providing a suitable home for the children by providing therapeutic supervised visitations; referring the mother for alcohol and drug and mental health assessments; providing urine drug screens and a hair follicle drug screen; developing a permanency plan, conducting Child and Family Team Meetings; giving the mother a guide of local housing resources in the community; providing parenting classes; and providing domestic violence classes.

In the first four months, the mother made some efforts by visiting the children and by seeking assistance at [REDACTED] a local housing assistance agency. However, she refused drug screens and admitted to ongoing substance abuse, she did not obtain suitable housing, and she did not complete her mental health and alcohol and drug assessments until July 6, 2018.

After the children came into DCS custody, FSW Leah Baird created three permanency plans for them. The first permanency plan was developed on February 2, 2018. The first plan listed the following action steps for the parents to complete: submit to mental health and alcohol and drug assessments and follow all the resulting recommendations; complete parenting classes and domestic violence classes; submit to random drug screens; submit to hair follicle

or nail bed drug screens upon request; provide proof of any prescriptions; obtain and maintain safe and stable housing, income and transportation; signed releases of information for DCS to obtain records; visit the children and pay child support. The first plan was ratified by the Court on February 27, 2018.

On June 29, 2018, the plan was revised. The second plan listed the same action steps for the parents and added a requirement for the mother to complete a Batterer's Intervention program. That plan was ratified by the Court on November 27, 2018. The plan was then revised on December 3, 2018 and the action steps for the parents did not change. That plan was ratified by the Court on May 16, 2019.

In order to assist the parents in completing their tasks, DCS referred them for mental health and alcohol and drug assessments and set those up to be provided in-home to the parents. DCS also provided services to assist the parents in completing the parenting and domestic violence classes. DCS provided therapeutic visitations with the children and conducted child and family team meetings. DCS talked with the mother about housing and gave her resources for the same. DCS paid for a hair follicle drug screen and attempted to provide urine drug screens to the parents. DCS also provided ongoing advice and recommendations and made ongoing efforts to maintain contact with the parents.

The mother [REDACTED] completed a hair follicle drug screen on March 20, 2018, which was positive for methamphetamine and THC. She visited the children fairly regularly and completed her mental health and alcohol and drug assessments. She did not follow the recommendations from her assessments nor

did she obtain stable housing, income or transportation. She did not pay consistent child support for the children. She completed an intake for the in-home services but failed to meet with the provider after the intake. She has continued to use illegal substances. In April 2019, she reported to FSW Crystal Hill that she was homeless and could not pass a drug screen on that date.

The father, [REDACTED], has visited the children three times since they came into DCS custody. He also completed an initial intake for in-home services but failed to comply and complete any other action steps on the plans. Both parents signed the Department's *Criteria and Procedures for Termination of Parental Rights*. The mother signed this acknowledgement on February 27, 2018 and the father signed on May 21, 2018.

Both parents were ordered to pay child support in the amount of \$75.00 per month per child by this Court on January 9, 2018. The *Petition to Terminate Parental Rights* was filed on January 18, 2019. In the four months prior to the filing of the petition, ^{Mother} [REDACTED] did not make any child support payments. Her only payment prior to filing was \$25.00 on June 28, 2018. In the four months prior to the filing of the petition, ^{Father} [REDACTED] paid \$50.00 per child. The mother has provided food and drinks during visits and has given the children some presents while they have been in custody. The father has not.

In the four months before the petition was filed, ^{Father} [REDACTED] had one visit with the children, on October 19, 2018. He has had three visits in total with the children since they came into DCS custody. He was not incarcerated or otherwise incapacitated during those four months to the Department's knowledge.

When the petition was filed, the children had been in custody for twelve months. At that time, the mother who was the children's legal custodian, continued to have the same issues she had when the children came into DCS custody. She continued to be homeless and transient and she continued to use illegal drugs. Even as recently as April 2, 2019, she admitted to drug use and homelessness. She has not done anything to address her substance abuse or domestic violence issues.

The children have been placed in the foster home of [REDACTED] [REDACTED] for over a year. They love this home and are very bonded to the foster parents, who wish to adopt them. They have had the opportunity to travel, which they love, and they took a recent trip to [REDACTED]. The foster parents have provided the children with the stability which they did not have in their parents' care.

B. Conclusions of Law: Under Tennessee law, termination of parental rights must be based on a finding by the court by clear and convincing evidence that (1) the grounds for termination of parental rights have been established; and (2) termination of the parent's or guardian's rights is in the best interest of the child. Tenn. Code Ann. §36-1-113(c).

Here, the Court concludes that there is clear and convincing evidence to support grounds for termination of the parental rights of [REDACTED] ^{Mother} and [REDACTED] ^{Father} [REDACTED] under Tenn. Code Ann. §36-1-113(g). In addition, the Court concludes, based on clear and convincing evidence that termination of the parental rights of [REDACTED] ^{Mother} and [REDACTED] ^{Father} is in the children's best interest. Each ground is discussed in turn.

1. ABANDONMENT - FAILURE TO VISIT
T.C.A. §§ 36-1-113(g)(1) and 36-1-102(1)(A)(i), -102 (1)(C) and -
102(1)(E)

As to [REDACTED] **Father**

In this case, pursuant to Tenn. Code Ann. §§36-1-113(g)(1) and 36-1-102(1)(A)(i), -102 (1)(C) and -102(1)(E), the Court finds that there is clear and convincing evidence that **Father** [REDACTED] abandoned the children by failing to visit them. The *Petition to Terminate Parental Rights* was filed on January 18, 2019. In the four months before the petition was filed, **Father** [REDACTED] had one visit with the children, on October 19, 2018. The Court finds that this was a token visit. He has had three visits in total with the children since they came into DCS custody. He was not incarcerated or otherwise incapacitated during those four months to the Department's knowledge. **Father** [REDACTED] was aware of the consequences of his failure to visit the children because he signed an acknowledgement that he had received an explanation of those consequences on May 21, 2018.

2. ABANDONMENT - FAILURE TO SUPPORT
T.C.A. §§ 36-1-113(g)(1) and 36-1-102(1)(A)(i), -102 (1)(B) and -
102(1)(D)

As to Both Respondents

In this case, pursuant to Tenn. Code Ann. §§36-1-113(g)(1) and 36-1-102(1)(A)(i), -102 (1)(B) and -102(1)(D), the Court finds that there is clear and convincing evidence that **Mother** [REDACTED] and **Father** [REDACTED] abandoned the children by failing to pay child support for them. Both parents were ordered to pay child support in the amount of \$75.00 per month per child by this Court on January 9, 2018. The *Petition to Terminate Parental Rights* was filed on January 18, 2019. In the four months prior to the filing of the petition, **Mother** [REDACTED] did

not make any child support payments. Her only payment prior to filing was \$25.00 on June 28, 2018. In the four months prior to the filing of the petition, **Father** paid \$50.00 per child. The Court finds that these payments were token in nature. The mother has provided food and drinks during visits and has given the children some presents while they have been in custody. The father has not. Both parents were aware of the consequences of their failure to pay child support. Both parents signed the Department's *Criteria and Procedures for Termination of Parental Rights*, which includes an explanation of those consequences. The mother signed this acknowledgement on February 27, 2018 and the father signed on May 21, 2018.

3. ABANDONMENT – FAILURE TO PROVIDE SUITABLE HOME
T.C.A. §§ 36-1-113(g)(1) and 36-1-102(1)(A)(ii)
As to **Mother**

In this case, pursuant to Tenn. Code Ann. §§36-1-113(g)(1) and 36-1-102(1)(A)(ii), the Court finds that there is clear and convincing evidence that abandoned the children by failing to provide a suitable home to which they could return. The children were in the legal custody of the mother, **Mother** at the time of the removal into DCS custody. In the first four months after the children came into DCS custody, DCS tried to assist the mother in providing a suitable home for the children by providing therapeutic supervised visitations; referring the mother for alcohol and drug and mental health assessments; providing urine drug screens and a hair follicle drug screen; developing a permanency plan, conducting Child and Family Team Meetings; giving the mother a guide of local housing resources in the community; providing parenting classes; and providing domestic violence classes.

In those first four months, the mother made some efforts by visiting the children and by seeking assistance at [REDACTED], a local housing assistance agency. However, she refused drug screens and admitted to ongoing substance abuse, she did not obtain suitable housing, and she did not complete her mental health and alcohol and drug assessments until July 6, 2018. She admitted on April 2, 2019 that she could not pass a drug screen and that she was still homeless. Her failure to make even minimal efforts to improve her home and personal condition demonstrates a lack of concern to such a degree that it appears unlikely that she will be able to provide a suitable home for the children at an early date.

4. SUBSTANTIAL NONCOMPLIANCE WITH PERMANENCY PLAN
T.C.A. §§ 36-1-113(g)(2) and 37-2-403(a)(2)
As to Both Respondents

In this case, pursuant to Tenn. Code Ann. §§36-1-113(g)(2) and 37-2-403(a)(2), the Court finds that there is clear and convincing evidence that ^{Mother and} [REDACTED] ^{Father} failed to substantially comply with the permanency plans developed and ratified by this Court. After the children came into DCS custody, FSW Leah Baird created three permanency plans for them. The first permanency plan was developed on February 2, 2018. The first plan listed the following action steps for the parents to complete: submit to mental health and alcohol and drug assessments and follow all the resulting recommendations; complete parenting classes and domestic violence classes; submit to random drug screens; submit to hair follicle or nail bed drug screens upon request; provide proof of any prescriptions; obtain and maintain safe and stable housing, income and transportation; signed releases of information for DCS to obtain records;

visit the children and pay child support. The first plan was ratified by the Court on February 27, 2018.

On June 29, 2018, the plan was revised. The second plan listed the same action steps for the parents and added a requirement for the mother to complete a Batterer's Intervention program. That plan was ratified by the Court on November 27, 2018. The plan was then revised on December 3, 2018 and the action steps for the parents did not change. That plan was ratified by the Court on May 16, 2019.

In order to assist the parents in completing their tasks, DCS referred them for mental health and alcohol and drug assessments and set those up to be provided in-home to the parents. DCS also provided services to assist the parents in completing the parenting and domestic violence classes. DCS provided therapeutic visitations with the children and conducted child and family team meetings. DCS talked with the mother about housing and gave her resources for the same. DCS paid for a hair follicle drug screen and attempted to provide urine drug screens to the parents. DCS also provided ongoing advice and recommendations and made ongoing efforts to maintain contact with the parents.

The mother, [REDACTED], completed a hair follicle drug screen on March 20, 2018, which was positive for methamphetamine and THC. She visited the children fairly regularly and completed her mental health and alcohol and drug assessments. However, she did not follow the recommendations from her assessments nor did she obtain stable housing, income or transportation. She did not pay consistent child support for the children. She completed an intake for

the in-home services but failed to meet with the provider after the intake. She has continued to use illegal substances. In April 2019, she reported to FSW Crystal Hill that she was homeless and could not pass a drug screen on that date.

The father, [REDACTED], has visited the children three times since they came into DCS custody. He also completed an initial intake for in-home services but failed to comply and complete any other action steps on the plans. He has failed to regularly visit the children and he has failed to pay consistent support for the children. Both parents signed the Department's *Criteria and Procedures for Termination of Parental Rights*. The mother signed this acknowledgement on February 27, 2018 and the father signed on May 21, 2018.

5. PERSISTENT CONDITIONS

T.C.A. §§ 36-1-113(g)(3)

As to [REDACTED] **Mother**

In this case, pursuant to Tenn. Code Ann. §§36-1-113(g)(3), the Court finds that there is clear and convincing evidence that the conditions which led to the removal of the children persist to this date. It has now been sixteen months since the children were removed from their mother's custody and placed in state custody. DCS removed the children from the mother due to homelessness, substance abuse and domestic violence. The mother continues to use illegal drugs and continues to be homeless. In April 2019, she reported to FSW Crystal Hill that she was homeless and could not pass a drug screen. She has failed to do anything to address her substance abuse or domestic violence issues. There is little chance that those conditions can be remedied soon so that the children can be returned safely to the mother, because for sixteen months, DCS made reasonable efforts as detailed above to help **Mother** [REDACTED] to remedy them, to no

avail. Continuation of the parent/child relationship greatly diminishes the children's chances of being placed into a safe and stable home.

**6. FAILURE TO MANIFEST AN ABILITY AND
WILLINGNESS TO ASSUME CUSTODY**

**T.C.A. §§ 36-1-113(g)(14)
As to Both Respondents**

In this case, pursuant to Tenn. Code Ann. §§36-1-113(g)(14), the Court finds that there is clear and convincing evidence that **Mother** and **Father** have failed to manifest, by acts and omissions, an ability and willingness to assume legal and physical custody of the children. It has been sixteen months since the children were placed in DCS custody. Placing the children in the custody of either parent would pose a risk of substantial harm to the physical and/or psychological welfare of the children. The mother continues to use illegal drugs and is homeless. The father has failed to maintain contact with the children and DCS. Neither of the parents have demonstrated the stability necessary to provide for the care and custody of the children.

**BEST INTEREST
T.C.A. §§ 36-1-113(i)(1)**

Under Tenn. Code Ann. §36-1-113(i)(1), the Court is required to find that termination of parental rights is in the child's best interest.

In this case, the Court finds that there is clear and convincing evidence that termination of the parental rights of **Mother** and **Father** is in the best interest of the children as follows:

1. Respondents have not made changes in their conduct or circumstances that would make it safe for the children to go home. **Mother** remains

homeless and transient and continues to use illegal drugs. ^{Father} [REDACTED]

[REDACTED] has failed to demonstrate that he is able to provide care and custody for these children.

2. Respondents have not made lasting changes in their lifestyle or conduct after reasonable efforts by the state to help, so that lasting change does not appear possible. Despite help from the state, ^{Mother} [REDACTED] remains homeless and transient and continues to use illegal drugs. ^{Father} [REDACTED]

[REDACTED] has failed to demonstrate that he is able to provide care and custody for these children.

3. Respondent ^{Father} [REDACTED] has not maintained regular visitation with the children.

4. There is no meaningful relationship between them and the Respondents.

5. Changing caregivers at this stage of the children's lives will have a detrimental effect on them.

6. Respondents have abused or neglected the children.

7. Respondents abuse drugs or alcohol, rendering them consistently unable to care for the children in a safe and stable manner.

8. Respondents' mental or emotional state would be detrimental to the children and/or would prevent them from effectively parenting the children.

9. Respondents have not paid child support consistently.

10. Respondents have shown little or no interest in the welfare of the children.

11. The children have established a strong bond with their foster parents, who wish to adopt them.



12. The children do not want to return to Respondents' home and want to be adopted, instead.

13. The parents have continued to make lifestyle choices which are not conducive to providing a safe and stable home for these children.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

That all of the parental rights of Mother and Father to the children, [REDACTED], be and the same are hereby forever terminated; this Order terminating the parental rights of Mother and Father shall have the effect of terminating all the rights and obligations of Mother and Father to the children and of the children to Mother and Father arising from the parental relationship; Mother and Father are not hereafter entitled to notice of any proceedings for the adoption of the children by another, nor any right to object to such adoption or otherwise participate in the proceedings; and the complete custody, control and full guardianship of the children, [REDACTED] be and the same are hereby awarded to DCS, with the right to place the children for adoption and to consent to such adoption *in loco parentis*.

Enter this the 4 day of June, 2019.



Honorable Brian Hunt
Anderson County Juvenile Court Judge