

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

<p>FILED</p> <p>February 5, 1999</p> <p>NO. 01A01-9806-JV-00275</p> <p>Cecil W. Crowson Appellate Court Clerk</p>

STATE OF TENNESSEE)
DEPARTMENT OF CHILDREN'S)
SERVICES,)
Petitioner/Appellee)
v.)
TAMRA LEANN VIAR,)
Respondent/Appellant)
and)
JOHN FITZGERALD GROSS,)
(Present Whereabouts Unknown))
and)
THE UNKNOWN FATHER OF)
KATELYN NICOLE VIAR,)
(Present Whereabouts Unknown))
Respondents.)
IN THE MATTER OF:)
KATELYN NICOLE VIAR)
Date of Birth: 9/22/95)

CANNON COUNTY
NO. 01A01-9806-JV-00275
HON. JOHN B. MELTON, III
JUDGE

ORDER ON PETITION TO REHEAR

_____ We have reviewed the Petition to Rehear filed on behalf of the Attorney General and conclude that the Petition should be denied for the following reasons.

1. The Attorney General contends that the State has proved the grounds set out in T.C.A. § 36-117(g)(3)(A), thereby justifying termination of parental rights. We find, however, that the testimony concerning the mother's *current* relationship with her child does not meet the requirements of 36-117-(g)(3)(A)(i) and (iii) by clear and convincing evidence.
2. The Attorney General contends that the return of the child to the custody of her mother presents a threat to the child's safety. We disagree, and reference the testimony of Lynn Lawrence, Kenneth Hazel, Loretta Quarcoo, Debbie

Holder, Ann Richey, Rita Waller, Carolyn Thomas and Dale Peterson, all of whom have been in personal contact with the mother and child.

The Petition to Rehear is denied at the costs of the Attorney General.

William H. Inman, Senior Judge

Houston M. Goddard, Presiding Judge

Herschel P. Franks, Judge