

ORIGINAL  
GB-JCC

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,  
DEPARTMENT OF CHILDREN'S SERVICES,  
  
PETITIONER,

v.

████████████████████ Mother

and

████████████████████ Father

RESPONDENTS.

IN THE MATTER OF:

████████████████████ d.o.b. ██████████  
A Child Under Eighteen (18) Years of Age

DOCKET NO. ██████████

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**ORDER TERMINATING PARENTAL RIGHTS  
AND ORDER OF PARTIAL GUARDIANSHIP**

This cause came to be heard on the 30<sup>th</sup> day of January, 2019, and the 11<sup>th</sup> day of February, 2019, before the Honorable Robert D. Philyaw, Judge of the Hamilton County Juvenile Court, upon the Petition to Terminate Parental Rights filed by the Petitioner, State of Tennessee, Department of Children's Services on June 7, 2018.

On January 30, 2019, present before the Court were the following: the mother, ██████████; counsel for the mother, David C. Veazey; the father, ██████████, appearing by phone from ██████████ Correctional Facility; counsel for the

father, Ardena Garth; Guardian ad Litem, Ray Neal; a representative from the Department of Children's Services, Emetria Arnold; foster parents, [REDACTED]; and, counsel for the Department, Tiffany M. Campbell.

On February 11, 2019, present before the Court were the following: the mother, [REDACTED] counsel for the mother, David C. Veazey; the father, [REDACTED] appearing by phone from [REDACTED] Correctional Facility; counsel for the father, Ardena Garth; Guardian ad Litem, Ray Neal; a representative from the Department of Children's Services, Emetria Arnold; foster parents, [REDACTED]; and, counsel for the Department, Tiffany M. Campbell.

On February 11, 2019, Respondent, [REDACTED], announced, by and through his counsel of record, that he wished to surrender his parental rights to the subject child. Accordingly, the Department announced that it would nonsuit its petition as to [REDACTED].

As evidence, the Department presented sworn testimony from the mother, [REDACTED]; [REDACTED] DCS Family Service Worker (FSW), Emetria Arnold; and foster mother, [REDACTED]. Additionally, the Department entered into evidence the following exhibits: Collective Exhibit #1—a certified copy of the Hamilton County Juvenile Court Record, and Exhibit #2—<sup>Mother's</sup> [REDACTED] child support payment history.

At the close of proof, the Department dismissed the ground of abandonment—failure to provide a suitable home as pled in its petition as to Respondent, <sup>Mother</sup> [REDACTED].

██████████. The Court sustains the termination based upon the grounds of substantial noncompliance with the permanency plan and persistent conditions as to ██████████ <sup>Mother</sup>

Further, the Court finds that it is in the best interest of the child for the parental rights of <sup>Mother</sup> ██████████ to be terminated.

Based upon the argument of counsel, the testimony of the witnesses, the exhibits, and the entire record in this cause, the Court finds the following facts by clear and convincing evidence:

1) This Court has jurisdiction over this case pursuant to Tenn. Code Ann. § 36-1-113, 37-1-104 and 37-1-147.

2) Venue is properly in Hamilton County pursuant to Tenn. Code Ann. §§ 36-1-113(c)(4) and -114 and 37-1-111, in that the child is a ward of the State of Tennessee, Department of Children's Services, Hamilton County Office, and is subject to the jurisdiction of the Hamilton County Juvenile Court.

3) The child, ██████████, was born to <sup>Mother</sup> ██████████ and <sup>Father</sup> ██████████ on ██████████ in Chattanooga, Hamilton County, Tennessee.

4) The child has been in the Department's custody since ██████████. She was removed from a home that was not appropriate or clean. There was drug abuse taking place in the home, as well as physical abuse and insect infestation. Testimony showed that <sup>Mother</sup> ██████████ lost custody of her older child, ██████████ for the same reasons in 2015, and she ultimately surrendered her parental rights to that child.

5) **Mother** [REDACTED] was very honest and candid about the condition of the home at the time of the subject child's removal, acknowledging that there were roach infestations, as well as animal feces on the floors of the home. Following the child's removal into foster care, **Mother** [REDACTED] moved to an apartment in [REDACTED] Tennessee; however, she was evicted from that residence in part because she failed to show proof of income.

6) **Mother's** [REDACTED] posture seems to be that she needs more time, about a month or month and a half in her words. Even though the child has already been in custody for a year and a half, **Mother** [REDACTED] testified that she intends to buy a bug bomb with her next paycheck and try to get some furniture.

7) Testimony showed that **Mother** [REDACTED] participated in the development of the permanency plan and she was able to recite most of her responsibilities on the plan. Given **Mother's** [REDACTED] prior history with the Department, she was aware that she needed to work her permanency plan to regain custody of the child. **Mother's** [REDACTED] underlying problem has been drug abuse and addressing that was a significant part of her permanency plan; however, she has been discharged from Council for Alcohol & Drug Abuse Services (CADAS) three (3) times without having completed the treatment program. **Mother** [REDACTED] has not been able to tackle her substance abuse issues or address her mental health needs. **Mother** [REDACTED] testified that she did not have the means to do so,

despite help from FSW Arnold, and despite knowing that she had TennCare, which provides access to transportation.

8) The Department made a referral to [REDACTED] to provide in-home services to [REDACTED] <sup>Mother</sup>. Family Intervention Specialist, Gina Gillespie, was assigned to work with [REDACTED] <sup>Mother</sup>. Due to [REDACTED] <sup>Mother's</sup> living conditions, Ms. Gillespie even offered to meet [REDACTED] <sup>Mother</sup> elsewhere in the community to accommodate her needs; however, [REDACTED] <sup>Mother</sup> did not take advantage of those services.

9) [REDACTED] <sup>Mother</sup> has maintained employment for periods of time throughout this custodial episode. She previously worked at [REDACTED] and provided one (1) pay stub to FSW Arnold. [REDACTED] <sup>Mother</sup> testified that she is now employed at [REDACTED] and has made seven (7) reduced child support payments.

10) [REDACTED] <sup>Mother</sup> testified that she now resides back in the home of the maternal great aunt, [REDACTED], which is the same home from which this child was removed in July 2017. [REDACTED] <sup>Mother</sup> testified that [REDACTED] <sup>great aunt</sup> and the maternal grandmother, who also has substance abuse issues and history with the Department, reside in the home.

FSW Arnold testified that the Department cannot consider returning the child to [REDACTED] <sup>Mother's</sup> home at this time because the Department has not been allowed inside the home to complete a walk through.

11) [REDACTED] <sup>Mother</sup> acknowledged that she does not really understand the child's extensive medical needs nor has she attended the child's numerous doctor

appointments, despite having received notice of most of them. She does not know the child's diagnoses and does not know how many [REDACTED] the child has had since she entered foster care in July 2017. She was able to name some of the child's doctors and knew some of the child's specialists. <sup>Mother</sup> [REDACTED] testified that she thought she could provide for the child's medical needs, but she would need to "make some changes" first.

12) FSW Arnold testified that she received professional responsibility for the subject child approximately two (2) months after the child entered foster care. She confirmed <sup>Mother's</sup> [REDACTED] testimony regarding drug screens, and the Court noted that <sup>Mother</sup> [REDACTED] tested positive for illegal substances as recently as December 2018.

13) FSW Arnold testified that <sup>Mother</sup> [REDACTED] attended thirteen (13) of the thirty-two (32) visits available to her. The child had between fifty (50) and one hundred (100) doctor appointments, but <sup>Mother</sup> [REDACTED] attended none of them.

14) FSW Arnold testified that the Department is no closer now to returning custody of the child to <sup>Mother</sup> [REDACTED] than on the day of the child's removal into foster care. There has been no progress or change in <sup>Mother's</sup> [REDACTED] <sup>Mother</sup> [REDACTED] circumstances. [REDACTED] struggles to support herself, much less meet the child's special medical needs.

15) The child has been placed in the DCS foster home [REDACTED] since [REDACTED]. <sup>Foster Mother</sup> [REDACTED] testified that the child requires constant monitoring in that something so common as a drink of water could turn deadly due to

aspiration. **Foster Mother** testified in detail regarding the child's extensive medical needs and her diagnoses. The Court does not believe **Mother** is capable of caring for the child even if she completed her responsibilities on the permanency plan.

16) All the witnesses agreed that removal of the child from the foster home would be rough and would require tremendous adjustments on the child's part. The child is bonded to the foster parents **Foster Parents** are able to meet the child's extensive needs. They are interested in adopting the child, should she become available for adoption.

Based upon these findings of fact, the Court finds that the following grounds exist for the termination of **Mother's** parental rights:

#### **Substantial Noncompliance with the Permanency Plan**

Pursuant to Tenn. Code Ann. §§ 36-1-113(g)(2), and 37-2-403(a)(2), the Court finds that the Department has proven by clear and convincing evidence the statutory elements of substantial noncompliance with the permanency plan, as to Respondent, **Mother**.

17) After the child entered foster care, the Department created permanency plans for the family.

18) The permanency plans listed a number of requirements that Respondent, **Mother** needed to satisfy before the child could safely be returned home.

19) The Hamilton County Juvenile Court ratified the permanency plans dated December 18, 2017 and April 16, 2018, as in the child's best interest and found that the requirements for Respondent, <sup>Mother</sup> [REDACTED] were reasonably related to the reasons for foster care. This Court also finds that the responsibilities of the permanency plan were reasonably related to the reasons that necessitated foster care and in the best interest of the child.

20) The permanency plans required <sup>Mother</sup> [REDACTED] to complete the following responsibilities:

- <sup>Mother</sup>
- a) [REDACTED] will participate in an alcohol and drug assessment and follow all recommendations and after care;
  - b) [REDACTED] will submit to random drug screens;
  - c) [REDACTED] will participate in a mental health intake to determine treatment needs. She will cooperate with medication management and follow all recommendations. She will sign releases at her mental health facility;
  - d) [REDACTED] will participate in parenting classes to address safety, age appropriate discipline, providing basic needs of the child, maintaining healthy relationships. She will follow all recommendations;
  - e) [REDACTED] will provide DCS with proof of legal verifiable income;
  - f) [REDACTED] will obtain and maintain housing for 6 consecutive months;
  - g) [REDACTED] will cooperate with Maximus child support;
  - h) [REDACTED] will resolve all legal issues and not accrue additional legal charges;
  - i) [REDACTED] will stay in contact with DCS and notify DCS of any changes in her circumstances;
  - j) [REDACTED] will visit with the child regularly;
  - k) [REDACTED] will attend all court hearings and CFTM meetings; and,
  - l) [REDACTED] will cooperate with all providers.

21) The Court finds that <sup>Mother</sup> [REDACTED] has not substantially complied with the responsibilities and requirements set out for her in the permanency plans. She has



made little progress on the permanency plan since the child entered foster care, with the exception of resolving her legal issues, not accruing new criminal charges, maintaining contact with the Department, paying some child support, and submitting to some random drug screens. She has not completed other aspects of her plan, which were intended to address her ongoing drug abuse, lack of stable housing, and her lack of follow through as it relates to her mental health treatment. **Mother** [REDACTED] was aware of her responsibilities on the plan. She signed the plan, as well as the Criteria for Termination of Parental Rights, multiple times over the course of this custodial episode.

22) The Department made reasonable efforts to help **Mother** [REDACTED] satisfy the requirements in the permanency plan. The Court finds that no progress was made by **Mother** [REDACTED] that would make it appropriate or even possible to return this child to her custody at this time.

#### Persistent Conditions

Pursuant to Tenn. Code Ann. § 36-1-113(g)(3), the Court finds that the Department has proven by clear and convincing evidence the ground of persistent conditions, as to Respondent, **Mother** [REDACTED].

23) The child has been removed from the home and legal custody of Respondent, **Mother** [REDACTED], by Court Order for more than six (6) months. The child was adjudicated dependent and neglected by the Court on November 29, 2017.

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24) The conditions that led to the removal still persist and other conditions in the home exist that likely would lead to further neglect or abuse of the child. The child was removed from the custody of <sup>Mother</sup> [REDACTED] due to drug abuse, physical abuse, and environmental neglect. <sup>Mother</sup> [REDACTED] has continued to struggle with substance abuse and has not completed a treatment program to date. She has failed to maintain stable housing and is currently living back in the home from which the child was removed in July 2017. She acknowledged that environmental issues still remain in the home, and she has not allowed the Department to enter the home to conduct a walk through.

25) There is little chance that those conditions will be remedied soon so that the children can be returned safely to the home. The Department has attempted to work with <sup>Mother</sup> [REDACTED] since 2015, to no avail.

26) Continuation of the parent/child relationship greatly diminishes the child's chances of being placed into a safe, stable and permanent home. The child has been placed in the DCS foster home [REDACTED] since she entered foster care in July 2017. The child's extensive medical needs are being met by the foster <sup>Foster Parents</sup> family. [REDACTED] wish to adopt the child, should she become available for adoption.

Best Interest

The Court finds by clear and convincing evidence that it is in the children's best interest for the parental rights of Respondent, **Mother** [REDACTED], to be terminated, pursuant to Tenn. Code Ann. § 36-1-113(i), based upon the following:

27) The Court finds, pursuant to Tenn. Code Ann § 36-1-113(i), that it is in the best interest of the child for termination to be granted, because Respondent, **Mother** [REDACTED] has not made changes in her conduct or circumstances that would make it safe for the child to go home.

28) The Court finds, pursuant to Tenn. Code Ann. § 36-1-113(i), that it is in the best interest of the child for termination to be granted as to Respondent, **Mother** [REDACTED] because she has not made lasting changes in her lifestyle or conduct after reasonable efforts by the state to help, so that lasting change does not appear possible. **Mother** The Department has attempted to work with [REDACTED] since 2015, to no avail. The Respondent has failed to take advantage of the services and resources offered to her by the Department and other agencies. She continues to struggle with substance abuse and has not obtained verifiable treatment to date. Additionally, she has no suitable housing of her own, and is not in a position to provide for her child's extensive medical needs.

29) The Court finds, pursuant to Tenn. Code Ann. § 36-1-113(i), that it is in the best interest of the child for termination to be granted as to Respondent, **Mother** [REDACTED] because she has not maintained regular visitation with the child.

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30) The Court finds, pursuant to Tenn. Code Ann. § 36-1-113(i), that it is in the best interest of the children for termination to be granted as to Respondent, **Mother** [REDACTED] because there is no relationship between her and the child, as the child cried during the visits.

31) The Court finds, pursuant to Tenn. Code Ann. § 36-1-113(i), that it is in the best interest of the child for termination to be granted as to Respondent, **Mother** [REDACTED] because changing caregivers at this stage of the child's life would be detrimental to the child's health and well-being. The child has been placed in the DCS foster home [REDACTED] since she entered foster care in July 2017. The child's extensive medical needs are being met by the foster parents, who wish to adopt her, should she become available for adoption.

32) The Court finds, pursuant to Tenn. Code Ann. § 36-1-113(i), that it is in the best interest of the child for termination to be granted as to Respondent, **Mother** [REDACTED] because she has abused or neglected the child.

33) The Court finds, pursuant to Tenn. Code Ann. § 36-1-113(i), that it is in the best interest of the child for termination to be granted as to Respondent, **Mother** [REDACTED] because there is crime in her home. **Mother** [REDACTED] still lives in a home where drug abuse is ongoing and **Mother** [REDACTED] herself continues to abuse drugs.

34) The Court finds, pursuant to Tenn. Code Ann. § 36-1-113(i), that it is in the best interest of the child for termination to be granted as to Respondent, **Mother** [REDACTED]

\_\_\_\_\_ because she abuses drugs and/or alcohol, rendering her consistently unable to care for the child in safe and stable manner. The Respondent has continued to test positive for illegal substances when administered random drug screens by the Department. The Respondent has not made her sobriety a priority since the child entered foster care. It is therefore,


**ORDERED, ADJUDGED, and DECREED that:**

- 1) The Petition to Terminate Parental Rights is dismissed, without prejudice, as to Respondent, <sup>Father</sup> \_\_\_\_\_
- 2) All parental rights of Respondent, <sup>Mother</sup> \_\_\_\_\_ to the subject child, \_\_\_\_\_ are forever and irrevocably terminated.
- 3) Respondent, <sup>Mother</sup> \_\_\_\_\_ shall have no further right to get notice of proceedings for the adoption of said child, to object to the child's adoption, or to have any relationship, legal or otherwise, with the child.
- 4) The custody, control, and partial guardianship of the child, \_\_\_\_\_ is hereby awarded to the State of Tennessee, Department of Children's Services, appointing the Regional Administrator of Children's Services of Hamilton County or his/her successor in office as the partial guardian of said child, with all rights incumbent therein as defined by Tenn. Code Ann. § 36-1-102.

5) This Order shall constitute the final determination as to the claims in this matter. Respondent <sup>Mother's</sup> [REDACTED] parental rights shall be terminated for the reasons set out above; this Order shall constitute a final Order awarding partial guardianship to the State of Tennessee, Department of Children's Services; and there is no just reason to delay entry of a final judgment on these claims.

6) The parties are advised that this Order may be appealed to the Tennessee Court of Appeals by filing a notice of appeal within thirty (30) days at the office of the clerk of the Tennessee Court of Appeals.

ENTER this 3<sup>rd</sup> day of <sup>April</sup>~~March~~, 2019.

  
Hamilton County Juvenile Court Judge

*Signatures on following page*

**ENTERED**  
4-3-19

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