

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
FAMILY COURT DIVISION**

In the Interest of:)
)
Little Doe) Case No. 2
Male Born July XX, 20XX) Life No. XXXXXXXX

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT OF
TERMINATION OF PARENTAL RIGHTS**

On December 20th and December 21st, 2010, this matter came to hearing upon the Juvenile Officer’s Petition for Termination of Parental Rights filed on July XX, 20XX, pursuant to Section 211.447 RSMo. The Juvenile Officer was represented by Ms. Doe. The mother appeared in person and with her attorney Mr. Doe. The father, John Doe, was personally served and failed to appear and was in default. The child, Little Doe was represented by his Guradian Ad Litem, Ms. Doe, of CASA. Ms. Doe, the social worker from the Children’s Division, appeared in person. The Court proceeded in default as to the father and heard evidence as to the mother.

Having considered the pleadings filed and the evidence adduced, and having taken judicial notice of the file in case number XXXXXXXX, the underlying juvenile matters for this child, and the following cases which were the siblings of this child: Other Little Doe-2, JVXX-XXXXX and TRXX-XXXX; Other Little Doe-3, JVXX-XXXXX and TRXX-XXXX; Other Little Doe-4, JVXX-XXXXX and TRXX-XXXX; Other Little Doe- JVXX-XXXXX and TRXX-XXXX; Other Little Doe-6 JVXX-XXXXX and TRXX-XXXX; Other Little Doe-7, JVXX-XXXXX and TRXX-XXXX; Other Little Doe-8, JVXX-XXXXX and TRXX-XXXX this Court makes the following findings of fact and conclusions of law:

1. Little Doe is a male child, born July XX, 20XX, in Jackson County, Missouri and presently resides in Jackson County, Missouri.

2. Little Doe, came under the jurisdiction of the Jackson County Family Court pursuant to a petition filed on June X, 2007, in case number XXXXXXXX.

3. The child's mother is Jane Doe, whose date of birth is November XX, 1966 and whose address is XXXXXXXXX
4. The child's father is John Doe whose date of birth November XX, 1980 and whose last known address was XXXXXXXXX.
5. This Court has jurisdiction over this matter pursuant to prior jurisdiction over the child as set forth in case numbers XXXXXXXXX, pending in the Family Court Division, Jackson County, Missouri.
6. The Juvenile Officer made a preliminary inquiry regarding the propriety of filing this petition to terminate parental rights.
7. The Juvenile Officer has not participated in any other litigation involving custody, support or visitation with the minor child in this State or any other State other than case number XXXXXXXX.
8. There is no other litigation pending or touching upon the custody, support or visitation with the minor child in this State or any other State other than case number XXXXXXXXX, the child's abuse and neglect action filed by the Juvenile Officer pursuant to Section 211.031 RSMo.
9. There is no other party claiming to have any right to custody or visitation with the child.
10. The Court has taken judicial notice of the underlying abuse and neglect action filed by the Juvenile Officer in case number XXXXXXXXX.
11. There is no evidence that this child is an Indian Child as defined by the Indian Child Welfare Act, 25 U.S.C. 1901 et. seq. and, therefore, the Indian Child Welfare Act does not apply.
12. Pursuant to Section 211.447.2(1) RSMo., the Court finds by clear, cogent and convincing evidence that the child has been placed in the custody of the Children's Division for placement since February 2009.

13. Pursuant to Section 211.447.5(1)(b) RSMo., the Court finds by clear, cogent and convincing evidence that the father, John Doe has abandoned the minor child in that he has had no contact with the child and provided no financial or other support, despite being able to do so, for the child since February 2009, a period of over six months preceding the filing of the termination petition.

14. Pursuant to Section 211.447.5(2) RSMo., the Court finds by clear, cogent and convincing evidence that the child has been abused or neglected as previously determined in case numbers XXXXXXXX.

15. The Court took judicial notice of the underlying case of XXXXXXXX. The initial petition was filed on February 18, 2009. The mother stipulated to the allegations contained in the petition on April 13, 2009 which stated that:

1. The child is without proper custody, support or care necessary for her well being and is subject to the jurisdiction of this Court pursuant to Section 211.031.1 RSMO in that his mother neglects him.

2. Between the date of the child's birth and February 10, 2009 or thereabouts the child resided in the family home with his mother. During that time, the child was in the legal custody of his mother.

3. On or about February 10, 2009, the child's mother was arrested and incarcerated as a result of having solicited for prostitution via an ad on "Craig's List."

4. Further, on or about February 10, 2009, the child's mother admitted to police officials that she regularly prostituted herself in the family home and that she locked the child in his bedroom while clients were present.

5. In addition, the child's mother is a registered sex offender and was incarcerated from November of 1998 until June of 2004

for two counts of statutory rape and one count of statutory sodomy.

6. The actions of the child's mother constitute a pattern of specific conditions directly and negatively impacting the mother's ability to care for and parent the child, placing the child at risk of further harm or neglect absent the intervention of this Court.

16. The Court sustained the petition and placed the child in Children's Division's custody on April 28, 2009, where the child has remained continuously.

17. Pursuant to Section 211.447.5(2) the Court having found the child to have been adjudicated abused and neglected makes the following findings regarding the following factors:

a) Evidence was presented that the mother suffers from a permanent mental condition which impairs her ability to parent on a permanent basis in that the mother suffers from mental retardation and functions at a second grade level. Evidence established: (1) mother's mild retardation prevents her from comprehending the child's problems, (2) the mother had difficulty reading letters which were sent to her home and would need assistance in order to understand them, (3) the mother receives Social Security Disability payments for a learning disability, (4) mother's mental issues prevent her from stimulating the child's education, (5) mother's ability to reason, regarding parenting, is impaired by her mental issues, (6) mother's psychological evaluation recommended a guardian for mother. The Court finds that the mental health condition of mother is of a permanent nature or such that there is no reasonable likelihood that the condition can be reversed and which renders the mother unable to knowingly

provide the child the necessary care, custody and control.

b) No evidence was presented that Jane Doe has a chemical addiction which prevents her from consistently providing the necessary care, custody and control of the children and which cannot be treated so as to enable her to consistently provide such care, custody and control over the children.

c) No evidence was presented that the mother committed a severe act or recurrent acts of physical, emotional or sexual abuse toward the child. However, evidence established that the child suffered severe and recurrent acts of physical abuse by mother or someone else, in that: (1) the child has extreme behavioral and emotional issues that are trauma related, (2) the child's behaviors demonstrate extreme fear to Caucasian males, (3) the child exhibits behaviors that are attributed to sexual abuse, such as using sexual language that is not age appropriate, asking other children to touch his private areas, (4) the child exhibits actions of "humping" when sexually acting out, (5) the child has stated that his mother placed her fingers inside his anus, (6) the child has stated that other males placed their fingers in his anus.

d) No evidence was presented that Jane Doe has repeatedly and continuously failed, although physically and financially able to do so, to provide the child, Little Doe, adequate food, clothing, shelter, or education. However, evidence did establish that Jane Doe did repeatedly fail to provide care and control necessary for his mental or emotional health and development. Evidence established all the child's developmental delays were the cause of neglect, the child's behavioral and emotional issues were trauma related and the child's anxiety and aversion to visits with mother

were attributed to abuse while in mother's care and control.

18. Pursuant to Section 211.447.5(2) the Court having found the child has been adjudicated abused and neglected pursuant to Section 211.447.5(2). The Court makes the following findings regarding the following factors:

a) No evidence was presented that John Doe has a permanent mental condition which prevents him from providing the necessary care, custody and control of the child and cannot be treated so as to enable him to consistently provide such care, custody and control over the child.

b) No evidence was adduced that John Doe had a chemical dependency problem which prevented him from providing the necessary care, custody and control of his child.

c) No evidence was presented that the father, John Doe, committed a severe act or recurrent acts of physical, emotional or sexual abuse toward the child.

d) The Court finds that John Doe has repeatedly and continuously failed, although physically and financially able to do so, to provide the child, Little Doe, the care necessary for his mental or emotional health and development. The Court finds the father has failed to contact the child or provide any support for the child since February 2009.

19. Pursuant to Section 211.447.5(3) R.S.Mo. the court finds that Little Doe has been under the jurisdiction of the court for a period over one year. The Court finds that the conditions which led to the assumption of jurisdiction still persist and conditions of a potentially harmful nature continue to exist. Janr Doe has an anti-social personality disorder and has had frequent anger outbursts which cannot be safely treated and managed to enable her to care for her child given his severe behavior problems. Jane

Doe frequently had anger outbursts with the social worker and in group therapy. In addition, the child has behavioral needs which require specialized residential care that the mother is incapable of providing. Contact with the mother exacerbates the child's behavior problems, such that he is unable to be transported safely to visit his mother and resists the contact and visitation. Jane Doe has repeatedly engaged in prostitution and has three criminal conviction for Statutory Rape in the Second Degree, Statutory Sodomy in the Second Degree and Statutory Sodomy in the Second Degree which involved a minor child age 14 as the victim in case number, CRXX-XXXXX. Jane Doe is registered on the sexual offender registry. Jane Doe has been unable to recognize that these actions were inappropriate and illegal and told the therapist that there was nothing wrong with her actions since "the victim paid for it." Jane Doe's inability to understand the problem with her behavior, despite years of services and counseling, demonstrates that Jane Doe is unable to safely care for her child and protect him from sexual abuse.

(1) The Court finds that Jane Doe failed to make progress in complying with the terms of the social service plan entered into with the Children's Division in that she has failed to demonstrate progress in her parenting skills despite participation in parenting classes and counseling. Jane Doe has demonstrated an anger control problem with a caseworker, threatened to kill the caseworker and left repeated inappropriate messages on the caseworker's phone's voice mail. The child exhibits severe behavioral problems such that the mother, because of her mental capabilities, cannot obtain the proper parenting skills to manage the child's behavior in a safe manner. The child has demonstrated very severe behavior problems when attending visits with his mother.

(2) Jane Doe has failed to adjust her circumstances and conduct on a continuing basis so that she can provide a proper

home for her children. Jane Doe has had difficulty in working with parent aids and case workers and has only had limited participation in counseling. The mother has failed to fully engage in counseling services and individual therapy such that she could demonstrate an ability to safely parent the child. The mother has exhibited a pattern of anger outbursts, including threatening to kill the social worker and leaving repeated inappropriate messages on the caseworker's phone's voice mail. In addition, the mother was excluded from group counseling sessions due to an anger outburst with another participant in therapy sessions. Jane Doe has not had unsupervised visits with the child and the child has displayed severe behavioral problems and reluctance to participate in visitation with his mother. The child displays aggressive and violent behaviors such that he requires residential treatment. Jane Doe has been unable to recognize that engaging in sexual relations with a 14 year old child is harmful, which puts this child at risk of abuse or neglect. Given the mother's functioning ability and the relationship of the child with the mother, the mother is unable to safely parent the child.

(3) The Court finds that Jane Doe has a mental condition that is permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders Jane Doe unable to knowingly provide the child the necessary care, custody and control. Jane Doe was diagnosed by Mary Richardson, PhD. with post traumatic stress disorder, prior history of poly-substance dependence, mild mental retardation and antisocial personality disorder. Jane Doe failed to consistently participate in individual counseling and mental health services provided by the Children's

Division. Jane Doe was resistant to psychiatric treatment or medication. In addition, Jane Doe (1) suffers mild retardation that prevents her from comprehending the child's problems, (2) had difficulty, reading letters which were sent to her home and would need assistance in order to understand them, (3) receives Social Security Disability payments for a learning disability, (4) has mental issues that prevent her from stimulating the child's education, (5) ability to reason, regarding parenting, is impaired by her mental issues, (6) psychological evaluation recommended a guardian for mother. The child has severe behavioral problems and has had residential treatment for over one year and is on several medications. The mother's mental problem is permanent and prevents her from consistently providing the proper, care custody and support for her child.

(4) No evidence was adduced that Jane Doe currently has a chemical dependency which prevents her from providing the necessary care, custody and control of her child although there was evidence that the mother's chemical problem prevented her care of her children in the past.

20. Pursuant to Section 211.447.5(3) RSMo., the Court finds that Little Doe has been under the jurisdiction of the court for a period over one year. The Court finds that the conditions which led to the assumption of jurisdiction still persist and conditions of a potentially harmful nature continue to exist. John Doe, the father, has a history of violent criminal behavior and convictions for (1) Felony Possession of a Controlled Substance in case number XXCRXXX from Wyandotte County, Kansas and Case number XXCRXXX, (2) Felony Aggravated Battery and one count of Aggravated Indecent Liberties with a Child in case number XXCRXXXX. Given, that John Doe has failed to engage in any counseling services or has not had any contact with the child,

there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to John Doe in the near future. The continuation of the parent child relationship greatly diminishes the child's prospect for early integration into a stable and permanent home. In addition, the child has behavioral needs which require specialized care that the father is unable to provide.

(1) The Court finds that John Doe failed to make progress in complying with the terms of the social service plan entered into with the Children's Division in that he has failed to engage in any written service plans or make any efforts to reunify with the child.

(2) John Doe has failed to adjust his circumstances and conduct on a continuing basis so that he can provide a proper home for the child. John Doe has failed to engage in any services after his release from incarceration such that he could demonstrate an ability to safely parent the child.

(3) No evidence was presented that John Doe has a mental condition that is permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders John Doe unable to knowingly provide the child the necessary care, custody and control.

(4) No evidence was adduced that John Doe had a chemical dependency problem which prevents him from providing the necessary care, custody and control of his child.

21. Pursuant to Section 211.447.5(6) John Doe is unfit to be a party to the parent and child relationship because conditions which relate to the parent/child relationship are of a duration or nature that render him unable for the reasonably foreseeable future to care appropriately for the ongoing physical, mental or emotional needs of the child. John Doe has a pattern of criminal behavior and has been convicted of Possession of Drugs,

Aggravated Battery and Indecent Liberties with a Minor Child. John Doe has failed to address these behaviors in counseling and has not engaged in therapy to educate himself about the behavior issues of his son Little Doe. John Doe has failed to have any contact with the child. These conditions render him unable for the foreseeable future to care appropriately for the child.

22. Pursuant to Section 211.447.5(6) Jane Doe is unfit to be a party to the parent and child relationship because of conditions which relate to the parent/child relationship and are of a duration or nature that render her unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. Specifically, Jane Doe has engaged in a repeated pattern of child neglect with her other children as evidenced in case numbers:

JVXX-XXXXXX and TRXX-XXXXXX Other Little Doe-2,
JVXX-XXXXXX and TRXX-XXXXXX Other Little Doe-3,
JVXX-XXXXXX and TRXX-XXXXXX Other Little Doe-4,
JVXX-XXXXXX and TRXX-XXXXXX Other Little Doe-5,
JVXX-XXXXXX and TRXX-XXXXXX Other Little Doe-6,
JVXX-XXXXXX and TRXX-XXXXXX Other Little Doe-7,
JVXX-XXXXXX and TRXX-XXXXXX Other Little Doe-8,

All prior cases resulted in the termination of Jane Doe's parental rights to her other children. The pattern of termination of parental rights, along with her actions and behavior with Little Doe, demonstrate a repeated pattern of neglect which renders her unfit and unable to safely parent the child. Further, the mother is unfit in that she was convicted of Statutory Sodomy in the Second Degree in case number XXCR9XXXXXX-01 and is a registered sex offender. Jane Doe is unable to recognize that these actions are harmful to her child. All of these conditions relate to the parent/child relationship and render her unfit to parent Little Doe.

23. After having considered all the statutory factors specified in Section 211.447.7. RSMo., the Court further finds by a preponderance of the evidence the following factors:

a) The child has some emotional ties with Jane Doe but the nature of the emotional ties are problematic, in that: (1) the child defecates in route to visitation with his mother, (2) the child becomes so aggressive, in route to visit his mother, that two social workers were required for transport, (3) the child has hidden under a chair at first sight of his mother during a visit, (4) the child reacts physically at his mother attempting to hold him, (5) the child has urinated on himself upon being shown a photograph of his mother, (6) all visits with mother were stopped due to safety concerns for all parties. Due to the child's severe behavior Jane Doe has not had consistent visitation with the child since January 2010. The child has no emotional ties with John Doe. John Doe has not had contact with the child since February 2009.

b) Jane Doe has had some visitation with the child but the child's behavior problems before, during and after the visitation were so severe that visitation was stopped. During supervised visits, the following occurred: (1) the child defecates in route to visit with his mother, (2) the child becomes so aggressive, in route to visit his mother, that two social workers were required for transport, (3) the child has hidden under a chair at first sight of his mother during a visit, (4) the child reacts physically at his mother attempting to hold him, (5) the child has urinated on himself upon being shown a photograph of his mother. John Doe has had no visitation with the child since February 2009.

c) Jane Doe, although financially able to do so, has provided no financial support but has provided gifts, clothes and toys for the

child. The mother is on Social Security Disability Benefits. John Doe has provided no financial or other support for the child since February 2009.

d) Additional services would not be likely to bring about lasting parental adjustment enabling a return of the child to Jane Doe within an ascertainable period of time. Despite extensive services which were provided to Jane Doe since February 2009 the mother has not made progress in obtaining parenting skills to enable her to safely parent the child. The mother has little insight into her behavior and how it affects the child's behavior. Given the mother's mental health condition, mother's inability to control her anger, the child's special behavioral problems, which have regressed while the child has been under jurisdiction of the Court, and the many years of services provided to the mother, with little progress, the Court finds that additional services would not enable a return of the child in the near future. Additional contact between Little Doe and Jane Doe would not be beneficial for the child at this time.

Additional services would not be likely to bring about lasting parental adjustment enabling a return of the child to John Doe within an ascertainable period of time. John Doe has failed to participate in any services or maintain any contact with the child. John Doe has failed to maintain contact with the social worker or his child since February 2009.

e) Jane Doe has demonstrated her disinterest in and lack of commitment to the child by failing to engage in counseling on a consistent basis and failing to address her anger control problem to allow her to safely parent the child. The mother has been provided

extensive services with the Children's Division to reunify with this child and her seven previous children but has been unable to alter her conduct in order to safely care for him. John Doe has demonstrated his disinterest in and lack of commitment to the child by having no contact with the child, failing to attend counseling services and failing to maintain contact with the child and the social worker.

f) Neither Jane Doe nor John Doe are currently incarcerated.

g) There was evidence that Jane Doe knew or should have known of deliberate acts of the parent or of another, which subjected the child to a substantial risk of physical or mental harm. Jane Doe (1) physically and emotionally abused the child by locking the child in a room during the time she was engaging in prostitution, (2) neglected the child such that all developmental delays are attributable to neglect, (3) allowed trauma to the child to cause all the child's behavioral and emotional issues, (4) is the cause of the child's anxiety and aversion to visits with his mother Jane Doe.

There is no evidence that John Doe knew or should have known of deliberate acts of the parent or of another, which subjects the child to a substantial risk of physical or mental harm.

24. The Court further finds by a preponderance of the evidence that it is in the best interests of the child, Little Doe, that all parental rights of Jane Doe and John Doe in, to and over the child Little Doe be terminated. The child is in need of and deserves a stable and permanent home.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that all parental rights of Jane Doe and John Doe in, to and over Little Doe, are terminated and the

child's custody will remain as ordered in XXXX-JUXXXXX.

6 January 2011
Date

JUDGE MARCO A. ROLDAN