

STATE OF MISSOURI)
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County of St. Louis) SS.

**IN THE FAMILY COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

IN THE INTEREST OF:) **Cause No.**
K. A. C. C.) **Division 20**
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ORDER, JUDGMENT AND DECREE OF COURT

This cause was called and heard on September 22, 2017, on the Juvenile Officer's Petition to Terminate Parental Rights filed on March 23, 2017. The record remained open until October 13, 2017 for the admission of additional evidence at which time the cause was taken under submission. The Juvenile Officer appeared by attorney, Krista S. Peyton. Respondent-Mother, A.T. J., (hereinafter "Mother") did not appear in person but appeared by her court appointed counsel, Dennis Curland. Respondent-Father, A. C. C., (hereinafter "Father") did not appear in person but appeared by his court appointed counsel, Laura Sidel. Minor Child K. A. C. C., (hereinafter "the minor child" or "child" or "juvenile") did not appear in person, but by his court-appointed guardian ad litem, Michael Myers. Amie Gowan appeared on behalf of the Missouri Children's Division. The maternal grandmother/foster parent, Ms. H. J., also appeared.

Findings/Conclusions

Based on the evidence adduced, the Court makes the following findings by clear, cogent and convincing evidence:

1. This Court has jurisdiction as required under Sections 211.031, 211.041, 211.181, and 211.442 et.seq. RSMo.
2. A. T. J., is the mother of the minor child, K.A.C.C., age three, born . A.C.C. is the father of the minor child.
3. The minor child has been under the continuing jurisdiction of this Court pursuant to Sections 211.031, 211.041 and 211.181 RSMo., since October 25, 2016.

4. **Findings Re Allegations of Abandonment (Section 211.447.5(1)(RSMo.):**

Findings Re Respondent-Mother:

The Court finds by clear, cogent and convincing evidence that Mother has, without good cause, left said child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so, for a period of six months or longer immediately prior to filing of the Juvenile Officer's Petition to Terminate Parental Rights, specifically from October 25, 2016 through September 22, 2017. The credible evidence is that Mother did not have any visitation with the child until June 13, 2017 and has not exercised her visitation with the child since June 13, 2017. The credible evidence is that Mother has provided no financial support, no food, no clothing, no gifts, no letters, and no cards for the child.

Findings Re Respondent-Father:

The Court finds by clear, cogent and convincing evidence that Father has, without good cause, left said child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so, for a period of six months or longer immediately prior to filing of the Juvenile Officer's Petition to Terminate Parental Rights, specifically from October 25, 2016 through September 22, 2017. The credible evidence is that Father did not have any visitation with the child until June of 2017 and last exercised his visitation for one visit in July of 2017. The credible evidence is that Father has provided no financial support, no food, no clothing, no gifts, no letters, and no cards for the child.

5. **Findings Re Allegations of Abuse/Neglect of the Child (Section 211.447.5(2) RSMo.):**

The child was adjudicated abused or neglected on October 25, 2016, on allegations that: "[T]he juvenile is without proper care, custody and support in that the juvenile has been residing in St. Louis County, Missouri with H. J., his maternal grandmother, who does not have legal guardianship or legal custody of the juvenile and is unable to secure medical treatment for the juvenile. The juvenile's parents have failed to maintain contact with H. J. and failed to make arrangements for the juvenile to be able to receive medical care. The juvenile's sibling was born drug exposed on June 23, 2016 and this Court has taken jurisdiction of that child and placed his physical custody with H. J."

The validity of that adjudication was not challenged in these proceedings.

Having determined that the child was abused or neglected, the Court

considers the factors set out in Section 211.447.5(2) RSMo., and makes findings as follows:

Findings Re Respondent-Mother:

- (a) **Mental Condition:** There was no evidence presented that Mother suffers from a mental condition which cannot be reversed and which renders Mother unable to knowingly provide the child the necessary care, custody and control. Mother failed to participate in a court ordered mental health assessment, thereby depriving the Court of the opportunity to further assess Mother's mental condition and emotional state.
- (b) **Chemical Dependency:** The Court finds that Mother suffers from a chemical dependency that prevents her from consistently providing the necessary care, custody and control for the child. The child's sibling tested positive for the presence of cocaine, benzoylecgonine (cocaine metabolite), morphine, morphine-3-glucurine, methadone, EDDP (a methadone metabolite), and fentanyl at the time of his birth. Mother has also given birth to another drug exposed infant on June 6, 2017. Additionally, Mother submitted to drug screens in June of 2017 and she yielded positive results for opiates. The credible evidence is that during the time the child has been under the jurisdiction of the Court, Mother failed, or refused, to participate in an evaluation of her chemical dependency and to participate in the available services to address chemical dependency.
- (c) **Acts of Abuse and Neglect:** There was no evidence presented that Mother committed any severe or recurrent acts of physical, emotional or sexual abuse toward the child or any other child in the family.
- (d) **Acts of Abuse and Neglect of Others:** There was no evidence that any other person committed any severe or recurrent act of physical, emotional or sexual abuse toward the child or any child in the family under the circumstances indicating that Mother knew or should have known of the act.
- (e) **Failure to Provide:** The credible evidence is that Mother repeatedly and continuously failed, although physically or financially able, to provide the child with adequate food, clothing, shelter or other care and control necessary for the child's physical, mental or emotional health and development. There was no credible evidence that Mother was unable to be employed. Mother provided no proof of employment. Mother provided no clothing, no food, no gifts or necessary items for the child. Mother did not maintain stable housing during the pendency of this matter. Mother provided no financial support or other support of the child during the pendency of the matter.

Findings Re Respondent-Father:

- (a) **Mental Condition:** There was no evidence presented that Father suffers from a mental condition which cannot be reversed and which renders Respondent-Father unable to knowingly provide the child the necessary care, custody and control. Father failed to participate in a court ordered mental health assessment, thereby depriving the Court of the opportunity to further assess Respondent-Father's mental condition and emotional state.
 - (b) **Chemical Dependency:** Father is the named father for this child's sibling who tested positive for the presence of cocaine, benzoylecgonine (cocaine metabolite), morphine, morphine-3-glucurine, methadone, EDDP (a methadone metabolite), and fentanyl at the time of birth. Father is also the named father for another drug exposed infant born in June, 2017. Father submitted to a drug screen in June, 2017 and he yielded positive results. During the time the child has been under the jurisdiction of the Court, Father failed, or refused, to participate in an evaluation of his chemical dependency and to participate in the available services to address chemical dependency. The Court finds that Father's failure to cooperate with services deprives the Court from determining whether he suffers from a chemical dependency that prevents him from consistently providing the necessary care, custody and control for the child.
 - (c) **Acts of Abuse and Neglect:** There was no evidence presented that Father committed any severe or recurrent acts of physical, emotional or sexual abuse toward the child or any other child in the family.
 - (d) **Acts of Abuse and Neglect of Others:** There was no evidence that any other person committed any severe or recurrent act of physical, emotional or sexual abuse toward the child or any child in the family under the circumstances indicating that Father knew or should have known of the act.
 - (e) **Failure to Provide:** The credible evidence presented showed that Father repeatedly and continuously failed, although physically or financially able, to provide the child with adequate food, clothing, shelter or other care and control necessary for the child's physical, mental or emotional health and development. There was no credible evidence that Father was unable to be employed. Father provided no proof of employment. Father provided no clothing, no food, no gifts or necessary items for the child. Father did not maintain stable housing during the pendency of this matter. Father provided no financial support or other support of the child during the pendency of the matter.
6. The Court finds that the allegations of the Petition for Termination of Parental rights are sustained by clear, cogent and convincing evidence that the conditions contained in the following Sections of Chapter 211, RSMo.do exist as to Respondent-Mother and Respondent-Father: Sections 211.447.5(1) and 211.447.5(2).

7. **Best Interest Findings (Section 211.447.7 RSMo.)**

The Court now makes findings by a preponderance of the evidence on the following factors which are appropriate and applicable to this cause:

- (a.) The child has no emotional ties to Mother or Father.
- (b.) Mother and Father have failed to maintain regular visits or other contact with the child.
- (c.) Mother and Father have each failed to contribute to the costs of care and maintenance for the child.
- (d.) Based upon the evidence presented, the Court finds there is no reasonable cause to believe that additional services would be likely to bring about a lasting adjustment by Mother or Father enabling return of the child within an ascertainable period of time. Mother and Father have not availed themselves of services.
- (e.) Mother and Father are disinterested in or lack commitment to the child. This disinterest and lack of commitment is evidenced by the lack of contact and communication with the child, failure to participate in services and failure to appear and participate in the termination proceeding.
- (f.) There was no evidence that Mother or Father have been convicted of a felony offense that the Court finds of such a nature that the child will be deprived of a stable home for a period of years.
- (g.) Mother and Father subjected this child to substantial risk of physical or mental harm by failing to establish and/or maintain a relationship with the child, and by failing to participate in services to address their chemical dependency, thereby abandoning said child as set forth above and incorporated herein by reference.

8. The Court finds that, based upon the evidence presented, it is in the best interest and welfare of the child that the parental rights of Mother, A. T.J., be terminated; and that the parental rights of Father, A. C. C. be terminated.

9. Michael Myers, the guardian ad litem of record for the minor child, appointed pursuant to Section 210.160, RSMo has rendered services on behalf of said child in the reasonable value of \$1,010.00. Dennis Curland, court appointed attorney for mother, has rendered services in the reasonable value of \$680.00. Laura Sidel, court appointed counsel for father, has rendered services to Father.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the parental rights of the following persons to K.A. C. C., the child, born on _____, are hereby terminated:

- a. A. T. J., mother of the minor child;
- b. A. C. C., father of the minor child;

The Court continues jurisdiction over the child pursuant to Section 211.031 and 211.041, RSMo., and **ORDERS** that the custody of said child be awarded to the Missouri Children's Division for foster care and for recommendation to the Court concerning transfer of lawful custody from foster care to the best available adoptive parents. The Court, upon receipt of such recommendation, may transfer the lawful custody for purposes of adoption to the best available adoptive home, subject to the right to supervise the care of the child and right to resume custody being retained by the Missouri Children's Division, without cost to the County and subject to the continuing jurisdiction of the Court pursuant to Section 211.041, RSMo.

Michael Myers, guardian ad litem and attorney for the minor child, is awarded \$1,010.00 for his fee. Dennis Curland, attorney for mother, is awarded \$ 680.00 for his fee. Laura Sidel, attorney for father shall be awarded a fee upon motion and presentation of a time sheet. Said fees are to be taxed pursuant to Section 211.462.4 RSMo as costs against the Missouri Children's Division. Additional costs are waived.

Cause is set for a review hearing on June 21, 2018 at 9:00 AM unless a Judgment and Decree of Adoption is entered before that time.

SO ORDERED:

Judge

Date

NOTICE OF ENTRY OF ORDER, JUDGMENT, AND DECREE

The undersigned clerk hereby certifies that a true and complete copy of the foregoing Order, Judgment, and Decree of Court entered herein was served upon the following parties and attorneys of record by mailing same in the United States Mail, first class, postage prepaid, to:

Karen Jones, Adoption Unit, The Missouri Children's Division, 9900 Page Blvd.,
St. Louis, Missouri 63132;
A. J., , St. Louis, MO 63136;
A. C., , St. Louis, MO 63136;
Aimee Gowan, The Missouri Children's Division, 9900 Page Blvd., St. Louis, MO 63132;
Michael Myers, 7777 Bonhomme Ave. Suite 1300, Clayton, MO 63105;
Dennis J. Curland, Suite 320T, 225 Meramec, Clayton, MO 63105;
Laura Sidel, 4542 West Pine, St. Louis, MO 63108

on the _____ day of _____, 20_____.

cc: Kezele , DJO
K.S. Peyton, attorney for the Juvenile Officer