No. SC91584

In the Supreme Court of Missouri

In the Interest of B.T.H.,
a minor.

MARY A. MARQUEZ, Juvenile Officer,

Respondent,

v.

M.H. (Natural Mother),

Appellant.

Appeal from the Circuit Court of Jackson County, Family Court Division
The Honorable Judge Marco A. Roldan

APPELLANT'S BRIEF

MICHAEL E. CROWLEY
Missouri Bar No. 62205
Warden Grier LLP
420 Nichols Road, Suite 200
Kansas City, MO 64113
(816) 877-8100
(816) 877-8179
mcrowley@wardengrier.com
ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Supreme Court Cases

Missouri Cases

Constitutional Provisions

JURISDICTIONAL STATEMENT

Missouri law governing the necessary burden of proof to terminate parental rights conflicts with the Constitution of the United States. In this case, the trial court terminated Mary Hylton's parental rights based on factual findings supported by a mere preponderance of the evidence. These findings were made pursuant to a Missouri statute that does not require clear and convincing evidence as to each and every element required for the termination of parental rights.[1] Accordingly, a pure legal issue is before this Court, as the Fourteenth Amendment to the United States Constitution requires that such factual findings be supported by *at least* clear and convincing evidence, as the Supreme Court of the United States held in *Santosky v. Kramer*, 455 U.S. 745, 747-78 (1982).

The overarching question presented by the appeal of this case is whether the Missouri statute is constitutional. This appeal thus falls within the exclusive jurisdiction of the Supreme Court of Missouri pursuant to the Article 5, Section 3 of the Missouri Constitution.

[1] *See, e.g.*, RSMo. § 211.447 ("The juvenile court may terminate the rights of a parent … if the court finds that termination is in the best interest of the child….").

STATEMENT OF THE CASE

Although Ms. Hylton disagrees with the factual findings made be the trial court, she does not ask this Court to revisit them. Rather, Ms. Hylton brings this appeal so that this Court can reaffirm Missouri's fidelity to the protections of the Fourteenth Amendment to the United States Constitution, as interpreted by the Supreme Court of the United States. In this case, the trial court erred by applying the "preponderance of the evidence" standard to certain elements required to be proven by the State of Missouri in order to terminate Ms. Hylton's parental rights. Application of such a standard is directly contrary to established Supreme Court precedent, and arises in part from various inconsistent interpretations of RSMo. § 211.447 by the Missouri Courts of Appeal.

Beyond the trial court's misapplication of the preponderance standard, Ms. Hylton raises two other claims of error. Even setting aside the incorrect burden of proof, the trial court's Judgment is fatally flawed for two other reasons: 1) the trial court failed to identify the standard of proof it applied to certain factual findings critical to its Judgment; and 2) the trial court failed to explicitly consider a link between Ms. Hylton's past behavior and any future risk of abuse or neglect, as required by Missouri law.

Any one of these three errors would require remand. For the reasons more fully set forth herein, Ms. Hylton respectfully requests that this Court reverse the trial Court and remand for a new trial at which the proper standards are applied.

STATEMENT OF FACTS

BTH was born to Mary Hylton on July 26, 2005. R. at 12. Mary retained custody of BTH until he was nearly four years old, when he was placed in the custody of the Children's Division. R. at 13. Two months after BTH was removed from Mary's home, she stipulated that she had been arrested and incarcerated for soliciting herself for prostitution via Craigslist. R. at 14. She also stipulated that she was listed on the sex offender registry and that her conduct at the time negatively impacted her ability to care for BTH. R. at 15. BTH has remained in the custody of the Children's Division since that time. R. at 15.

The Juvenile Officer filed a petition to terminate Mary's parental rights. R. at 5-11. The petition alleged four bases for termination: 1) BTH had been neglected, pursuant to RSMo. 211.447.5(2); 2) BTH had been under jurisdiction for more than one year and Mary had failed to make sufficient progress in services, pursuant to RSMo. 211.447.5(3); 3) conviction of a sex offense, under RSMo. 211.447.5(4); and 4) Mary's parental rights had been terminated to her prior seven children, demonstrating an unfitness to be a party to the parent and child relationship under RSMo. 211.447.5(6). R. at 6-8.

After a two-day trial on the merits, the trial court found by clear, cogent and convincing evidence that BTH had been abused or neglected, as determined in 0916-JU000221. R. at 15. In that case, the underlying neglect action, Mary had stipulated that she had engaged in prostitution when BTH was locked in the next room. R. at 14-15. The trial court further found that there was no evidence that Mary suffered from a chemical

addiction or that she had committed a severe act or recurrent acts of abuse towards BTH. R. at 16. The trial court also found no evidence that Mary Hylton repeatedly and continuously failed to provide BTH adequate food, clothing, shelter or education. R. at 16.

Additionally, the trial court found, without specifying what standard of proof it was applying, that the conditions which led to the assumption of jurisdiction over BTH persisted and he had been under the jurisdiction of the court for more than a year. R. at 17. Also without stating the applicable standard of proof, the trial court ruled that Mary was unfit to be a parent under RSMo. 211.447.5(6) because of a history of neglect with her other children, the most recent of which had been removed from her custody in 1997. R. at 22.

The trial court therefore terminated Mary Hylton's parental rights to BTH. R. at 26.

POINTS RELIED ON

I. *The trial court erred* in terminating Mary Hylton's parental rights based on factual findings supported by a mere preponderance of evidence, *because* the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States requires at least "clear and convincing" evidence to support termination of parental rights *in that* the trial court's application of a preponderance standard to the best interest and RSMo. § 211.447.5(2) and (3) findings resulted in the termination of the mother's parental rights without constitutionally-sufficient proof.

Cases and Provisions Relied on:

U.S. Const. amend. XIV.

Santosky v. Kramer, 455 U.S. 745, 758 (1982).

Cannon v. Cannon, 280 S.W.3d 79, 86 (Mo. 2009).

II. *The trial court erred* in failing to identify the burden of proof applied to other factual findings, *because* those factual findings are conclusory, *in that* Paragraphs 17, 19 and 22 of the Court's Judgment are not specific enough to allow a reviewing court to determine whether the trial court properly applied the correct standard of proof.

Cases and Provisions Relied on:

In re C.F.C., 156 S.W.3d 422 (Mo. App. E.D. 2005).

In re M.A., 185 S.W.3d 256 (Mo. App. W.D. 2006).

III. *The trial court erred* in terminating Mary Hylton's parental rights, *because* Missouri law requires that past behavior can support the termination of parental rights only if the trial court explicitly considers whether that past behavior demonstrates a risk of future harm, *in that* the trial court's judgment fails to identify or address any link between her past behavior and any future risk of harm.

Cases and Provisions Relied on:

In the Interest of K.A.W., 133 S.W.3d 1, 9 (Mo. banc 2004).

In re S.M.H., 160 S.W.3d 355, 372 (Mo. 2005).

ARGUMENT

I. *The trial court erred in* terminating Mary Hylton's parental rights based on factual findings supported by a mere preponderance of evidence, *because* the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States requires at least "clear and convincing" evidence to support termination of parental rights *in that* the trial court's application of a preponderance standard to the best interest and RSMo. § 211.447.5(2) and (3) findings resulted in the termination of the mother's parental rights without constitutionally-sufficient proof.

Standard of review: In determining the constitutionality of a statute, this Court's review is de novo. *Franklin County ex rel. Parks v. Franklin County Comm'n*, 269 S.W.3d 26, 29 (Mo. banc 2008).

The Supreme Court of the United States resolved the legal issue at the heart of this appeal nearly three decades ago. Specifically, the nation's highest court held "that use of a 'fair preponderance of the evidence' standard in [termination of parental rights] proceedings is inconsistent with due process." *Santosky v. Kramer,* 455 U.S. 745, 758 (1982). Certainly, this Court "is bound to follow the decisions of the Supreme Court of the United States." *Rodgers v. Danforth,* 486 S.W.2d 258, 259 (Mo. 1972); *see also Kraus v. Bd. of Educ. of City of Jennings,* 492 S.W.2d 783, 784 (Mo. 1973) ("State court judges in Missouri are bound by the 'supreme law of the land,' as declared by the Supreme Court of the United States."); U.S. Const. art. 6.

But the Missouri termination statute, RSMo. § 211.447, permits termination of parental rights without requiring the State to establish each element of its case by at least clear and convincing evidence. In fact, the termination statute allows termination based on only the simple preponderance standard as to the "best interests" element, the most critical factual finding in a termination case. *See, e.g., In Interest of W.S.M.*, 845 S.W.2d 147, 151 (Mo. App. W.D. 1993) (holding that clear, cogent and convincing standard does not apply to best interests element); *In re M.O.*, 70 S.W.3d 579, 589 (Mo. App. W.D. 2002) (stating that the best interests element is "so critical" but reversing trial court for applying the clear, cogent and convincing standard); *In re E.D.M.*, 126 S.W.3d 488, 497 (Mo. App. W.D. 2004).

Because the Missouri statute does not require at least the constitutionally-mandated burden of proof as to each element necessary to support termination of parental rights, the statute is unconstitutional and Ms. Hylton must receive a new trial. This Court should reverse and remand with instructions to the trial court to apply the stricter "clear and convincing" or "clear, cogent and convincing" standards to all elements.

The "application of a 'fair preponderance of the evidence' standard indicates both society's 'minimal concern with the outcome,' and a conclusion that the litigants should 'share the risk of error in roughly equal fashion.'" *Santosky,* 455 U.S. at 745 (quoting *Addington v. Texas*, 441 U.S. 418 (1979)). But when a parent's fundamental right to raise their child is at risk, as they are in a parental rights termination proceeding, application of the preponderance standard is "inconsistent with due process." *Id.*

Accordingly, the Supreme Court of the United States has mandated that the *minimum* burden of proof which a state can require in a proceeding involving the termination of parental rights is the "clear and convincing" standard of proof. *Id.*

As made clear in *Santosky*, application of a preponderance standard in a termination of parental rights proceeding would reflect a "minimal concern with the outcome" of that case. Admittedly, Missouri courts have apparently encountered some confusion in determining the appropriate standard for the best interest element of a termination proceeding. *See, e.g., In re L.M.*, 212 S.W.3d 177, 186-87 (Mo. App. S.D. 2007) (finding that "the best-interest determination must only be supported by a preponderance of the evidence"). But such a standard is inconsistent with *Santosky*, particularly in light of the impact of those findings on the termination proceeding and determination. Ultimately, "[t]he minimum standard is a question of federal law" properly determined by reference to the United States Constitution. *See Santosky*, 455 U.S. at 746.

Missouri's application of the preponderance standard to the best interest prong of a termination case apparently finds its genesis in *In Interest of J.D.B.*, a decision of the Missouri Court of Appeals. 813 S.W.2d 341, 344 (Mo. App. W.D. 1991). In that case, the natural mother argued that the termination of her parental rights was in error because, in part, the child's best interest had "not been shown by clear, cogent and convincing evidence." *Id.* Citing no authority, the court stated that "[t]he legislature has not demanded that standard of proof for the best interest element, nor does the case law so

require." *Id.* But in a troubling oversight, even though it recognized that the child's best interests is an "element" necessary for the termination of the parents' rights, the Court of Appeals never addressed *Santosky* or the mandates of the Fourteenth Amendment. *See generally id.* Accordingly, *J.D.B.* endorsed a view that clear, cogent and convincing evidence would not be required when making the best interest finding *necessary* to terminate parental rights. *Id.*

In *In Interest of W.S.M.*, the Western District again considered the burden of proof for the best interest prong of a termination of parental rights case. 845 S.W.2d 147, 150 (Mo. App. W.D. 1993). The court initially recognized that "[a]n order terminating parental rights must be supported by clear, cogent and convincing evidence that one of the grounds for termination under § 211.447 exists **and** that termination of parental rights is in the child's best interest." *Id.* (emphasis added). Incongruously, however, it ultimately cited *J.D.B.* as support for its statement that the clear, cogent and convincing standard was inapplicable to the best interest prong of a termination decision. *See id.* Again, the court failed to address *Santosky* or the Fourteenth Amendment. *See generally id.*

Like *W.S.M., In Interest of J.N.C.* directly relied on *J.D.B.* as authority for casting aside the clear, cogent and convincing evidence standard when considering a child's best interest before terminating parental rights. 913 S.W.2d 376, 380 (Mo. App. W.D. 1996). Like *W.S.M.* and *J.D.B.*, *J.N.C.* failed to consider *Santosky* or the Fourteenth Amendment. *See generally id.* *In re A.S.* cited *J.N.C.* for the same propositions,

furthering the erosion of the protections mandated by *Santosky* and the Fourteenth Amendment. 38 S.W.3d 478, 486 (Mo. App. S.D. 2001). Similarly, *In re M.O.* cited *W.S.M.*, claiming that "the 'clear, cogent and convincing evidence standard' applies only to the statutory basis for termination and not to the 'best interests' issue." 70 S.W.3d 579, 589 (Mo. App. W.D. 2002). In fact, *M.O.* went so far as to claim that it was reversible error for the trial court to apply the clear, cogent and convincing evidence to the best interest element. *Id.* None of these cases addressed whether *Santosky* required a heightened standard.

Ultimately, these Missouri cases demonstrate a *sui generis* rule that developed despite *Santosky*. The decision in *J.D.B.* was plainly incorrect. This Court addressed the very issue in one of its recent opinions, correctly stating that "the state must present clear and convincing evidence that termination is in the child's best interests" under the rule set forth in *Santosky*. *Cannon v. Cannon*, 280 S.W.3d 79, 86 (Mo. 2009) (citing *Santosky*, 255 U.S. at 766). Though *Cannon* involved a divorce proceeding, the Court was specifically addressing the Supreme Court's requirements for the termination of parental rights. There is no justification for changing course and disregarding *Santosky*.

II. *The trial court erred in* failing to identify the burden of proof applied to other factual findings, *because* those factual findings are conclusory, *in that* Paragraphs 17, 19 and 22 of the Court's Judgment are not specific enough to allow a reviewing court to determine whether the trial court properly applied the correct standard of proof.

Standard of review: This Court must reverse the trial court if it erroneously declared or applied the law. *Murphy v. Carron,* 536 S.W.2d 30, 32 (Mo. banc 1976).

In its Judgment, the trial court failed to identify the standard of proof it applied in terminating Mary's parental rights under RSMo. 211.447.5(2), (3) and (6). R. at 15-20, 22. A "trial court's findings must be specific enough for a reviewing court to be assured that the trial court properly considered the factor in deciding to terminate parental rights." *In re C.F.C.*, 156 S.W.3d 422, 427 (Mo. App. E.D. 2005). Although the cases involving conclusory findings typically involve the failure to refer to specific statutory factors the court failed to address, *see, e.g., id., In re M.A.,* 185 S.W.3d 256 (Mo. App. W.D. 2006), the same principle applies when the court fails to identify the applicable burden of proof. Particularly in a case where the court applies more than one standard of proof to different findings, as it did here, identifying which standards were applied to which findings is critical.

If the trial court applied the "preponderance of the evidence standard" in Paragraphs 17, 19 and 22 of its Judgment, then the application of such a standard would require reversal for the reasons set forth in Point One. But because the trial court failed to identify what standard it applied, meaningful review (such as a challenge to the sufficiency of the evidence) is impossible. In post-trial briefing, even the Respondent and BTH's Guardian Ad Litem conceded that "the judgment would be clarified if the court modified the judgment to reflect . . . that the standard of proof used to make those

specific grounds was by clear, cogent and convincing evidence." R. at 41. Moreover, they stated that doing so would "remove any confusion as to which standard of proof was applied by the court to the termination grounds." R. at 41. Where both parties to a judgment find it ambiguous and the trial court refuses to clarify, meaningful appellate review is impossible.

Without knowing whether the trial court applied the "preponderance" or "clear, cogent and convincing" standards to its factual determinations, this Court cannot determine whether the trial court erroneously stated or applied the law. The absence of the applicable standards renders the trial court's Judgment unnecessarily and unjustifiably conclusory. Indeed, it is no different than *In re M.A.*, in which the trial court was reversed for its failure to make explicit findings as to certain factors. 185 S.W.3d at 264-65. The Court of Appeals, Western District, rebuked the trial court for its failure to make findings that left it "unable to determine whether the juvenile court properly considered these factors." *Id.* at 265. This Court is in the same predicament; unless it knows what standard of proof the trial court applied, it cannot determine whether the factors were properly considered, and the law correctly applied.

Because review of the Judgment is impossible as written, this Court should reverse and remand with instructions for the trial court to state which burden of proof it applied to various findings, so that Mary can decide whether to challenge those aspects of the Judgment.

III. The trial court erred in terminating Mary Hylton's parental rights, because Missouri law requires that past behavior can support the termination of parental rights only if the trial court explicitly considers whether that past behavior demonstrates a risk of future harm, in that the trial court's judgment fails to identify or address any link between her past behavior and any future risk of harm.

Standard of review: This Court must reverse the trial court if it erroneously declared or applied the law. *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976).

"Past behavior can support grounds for termination, but only if it is convincingly linked to predicted future behavior. There must be some *explicit consideration* of whether the past acts provide an indication of the likelihood of future harm." *In re C.K.*, 221 S.W.3d 467, 474 (Mo. Ct. App. 2007) (emphasis in original) (quoting *In the Interest of K.A.W.*, 133 S.W.3d 1, 9 (Mo. banc 2004)). The trial court's Judgment failed to discuss whether any of Ms. Hylton's past acts provide such an indication. Whether the evidence in this case factually supports such a link or not is irrelevant for purposes of this Court's review, as the law requires that "the circuit court must also assess the extent to which past behavior is predictive of similar issues in the future." *Id.* (quoting *In the Interest of C.W.*, 211 S.W.3d 93, 98-99 (Mo. banc 2007)).

The requirement of a "prospective analysis with some explicit consideration of whether past behaviors indicate future harm" is, regrettably, absent from the trial court's

Judgment. *See generally* Judgment. Under similar circumstances, the Missouri Court of Appeals, Western District, held that it could not "assume that the circuit court considered [the parent's] current ability and willingness to parent the children or that the circuit court explicitly considered the potential for future harm." *Id.* The Western District remanded with instructions that the judge make such findings. *Id.* The same result is required in this case.

Though the Court discussed at length Mary's past, it did not tie the same to any future risks. For example, the trial court thoroughly discussed Mary's mental illnesses, R. at 15, 17-18, but then conclusorily stated that "Mary Hylton's inability to understand the problem with her behavior, despite years of services and counseling, demonstrates that Mary Hylton is unable to safely care for her child and protect him from sexual abuse." R. at 18. The trial court failed to explain how or why it reached such a conclusion, thereby foregoing the explicit consideration required under Missouri law. This Court previously rejected the notion, apparently adopted by the trial court, that a parent's mental illness can establish per se unfitness to be a parent, stating:

> the fact that a parent's mental condition renders him unable to raise a child alone does not provide a basis for termination. The law does not require parents to be perfect or be model parents. Poor conduct or character flaws are not relevant unless they could actually result in future harm to the child. "The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have

not been model parents or have lost temporary custody of their child to the State." The evidence shows that, although Father may not be a model parent and has in the past made some bad choices and exhibited some poor behaviors, he will be able to knowingly provide S.M.H. the necessary care, custody, and control. This is all that is required.

In re S.M.H., 160 S.W.3d 355, 372 (Mo. 2005) (internal citations omitted) (quoting *Santosky,* 455 U.S. at 753).

Nothing in the Judgment reflects the "prospective analysis" required under Missouri law. Instead, the Judgment consists entirely of a retrospective overview of Mary's problems, and conclusorily determines that what has happened before will happen again. Because Missouri law requires more than past conduct to terminate parental rights, however, the trial court's termination of Mary's parental rights must be reversed. On remand, the trial court should be directed to consider the evidence that Mary has overcome her past problems, and determine whether a future risk of harm still exists in light of her success in treatment. More generally, the trial court should be instructed to engage in the prospective analysis necessary to explicitly consider whether Mary poses a future risk of harm to her son.

CONCLUSION

If the termination of Mary's parental rights is upheld by this Court, then the protections afforded by the Fourteenth Amendment to the United States Constitution are of little comfort to her. Ms. Hylton does not ask this Court to return her son outright. Rather, Ms. Hylton requests simply that to which she is entitled: a trial in which the State of Missouri is required to prove the allegations of its case by proof that adequately reflects the significant and weighty concerns at issue, and that the trial court clearly state the basis and reasoning for its judgment. Anything less tilts the scales against Ms. Hylton and similarly-situated mothers and fathers, thereby jeopardizing their fundamental rights.

Respectfully submitted,

Michael E. Crowley Mo. Bar. No. 62205
WARDEN GRIER LLP
420 Nichols Road, Ste. 200
Kansas City, MO 64112
816.877.8100 • Fax: 816.877.8179
Attorney for the Natural Mother

CERTIFICATE OF COMPLIANCE

I hereby certify:

1. That this brief complies with the limitations of Missouri Supreme Court Rule 84.07 and contains 4,392 words, excluding the cover page, this certification, and the appendix, as determined by Microsoft Word 2007; and

2. That the compact disc filed with this brief, containing a copy of the same, has been scanned for viruses and is virus free; and

3. That a true and correct copy of the attached brief and a compact disc containing a copy of the same, were mailed this 19th day of April, 2011, to:

Lori L. Stipp
Attorney for Juvenile Officer
625 E. 26th Street
Kansas City, MO 64108

Kate Nolen
Guardian Ad Litem
CASA
2544 Holmes Road
Kansas City, MO 64108

Amanda Stumpf
Children's Division
615 East 13th Street
Kansas City, MO 64108

Attorney

APPENDIX

Table of Contents

211.447. Petition to terminate parental rights, preliminary inquiry--juvenile officer to file petition or join as party, when--grounds for termination

1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or
(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an **"infant"** means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:
(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or
(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or
(3) A court of competent jurisdiction has determined that the parent has:
(a) Committed murder of another child of the parent; or
(b) Committed voluntary manslaughter of another child of the parent; or
(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or
(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4

of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:
(1) The child is being cared for by a relative; or
(2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or
(3) The family of the child has not been provided such services as provided for in section 211.183.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:
(1) The child has been abandoned. For purposes of this subdivision a **"child"** means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as

defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development;

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566, RSMo, when the child or any child in the family was a victim, or a violation of section 568.020, RSMo, when the child or any child in the family was a victim. As used in this subdivision, a **"child"** means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, RSMo, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this

section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:
(1) The emotional ties to the birth parent;
(2) The extent to which the parent has maintained regular visitation or other contact with the child;
(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;
(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;
(5) The parent's disinterest in or lack of commitment to the child;
(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;
(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.
9. In actions for adoption pursuant to chapter 453, RSMo, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

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

In the Interest of:	)	
	)	
BRANDON HYLTON	)	Petition No. 1016-JU000658
Male Bom July 26, 2005	)	Life No. 0916-JR00176

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 30, 2010, pursuant to Section 211.447 RSMo. The Juvenile Officer was represented by Lori L. Stipp. The mother appeared in person and with her attomey Michael Crowley. The father, Roy Beard, was personally served and failed to appear and was in default. The child, Brandon Hylton was represented by his Guradian Ad Litem, Kate Nolen, of CASA. Amanda Stumpf, 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 0916-JU000221, the underlying juvenile matters for this child, and the following cases which were the siblings of this child: Toy Hylton, JV85-74331 and TR88-00107; Kim Jones, JV88-00448 and TR88-00106; Willis Cole, JV89-00029 and TR90-00055; Rosemary Hendrickson, JV89-01434 and TR90-00056; Tina Hylton, JV91-00159 and TR93-00073; Heather Hylton, JV92-01886 and TR95-00139; Ebony Ferris, JV96-01964 and TR97-00140 this Court makes the following findings of fact and conclusions of law:

1. Brandon Hylton is a male child, born July 26, 2005, in Jackson County, Missouri and presently resides in Jackson County, Missouri.

2. Brandon Hylton, came under the jurisdiction of the Jackson County Family Court pursuant to a petition filed on June 6, 2007, in case number 0916-JU000221.

3. The child's mother is Mary Hylton, whose date of birth is November 18, 1966 and

whose address is 5909 St. John, Kansas City, Mo.

4. The child's father is Roy Beard whose date of birth November 26, 1980 and whose last known address was 686 Lincoln Center, Camden, AR 71701.

5. This Court has jurisdiction over this matter pursuant to prior jurisdiction over the child as set forth in case numbers 0916-JU000221, 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 0916-JU000221.

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 0916-JU000221, 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 0916-JU000221.

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, Roy Beard, 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 0916-JU000221.

15. The Court took judicial notice of the underlying case of 0916-JU000221. 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 Mary Hylton 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 Mary Hylton has repeatedly and continuously failed, although physically and financially able to do so, to provide the child, Brandon Hylton, adequate food, clothing, shelter, or education. However, evidence did establish that Mary Hylton 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 Roy Beard 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 Roy Beard 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, Roy Beard, committed a severe act or recurrent acts of physical, emotional or sexual abuse toward the child.

d) The Court finds that Roy Beard has repeatedly and continuously failed, although physically and financially able to do so, to provide the child, Brandon Hylton, 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 Brandon Hylton 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. Mary Hylton 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. Mary Hylton 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. Mary Hylton 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, CR97-03423. Mary Hylton is registered on the sexual offender registry. Mary Hylton 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." Mary Hylton's inability to understand the problem with her behavior, despite years of services and counseling, demonstrates that Mary Hylton is unable to safely care for her child and protect him from sexual abuse.

(1) The Court finds that Mary Hylton 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. Mary Hylton 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) Mary Hylton has failed to adjust her circumstances and conduct on a continuing basis so that she can provide a proper home for her children. Mary Hylton 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. Mary Hylton 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. Mary Hylton 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 Mary Hylton has a mental condition that is permanent or such that that there is no reasonable likelihood that the condition can be reversed and which renders Mary Hylton unable to knowingly provide the child the necessary care, custody and control. Mary Hylton was diagnosed by Mary Richardson, PhD. with post traumatic stress disorder, prior history of poly-substance dependence, mild mental retardation and antisocial

personality disorder. Mary Hylton failed to consistently participate in individual counseling and mental health services provided by the Children's Division. Mary Hylton was resistant to psychiatric treatment or medication. In addition, Mary Hylton (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 Mary Hylton 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 Brandon Hylton 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. Roy Beard, the father, has a history of violent criminal behavior and convictions for (1) Felony Possession of a Controlled Substance in case number 01CR1159 from Wyandotte County , Kansas and Case number 07CR844, (2) Felony Aggravated Battery and one count of Aggravated Indecent

Liberties with a Child in case number 99CR2418. Given, that Roy Beard 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 Roy Beard 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 Roy Beard 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) Roy Beard has failed to adjust his circumstances and conduct on a continuing basis so that he can provide a proper home for the child. Roy Beard 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 Roy Beard has a mental condition that is permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders Roy Beard unable to knowingly provide the child the necessary care, custody and control.

(4) No evidence was adduced that Roy Beard 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) Roy Beard 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. Roy Beard has a pattern of criminal behavior and has been convicted of Possession of Drugs, Aggravated Battery and Indecent Liberties with a Minor Child. Roy Beard has failed to address these behaviors in counseling and has not engaged in therapy to educate himself about the behavior issues of his son Brandon Hylton. Roy Beard 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) Mary Hylton 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, Mary Hylton has engaged in a repeated pattern of child neglect with her other children as evidenced in case numbers:

JV85-74331, TR88-00107 Toy Hylton,

JV88-00448 and TR88-00106 Kim Jones,

JV89-00029 and TR90-00055 Willis Cole,

JV89-01434 TR90-00056 Rosemary Hendrickson

JV91-0159 and TR93-00073 Tina Hylton,

JV92-01886 and TR95-00139 Heather Hylton

JV96-01964 and TR97-00140 Ebony Ferris.

All prior cases resulted in the termination of Mary Hylton's parental rights to her other children. The pattern of termination of parental rights, along with her actions and behavior with Brandon Hylton, 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 16CR97003423-01 and is a registered sex offender. Mary Hylton 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 Brandon Hylton.

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 Mary Hylton 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 Mary Hylton has not had consistent visitation with the child since January 2010. The child has no emotional ties with Roy Beard. Roy Beard has not had contact with the child since February 2009.

b) Mary Hylton 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. Roy Beard has had no

visitation with the child since February 2009.

c) Mary Hylton, 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. Roy Beard 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 Mary Hylton within an ascertainable period of time. Despite extensive services which were provided to Mary Hylton 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 Brandon Hylton and Mary Hylton would not be beneficial for the child at this time.

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

e) Mary Hylton 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. Roy Beard 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 Mary Hylton nor Roy Beard are currently incarcerated.

g) There was evidence that Mary Hylton 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. Mary Hylton (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 Mary Hylton.

There is no evidence that Roy Beard 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, Brandon Hylton, that all parental rights of Mary Hylton and Roy Beard in, to and over the child Brandon Hylton 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 Mary Hylton and Roy Beard in, to and over Brandon Hylton, are terminated and the child's custody will remain as ordered in 0916-JU000221.

6 January 2011
Date

Marco A. Roldan
JUDGE MARCO A. ROLDAN

NOTICE OF ENTRY OF JUDGMENT

You are hereby notified that on the 7 day of January, 2011, the Family Court, Juvenile Division, of Jackson County, Missouri made and entered the foregoing judgment in this case:
You are further notified that you may have a rig ht of appeal from this judgment under Rule 120.01 and section 211.261, RSMo, which provides that:

1. An appeal shall be allowed to the juvenile from any final judgment made under the Juvenile Code and may be taken on the part of the juvenile by the custodian.
2. An appeal shall be allowed to a custodian from any final judgment made under the Juvenile Code that adversely affects the custodian.
3. Notice of appeal shall be filed in accordance with Missouri law.
4. Neither the filing of a notice of appeal nor the filing of any motion subsequent to the judgment shall act to stay the execution of a judgment unless the court enters an order staying execution.

Michelle Rawlings
Deputy Court Administrator

Certificate of Service

This is to certify that a copy of the foregoing was mailed postage pre-paid or hand delivered to the following on this 7 day of January, 2011:
Copies to:

Lori L. Stipp
Attorney for Juvenile Officer
625 E. 26th Street

CERTIFIED COPY
I certify that the foregoing document is a full, true and complete copy of the original on file in my office and of which I am legal custodian.
Teresa L. York
Court Administrator
Circuit Court of Jackson County, Missouri
2-24-2011 By _____ Deputy

Kansas City, MO 64108

Kate Nolen
Guardian ad Litem
CASA
2544 Hiomes Road
Kansas City, Mo 64108

Mary Hylton
5909 St. John
Kansas City, Mo 64126

Michael Crowley
420 Nichols Road
Kansas City, Mo 64112

Roy Beard
686 Lincloln Center
Camden, AR 71701

Amanda Stumpf
Children's Division
615 East 13th Street
Kansas City, MO 64108

Michelle Rawlins
Deputy Court Administrator