**IN THE JUVENILE COURT OF [THIS] COUNTY**

**STATE OF GEORGIA**

In the Interest of:

FIRST MIDDLE LAST Sex: Female/Male DOB: MM/DD/YYYY Case #:

A child[[1]](#endnote-1)

**ORDER TERMINATING PARENTAL RIGHTS**

- or -

**ORDER DENYING PETITION TO TERMINATE PARENTAL RIGHTS**

 This case came before the Court on [date/dates] for trial on the *Petition to Terminate Parental Rights*. The Department of Family and Children Services filed its *Petition* on [date].[[2]](#endnote-2) Present for the hearing were: [parties & counsel, foster parent,[[3]](#endnote-3) and anyone else]. Not present for the hearing were: [Any reason for not-being present]

 A Court Appointed Special Advocate (CASA) was appointed to advocate for the best interests of the child, and an attorney was appointed to represent the child. O.C.G.A. §15-11-262

 Based upon all of the information and evidence presented, the Court enters the following Findings of Fact and Conclusions of Law by clear and convincing evidence, resulting in this Court’s decision to terminate the parental rights of [mother, father].

*Or:*

Based upon all of the information and evidence presented, the Court enters the following Findings of Fact and Conclusions of Law by clear and convincing evidence, resulting in this Court’s decision to DENY the *Petition to Terminate Parental Rights* of [mother, father].

**FINDINGS OF FACT**

*[Identify the family, their legal relationships, service of process, residency, etc.]*

The *Petition to Terminate Parental Rights* concerns this child[[4]](#endnote-4):

Name DOB Age

[First Middle Last] MM-DD-YYYY

The child resides in [county].[[5]](#endnote-5)

The mother of the child is [name]. She was served with the Petition and Notice of the Effect of the Termination [by: personal service, certified mail, publication; when].

The [legal/biological/putative] father of the child is [name].[[6]](#endnote-6) He was served with the Petition and Notice of the Effect of the Termination [by: personal service, certified mail, publication; when].[[7]](#endnote-7)

**Removal and Adjudication of Dependency**

 The Court has been exercising jurisdiction over this child and the parents in the underlying dependency proceedings continuously since entering the Dependency Removal Order on [date]. The child has remained in the legal and physical custody of the [County] Department of Family and Children Services since that time.

 The child was removed from the home because [presenting issue(s) prompting removal.] The child was adjudicated dependent on [date of the adjudication order or the child was adjudicated dependent at the hearing on …]. The bases for dependency were:[[8]](#endnote-8) The adjudication of dependency was never appealed.

 The Department prepared a reunification case plan designed to address the dependency of the child. The Department timely filed its case plans: 30-Day (Reunification), 6-Month (Reunification), and 12-Month (Reunification concurrent with Adoption). The case plans were incorporated into the Court’s orders. The parents were required to complete the goals outlined in the case plans in order to remedy the bases of dependency and reunify with their children.

**Reunification Goals & Progress[[9]](#endnote-9)**

The case plan goals were: [Insert case plan goals][[10]](#endnote-10)

***[From the most important to the least important. Not necessarily as listed in the case plan. Use subheadings to address each area of the case plan. Within each sub-heading, organize the facts chronologically[[11]](#endnote-11).]***

***Substance Abuse Treatment:***

*[If substance abuse was the most significant issue, list it first. Group all of the evidence about drug use, treatment recommendations, referrals, recovery support meetings, drug screens, relapse, etc.]*

***Domestic Violence:***

*[Domestic violence: Group all of the evidence about treatment recommendations, attending FVIP or group meetings. Other incidents of family violence. Therapies and services to address domestic violence, etc.]*

***Individual/Family Counseling:***

*[Why was individual or family therapy a reunification goal? What referrals were made, how many sessions attended, level of engagement, any reasons completed or not successful.]*

***Housing & Income:***

*[If these were not goals or significant issues, do not spend much time here. Consider length of time in each residence, location, suitability, stability – on the lease, who else was in the home, etc. Source(s) of income, continuity of employment, type of employment, etc.]*

***Child Support:***

*[Prior court order requiring support; arrears; was any support provided – money, gifts, necessaries?]*

***Additional Areas:***

*[Were there legal issues to address? Incarceration(s)? Bond/probation/parole restrictions. How did those conditions affect the parent’s ability to remedy the dependency?]*

**Child**

*[- What was the child’s condition when entered care – physical, mental health, behavioral, dental health? Ensure that the child’s condition is connected to the present TPR proceedings. If the issues were minimal & resolved, may not need to be included.*

*- What services/therapies did the child need/receive? Speech therapy, medical procedures, dental needs, medication, behavioral aides, assessments, counseling, academic supports, etc.*

*- Address child’s current condition – personality developments, extra-curricular activities, current physical/behavioral/emotional/psychological needs.*

*- Child’s relationship with parents and/or placement.*

*- Caregiver views[[12]](#endnote-12).]*

**Parenting Time/Visitation[[13]](#endnote-13)**

*[- Ordered parenting tie & how much occurred. How it changed over the dependency case. Supervised/unsupervised, in the community, in the home, etc.*

*- Observations made during the parenting time.*

*- Effects on the child.]*

**Parent-Child Relationship[[14]](#endnote-14)**

*[Particularly if there was much evidence about the nature and quality of the parent-child relationship, have this in a separate section.]*

**Relative Search**

*[Include every relative considered for placement and outcomes.]*

**Permanency Plan**

*[Is there a prospective adoptive resource identified? If not a relative, who is it? Nature and quality of the child’s relationship with the resource.*

*- Caregiver views.]*

**Best Interest Recommendation[[15]](#endnote-15)**

*[CASA/Guardian ad Litem positions and recommendations. Bases of the recommendations.*

*- Children’s expressed positions on TPR, placement, relationship with parents (if applicable)]*

**CONCLUSIONS OF LAW[[16]](#endnote-16)**

The Court has subject matter jurisdiction over this matter as it is a petition to terminate the legal parent-child relationship. O.C.G.A. §15-11-10(3)(D). The Court has personal jurisdiction over the mother, [name], and the father, [name]. The parents were personally served with the *Petition* and the hearing was conducted at least thirty days after service was perfected. O.C.G.A. §15-11-281; §15-11-282(a). Venue is proper in [this] County as the [this] County Juvenile Court continues to exercise jurisdiction over the related dependency proceedings, the child remains in the legal and physical custody of the [this] County Department of Family and Child Services, and is a legal resident of [this] County. O.C.G.A. §15-11-270.

The hearing [was/was not] conducted within ninety days of the filing of the *Petition*. However, the [include circumstances] provided just cause for the delay. O.C.G.A. §15-11-301. The foster parents were provided notice of the proceeding and were both present for the entirety of the trial. O.C.G.A. §15-11-300.

**The Court concludes there are sufficient grounds for termination of parental rights:**

**The Court does not conclude there are sufficient grounds for termination of parental rights:**

* *Do not address grounds if they are not part of the decision. Do not have conflicting grounds for the same parent. Use sub-headings if there are multiple grounds or sub-parts on that ground, if it is very detailed. Follow the statutory progression. Do not put dependency likely to continue before abandonment for the same parent. Use a structure that makes sense for the facts. If both parents abandoned the child, use one paragraph for both of them rather than two repetitive paragraphs. The lengthier this section gets, consider using headings/sub-headings.*
* *If there is insufficient evidence to establish grounds, go through the same analysis: the parents did not consent to the termination; there is not sufficient evidence of aggravated circumstances; the parents have failed to pay child support, however, the Court cannot conclude that the failure is willful and wanton [because…]; the parents have not abandoned the child; there is insufficient evidence for this Court to conclude that the child is dependent/that reasonable efforts have been unsuccessful/the cause of dependency is likely to continue, etc.*

Written Consent:

The [parent, name,] consents to the termination, and [his/her] consent was acknowledged by the Court. The consent was freely, knowingly, voluntarily given, and given with the advice of counsel. The Court acknowledges and accepts the [parent’s] consent to the termination of [his/her] parental rights. O.C.G.A. §15-11-310(a)(1)

Aggravated Circumstances:

The [parent, name] has subjected [his/her] child to aggravated circumstances. O.C.G.A. §15-11-310(a)(2) [Insert foundational facts.] The Court granted the Department’s *Motion for Non-Reunification* on the same grounds of aggravated circumstances. The Department was not required to make reasonable efforts to eliminate the need for removal under O.C.G.A. §15-11-203 because [include circumstances here.]

* + *Refer to §15-11-2(5)[[17]](#footnote-1)*
	+ *What is the aggravated circumstance? Committed by which parent?*
	+ *What facts lead to the conclusion to that the parent committed/subjected/caused this event?*
	+ *Is there any caselaw that supports that this parent’s actions constitute an aggravated circumstance? (case law that defines attempted murder, holds that touching a child’s genitals is sexual abuse, defines a serious bodily injury as the type of injury this child sustained, etc.)*

Failure to support the child:

There are grounds to terminate the parental rights of [parent name] based upon [his/her] failure to support the child. O.C.G.A. §15-11-310(a)(3). *[Example:]* The child was removed in [month, year]. The [parent] was ordered to pay child support in [month, year] in the amount of [$XXX] per month [per child]. [He/she] did not consistently pay support and was employed throughout the dependency proceedings.

A parent has a legal and moral obligation to support [his/her] child with or without a court order. O.C.G.A. §19-7-2, 19-6-13, 19-7-24, and 19-10-1. O.C.G.A. §19-10-1(a) attaches criminal sanctions and specifically provides:

A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter for the needs of the child.

The law recognizes that children continue to need the basics of life – regardless of the parent’s circumstances – including food, clothing and shelter. The [parent] has maintained employment. Yet [he/she] has failed to support [his/her] child consistently and as ordered. The Court concludes that [the parent’s] failure to pay child support – for the [length of time] that this child was outside of [his/her] care – is wanton and willful.

* *Failure to pay child support for more than 12 months. §15-11-310(3)*
	+ *Which court entered the order? When? For what amount?*
	+ *How much has the parent paid?*
	+ *Was the failure to pay wanton & willful? Why?*

Abandonment:

The parent, [name] has abandoned [his/her] child. O.C.G.A. §15-11-310(a)(4) [Follow with analysis.] [*Example:*] The putative father [name], has neither completed DNA testing, nor has he filed a petition to legitimate his child. The putative father saw the child only once in her life. He has failed to communicate with her, maintain visitation, has not provided any support for her benefit, has failed to respond to notice of the child protective proceedings, has not participated in any of the dependency proceedings, and has not participated in the termination proceedings. O.C.G.A. §15-11-2(1) Further, by [name] failing to file a petition to legitimate his child, he is not entitled to object to the termination of his rights to his child. O.C.G.A. §15-11-283

* *Refer to §15-11-2(1). There are eight enumerations of how to show an intent to forgo parental responsibility. Which ones apply to these parents?*

Dependency:

There are grounds to terminate the parental rights of the parent, [name]. O.C.G.A. §15-11-310(a)(5). This child is dependent. The child was adjudicated dependent on [date]. The order of adjudication was never appealed or reversed. The bases of dependency were [include here.]

The dependency is caused by the lack of proper parental care and control. *[Example:* The [parent] has an excessive use of or history of chronic unrehabilitated substance abuse with the effect of rendering [him/her] incapable of providing adequately for the physical, mental, emotional, or moral condition and needs of the child. O.C.G.A. §15-11-311(a)(2).] [Follow with analysis here.]

* + *What conditions in 15-11-311 apply to this case?*
		- *What is the evidence of chronic, unrehabilitated substance abuse?*
		- *How has SA affected the parent’s ability to provide care for the child?*
		- *Is there a felony conviction? If so, how does the conviction adversely affect the parent-child relationship?*
		- *What physical, mental, or emotional neglect did the child experience with the parent?*
	+ *Was there an unjustifiable failure to maintain a meaningful relationship?*
		- *What made it unjustifiable?*
	+ *Was there an unjustifiable failure to comply with the case plan?*
		- *What made it unjustifiable?*

Reasonable efforts to remedy the circumstances of dependency have been unsuccessful. O.C.G.A. §15-11-310(a)(5). [Follow with analysis]

* + - *What efforts did DFCS make to remedy the circumstances? Assessments, referrals, services, transportation to visitation, etc.*
		- *Were those efforts reasonable? Did the services relate to the dependency? Were the services designed to remedy the dependency? Should there have been more? Evaluate the adequacy/quality of the services.*
		- *Were the efforts unsuccessful? Why? How?*
		- *Do not simply focus on whether the parents completed the case plan or not. Focus on whether the dependency has been remedied.*

The Court concludes that the child’s dependency will continue and that it is not likely to be remedied in the reasonably foreseeable future. O.C.G.A. §15-11-310(a)(5).

* + - *Compare/contrast the circumstances of the children & parents from removal to present.*
		- *How does the length of time the children have already been in care affect this conclusion? (Children have been in foster care for 6 months/18 months?)*
		- *Ex: Parents consented to non-reunification and chosen not to make any efforts to remedy the dependency.*
		- *Ex: Parent still has not entered treatment after 10 months and must demonstrate sobriety for twelve months.*
		- *Lack of subsistence;*
		- *Lack of remedying the dependency*
		- *How substance abuse/risk of relapse informs whether the dependency is likely to continue. (Ex: Relatively new sobriety/lack of treatment/lack of recovery supports/abstinence being aspirational …)*
		- *Answer the question: The dependency is likely to continue because ….*

Returning the child to [his/her parent] is likely to cause serious harm [or threaten the physical safety of the child.] O.C.G.A. §15-11-310(a)(5)(A)

Continuation of the parent and child relationship will cause or is likely to cause serious physical, mental, moral, or emotional harm to this child. O.C.G.A. §15-11-310(a)(5)(B).

* + - *Articulable safety conditions that present an imminent risk of harm to the child if returned today. Answer the question: why can’t the child be safely returned?*
		- *What are the specific dynamics of this parent-child relationship that make it toxic/harmful? (Not just general foster care drift.) Will need solid base of evidence on the quality and nature of the parent-child relationship – lack of trust, repeated disappointments, child’s anxiety over seeing parent, repeated requests to stay in the foster home, etc.*

Best Interest Determination: §15-11-310(b) and §15-11-26

**The Court, having concluded that there are grounds for terminating parental rights, also concludes termination of parental rights is in the best interests of the child:**

**The Court, having concluded that there are grounds for terminating parental rights, does not conclude that termination of parental rights is in the best interests of the child**:

* *Just because there are grounds for termination, does not automatically yield a conclusion that it is in the best interest of the child to terminate. Be specific to these children. Relate back to the facts that inform these conclusions.*
* *Such child’s sense of attachments, including his or her sense of security and familiarity, and the continuity of affection of such child;*
* *Such child’s wishes and long-term goals;*
* *Such child’s need for permanence, including his or her need for stability and continuity of relationships with a parent, siblings, and other relatives;*
* *Any benefit to such child of being integrated into a stable and permanent home and the likely effect of delaying such integration into such stable and permanent home environment;*
* *The detrimental impact of the lack of a stable and permanent home environment on such child’s safety, well-being, or physical, mental, or emotional health;*
* *Such child’s future physical, mental, moral, or emotional well-being; and*
* *Any other factors, including the factors set forth in 15-11-26, considered by the court to be relevant and proper to its determination.*
* *What specifics about these children, these parents, these care-givers, make it right/not-right to terminate?*
* *What do these children want? Is it reasonable? Feasible?*
* *How do the ages of the children affect their need for permanency?*
* *How do the ages of the children/experiences with the parents affect the bond/strength of the parent-child relationship?*
* *Any special needs the children have that influence the determination?*

**Therefore, the Court hereby DENIES the *Petition to Terminate Parental Rights*.**

So ORDERED this day of , .

 , Judge

 [This] County Juvenile Court

**Therefore, by clear and convincing evidence, the Court terminates the parental rights of the mother, [name], and the father, [name], to the child [first, middle, last].**

 This Order shall be without limit as to duration and shall divest the parents and their child of all legal rights, power, privileges, immunities, duties, and obligations with respect to one another, except:

1. The right of such child to receive child support from [his/her] parents until a final order of adoption is entered;
2. The right of such child to inherit from and through [his/her] parents [the right of inheritance of such child shall be terminated only by a final order of adoption]; and
3. The right of such child to pursue any civil action against [his/her] parents.

O.C.G.A. §15-11-261(a)

This Order of termination of parental rights is conclusive and binding on all parties from the date of the entry of the Order.

 The parents are advised that they have the right to use the services of the Georgia Adoption Reunion Registry, currently available at [www.ga-adoptionreunion.com](http://www.ga-adoptionreunion.com). O.C.G.A. §15-11-320(b)(4)

The parents are no longer entitled to notice of proceedings for the adoption of this child nor will the parents have the right to object to the adoption or otherwise participate in such proceedings. O.C.G.A. §15-11-261(b)

**DISPOSITION**

The child shall remain in the legal and physical custody of the [This] County Department of Family and Child Services. O.C.G.A. §15-11-321(a). The permanency plan for the child is **adoption**. The prospective adoptive parents for the child are [names].

While the Department retains authority to make changes in placement, the Court approves continued placement of the child with the [prospective adoptive placement]. The Court has determined that [prospective adoptive placement] are qualified to care for this child as demonstrated by their care of the child for the past [length of time.] The child has made significant progress in the [prospective adoptive] home and the [prospective adoptive placement] have expressed a long-term commitment to the child. Continued placement of the child with the [prospective adoptive placement] is the least disruptive placement for the child, is consistent with the permanency plan of adoption, and the child enjoys continuity and stability with the [prospective adoptive placement], as well as an important emotional connection with them and their family.

**WHEREFORE, the Court further ORDERS:**

* **The Clerk of Court is hereby directed to transmit a certified copy of this order to the State Adoption Unit within 15 days of the filing of the order.**
* **The Clerk of Court is hereby directed to transmit two certified copies of this order to the [This] County Department of Family and Child Services.**
* **If the parents wish to appeal this order, they must contact the Juvenile Court Clerk’s Office *immediately* upon receiving this order. Counsel will be appointed to represent them for the purposes of appeal.**

[This] County Juvenile Court Clerk’s Office

Address

City, GA 00000

**After thirty days from the entry of this order, the parents will no longer have the right to appeal this decision.** O.C.G.A. §5-6-35

So ORDERED this day of , .

 , Judge

 [This] County Juvenile Court

1. **END NOTES**

 §15-11-16: The petition and all other documents in the proceeding shall be entitled "In the interest of , a child," It is not necessary to state “minor child” or “minor child under the age of 18”. Simply “In the interest of , a child” or “In the interest of , children” is sufficient. [↑](#endnote-ref-1)
2. Were there any continuances? What were the reasons for the continuances? §15-11-301(a) [↑](#endnote-ref-2)
3. How was the foster parent/caregiver notified? Were they present? Did they have written notice of the hearing? Did they express an interest in being heard at the hearing? 15-11-300 [↑](#endnote-ref-3)
4. Verify the child’s vital information from the birth certificate. (Vital Records Subpoena) Birth certificate should be a part of the file and/or an exhibit. [↑](#endnote-ref-4)
5. If that is the basis for venue. If basis for venue is the county that has jurisdiction over the related dependency proceedings, can be in later paragraphs. But, must have a factual basis to establish venue: (1) county that has jurisdiction over related dependency proceedings; (2) county in which child legally resides; (3) county in which child is present when termination proceeding is commenced if such child is present without his or her parent, guardian, or legal custodian; or (4) county where the acts underlying the petition to terminate parental rights are alleged to have occurred. [↑](#endnote-ref-5)
6. Establish how this person is known, what is the legal relationship: legal father of the child because married to the mother prior to the child’s birth & remains married to the mother; legal father because legitimated the child in superior court action; legal father because administratively legitimated the child (7/1/2006-7/1/2016) biological father because DNA testing in the dependency case confirmed paternity at 99.98% probability, however the biological father never filed a petition for legitimation; putative father because parents never married, mother identified him as putative father, no DNA testing; signed paternity acknowledgement and is on putative father registry and has pending petition for legitimation in this court, etc…. If the putative father is unknown – what are the facts – Ex: She was an active substance abuse user at the time of conception and had multiple partners, some of them barely known to her. She provided the names of three individuals and DNA testing excluded all three of them. She did not have identifying information for her other partners, but knew them only by their nickanmes. [↑](#endnote-ref-6)
7. If a putative father, was he provided with notice that he would lose his right to object to proceedings if he did not file a petition for legitimation within thirty days? [↑](#endnote-ref-7)
8. If the adjudication order was admitted into evidence, pull from the order what the bases of dependency were. [↑](#endnote-ref-8)
9. If the parents had similar goals & similar compliance, address each parent’s progress within the sub-sections. If their goals or compliance were substantially different, create separate sections for “Mother’s Reunification Goals and Progress” “Father’s Reunification Goals and Progress.” [↑](#endnote-ref-9)
10. Pull the case plan goals from the filed case plan. If there were multiple caseplans, synthesize them. [↑](#endnote-ref-10)
11. It is not necessary to identify each individual source of evidence – whether the information came from the substance abuse assessment, the tendered orders, caseworker testimony, parent testimony, admitted drug screens, etc. Only distinguish where the evidence came from (whose testimony/documents, etc) ***if*** it makes a difference to the weight/credibility of the evidence. [↑](#endnote-ref-11)
12. If the caregiver is the proposed adoptive resource, can move this section to the permanency plan. O.C.G.A. §15-11-300: If the caregiver is present, specific information regarding the caregiver’s views, including, but not limited to, concerning the child’s well-being, health, and safety; any changes the caregiver believes are necessary to advance the child’s well-being, health, and safety; and the timeliness, necessity, and quality of services being provided to the child and caregiver; a summary of documentation presented by the caregiver regarding the child’s well-being, health, and safety, including, but not limited to, reports from physicians, counselors, psychologists, and teachers. [↑](#endnote-ref-12)
13. Parenting time/visitation must always be addressed. However, depending on the facts in the case, where it is addressed might change. If there was little to no visitation, consider including it as a sub-heading under the case plan compliance. If there is much information over parenting, it probably should have its own section. If the evidence focuses more on the parents’ engagement, consider placing it after case plan compliance and before the condition of the children. If the evidence focuses more on the effect on the children, consider placing it after the children’s section. [↑](#endnote-ref-13)
14. Again, this section is very fact specific and may not be necessary as a separate section. If there’s an infant with little visitation with the parents, it can be addressed within the other sub-sections. If there are several older children and significant testimony from psychologists or therapists about the nature & quality of the parental bond, it will need its own section. [↑](#endnote-ref-14)
15. What the child’s attorney & CASA recommended is in the best interest of the child is a finding of fact. The court will have [↑](#endnote-ref-15)
16. Citing to recent case law that supports/informs the conclusions. [↑](#endnote-ref-16)
17. Abandonment is an aggravated circumstance under 15-11-2(5)(a). However, abandonment is its own ground for TPR 15-11-310(4). It is better practice to use aggravated circumstances as a ground for TPR when the facts support one of the conditions in 15-11-2(5)(b-g) [↑](#footnote-ref-1)