

SUPREME COURT NO. 86048-3

IN THE SUPREME COURT OF WASHINGTON

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IN RE DEPENDENCY OF J.M.R.;

STATE OF WASHINGTON,

Respondent,

v.

JOHN ROUSSEAU,

Petitioner.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR SNOHOMISH COUNTY

The Honorable Bruce I. Weiss, Judge

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SUPPLEMENTAL BRIEF OF PETITIONER JOHN ROUSSEAU

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A. ISSUE

Does the trial court lack statutory authority to terminate parental rights by means of stipulation in a chapter 13.34 RCW proceeding?

B. STATEMENT OF THE CASE

John Rousseau is the father of J.M.R. (d.o.b. 7/12/02). CP 86. The State filed a petition to involuntarily terminate Rousseau's parental rights under chapter 13.34 RCW. CP 276-86. On the day the termination trial was set to begin, J.M.R.'s mother voluntarily relinquished her parental rights pursuant to chapter 26.33 RCW and signed an open adoption agreement. CP 22, 82. The court entered written findings of fact and conclusions of law terminating the mother's parental rights based on this voluntary relinquishment, expressly finding "more than 48 hours has elapsed since the consent was signed" and that "termination of parental rights is in the best interests of the child." CP 81-84.

Rousseau's case proceeded to trial. CP 22. On the second day of the termination trial, Rousseau stipulated to the requisite statutory requirements for termination under RCW 13.34.180(1). CP 67, 86-89; 1RP 2-13. Rousseau's stipulation addressed the best interests of the child as follows: "I realize that is in the best interest of the above-named child that all of my parental rights to [J.M.R.] be permanently terminated [J.M.R.] be placed with the family where he is currently living

permanently." CP 87. Rousseau entered into an open adoption agreement in conjunction with the stipulation. 1RP 2; CP 23, 67.

The court entered an order terminating Rousseau's parental rights based on the stipulation, without finding the State had proven the statutory elements under RCW 13.34.180(1) by clear, cogent and convincing evidence and without finding that termination was in the best interests of the child. CP 86-89.

Rousseau's trial counsel later filed a CR 60(b) motion to withdraw the stipulation and vacate the order terminating parental rights. CP 66-72. Counsel argued he might have been ineffective in failing to insist "on having his client sign relinquishment documents." CP 71-72. Counsel stated "it was probably a mistake to have not held out for relinquishment paperwork for Mr. Rousseau to sign instead of having my client stipulate to the termination. Had Mr. Rousseau relinquished, he would have at least had the 48 hours to change his m[i]nd given the facts of the case, I believe I could have gotten relinquishment paperwork from the AAG instead of the stipulation. Mr. Rousseau had contacted me within 48 hours to tell me that he wanted to challenge the stipulation." CP 56.

The assistant attorney general (AAG) acknowledged the stipulation was not entered under chapter RCW 26.33, the adoption statute. CP 25. The AAG explained the "Department refused to allow Mr. Rousseau to

sign voluntary relinquishment paperwork under Chapter 26.33 RCW because that would have allowed Mr. Rousseau 48 hours to revoke his consent and potentially force the Department to schedule a new trial date and reschedule the witness it had called off." CP 22-23. The trial court denied the CR 60(b) motion. CP 19.

On appeal, Rousseau argued the trial court lacked statutory authority to accept a voluntary stipulation to the termination of parental rights under the involuntary termination proceedings of chapter 13.34 RCW. Brief of Appellant at 7-20. The Court of Appeals held the trial court had authority to accept the stipulation in an involuntary termination proceeding. In re Dependency of J.M.R., 160 Wn. App. 929, 931, 249 P.3d 193 (2011). This Court granted review of the issue.

C. ARGUMENT

1. THE TRIAL COURT LACKED STATUTORY AUTHORITY TO TERMINATE PARENTAL RIGHTS BY STIPULATION UNDER CHAPTER 13.34 RCW.

The trial court lacked statutory authority to enter an irrevocable order terminating parental rights based on a stipulation that the elements for termination under RCW 13.34.180(1) had been established. The Court of Appeals contrary conclusion ignores established principles of statutory construction. Rousseau's stipulation was in reality a voluntary

relinquishment without the required 48-hour procedural safeguard allowing for revocation under chapter 26.33 RCW.

- a. Comparison Of Statutory Provisions Governing Deprivation Of Parental Rights Shows The Legislature Did Not Intend To Allow Parents To Stipulate To The Termination Of Those Rights As Part Of A Chapter 13.34 RCW Proceeding.

Statutory interpretation is a question of law reviewed de novo. Beggs v. State, 171 Wn.2d 69, 75, 247 P.3d 421 (2011). Statutes providing for the termination of parental rights are strictly construed. In re Adoption of Lybbert, 75 Wn.2d 671, 674, 453 P.2d 650 (1969).

When the Legislature wanted to allow the deprivation of parental rights by means of stipulation, it did so by including statutory language to that effect. Parents can stipulate to an order of dependency temporarily depriving parents of the care and custody of their children under RCW 13.34.110(3)(a).<sup>1</sup> Parents can permanently relinquish their parental rights under the statutory procedure set forth in chapter 26.33 RCW. RCW 26.33.020(11); RCW 26.33.090; RCW 26.33.130(1).

No such comparable provision exists under RCW 13.34.180 and .190, which govern termination of parental rights under chapter 13.34

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<sup>1</sup> RCW 13.34.110(3)(a) provides "The parent, guardian, or legal custodian of the child may waive his or her right to a fact-finding hearing by stipulating or agreeing to the entry of an order of dependency establishing that the child is dependent within the meaning of RCW 13.34.030."

RCW. Established rules of statutory construction demonstrate the procedure for the involuntary, permanent and complete termination of parental rights found in chapter 13.34 RCW does not provide for the voluntary stipulation to the termination of those rights.

"Historically, this Court has followed the rule that each provision of a statute should be read together with other provisions in order to determine legislative intent." In re Estate of Kerr, 134 Wn.2d 328, 336, 949 P.2d 810 (1998). The statutory provisions related to deprivation of parental rights under chapters 13.34 RCW and 26.33 RCW stand in pari materia due to the fact that they relate to the same subject matter and class of persons. See In re Pers. Restraint of Yim, 139 Wn.2d 581, 592, 989 P.2d 512 (1999) ("The significance of statutes being in pari materia is that they 'must be construed together . . . and in construing [them] . . . all acts relating to the same subject matter or having the same purpose, should be read in connection therewith as together constituting one law.'") (quoting State v. Houck, 32 Wn.2d 681, 684-85, 203 P.2d 693 (1949)). The dependency and termination procedures under chapter 13.34 and the voluntary termination procedures under chapter 26.33 all relate to the deprivation of parental rights, on either a temporary or permanent basis, to the care and custody of children.

"The purpose of reading statutory provisions in pari materia with related provisions is to determine the legislative intent underlying the entire statutory scheme and read the provisions 'as constituting a unified whole, to the end that a harmonious, total statutory scheme evolves which maintains the integrity of the respective statutes.'" State v. Williams, 94 Wn.2d 531, 547, 617 P.2d 1012 (1980) (quoting State v. Wright, 84 Wn.2d 645, 650, 529 P.2d 453 (1974)). The various statutory procedures for depriving parents of parental rights must therefore be read as a unified whole in order to properly determine legislative intent behind what statutory procedures are available to deprive a parent of his or her fundamental rights.

It is an "elementary rule that where the Legislature uses certain statutory language in one instance, and different language in another, there is a difference in legislative intent." United Parcel Serv., Inc. v. Dep't of Revenue, 102 Wn.2d 355, 362, 687 P.2d 186 (1984). When the legislature wanted to authorize voluntary stipulation as a means to give up a parent's constitutional right to the care and custody of his or her child, it expressly did so under RCW 13.34.110(3)(a) and chapter 26.33 RCW. The option of voluntarily stipulating to the termination of parental rights under chapter 13.34 RCW does not exist. The omission of a provision in a particular statute is deemed purposeful where the provision appears in a

closely related statute. Clallam County Deputy Sheriff's Guild v. Bd. of Clallam County Comm'rs, 92 Wn.2d 844, 851, 601 P.2d 943 (1979); Public Utility Dist. No. 1 of Pend Oreille County v. Dep't of Ecology, 146 Wn.2d 778, 797, 51 P.3d 744 (2002).

Ignoring these established rules of statutory construction, the Court of Appeals perfunctorily concluded a parent may stipulate to the permanent destruction of parental rights under chapter 13.34 RCW, pointing to the general rule that courts have the authority to accept the stipulation of a party and enter a judgment by consent. J.M.R., 160 Wn. App. at 941. The State similarly contends CR 2A supplies the general statutory authority for such a stipulation.<sup>2</sup> Response to Motion for Discretionary Review at 10-11.

These general rules do not trump the legislature's contrary intent as expressed in the statutory language relevant to parental rights proceedings. If the general rule regarding stipulations applied to the deprivation of parental rights, then the legislature would have had no reason to expressly allow stipulations to the temporary deprivation of parental rights under

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<sup>2</sup> CR 2A provides "No agreement or consent between parties or attorneys in respect to the proceedings in a cause, the purport of which is disputed, will be regarded by the court unless the same shall have been made and assented to in open court on the record, or entered in the minutes, or unless the evidence thereof shall be in writing and subscribed by the attorneys denying the same."

RCW 13.34.110(3)(a) while omitting any comparable provision for the permanent termination of parental rights under that chapter. The legislature is presumed not to engage in unnecessary or meaningless acts. State v. Wanrow, 88 Wn.2d 221, 228, 559 P.2d 548 (1977).

There would be no purpose in enacting the stipulation provision of RCW 13.34.110(3)(a) if the legislature believed the general rule regarding stipulations under CR 2A allowed for the deprivation of parental rights by agreement in all circumstances under chapter 13.34 RCW. Statutes must be construed to avoid rendering any portion meaningless or superfluous. In re Pers. Restraint of King, 146 Wn.2d 658, 663, 49 P.3d 854 (2002).

The State claims acceptance of Rousseau's argument would mean that no stipulation could ever be entered in any proceeding under chapter 13.34 RCW absent express statutory authorization in that chapter. Response to Motion for Discretionary Review at 14. The State attacks a straw man argument. Rousseau's argument begins and ends with the parent's fundamental right to the care and custody of children and the statutory means by which that right may be given up.

The State claims under Rousseau's statutory interpretation there could be no agreement under various other statutory provisions related to shelter care, dependency guardianships and dependency review/permanency planning hearings. Response to Motion for

Discretionary Review at 14. The provisions cited by the State actually support Rousseau's argument and are in harmony with it.

"The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending." RCW 13.34.065(1)(a). The shelter care statute expressly allows a parent to waive a shelter care hearing provided that the waiver is knowing and voluntary. RCW 13.34.065(3)(b). By waiving a shelter care hearing, the parent is agreeing that the child need not be immediately be returned home. The legislature has thus inserted language into the shelter care statute that allows for the temporary deprivation of parental rights by waiver of an evidentiary hearing. No comparable language is found in RCW 13.34.180/.190.

In dependency guardianship proceedings, dependency review hearings and permanency planning hearings, the child has already been declared dependent, i.e., the parent has already been deprived of the rights to care and custody through agreement or evidentiary hearing on the matter. Former RCW 13.34.231(1) (Laws of 2000, ch. 122, § 29) (addressing dependency guardianship); RCW 13.34.030(5) (defining dependency guardian); RCW 13.34.232 (addressing contents of order for guardianship of dependent child); RCW 13.34.138 (dependency review hearings); RCW 13.34.145 (permanency planning hearing). What follows

is reasonably subject to stipulation without specific authorization because the status of the parent's fundamental right to care of his or her child has already been resolved.

It is also significant that the legislature specifically allows parents to voluntarily seek the deprivation of parental rights through a guardianship proceeding. Former RCW 13.34.230 (Laws 2009, ch. 520, § 37) ("Any party to a dependency proceeding, including the supervising agency, may file a petition in juvenile court requesting that guardianship be created as to a dependent child."); RCW 13.36.030(1) ("Any party to a dependency proceeding under chapter 13.34 RCW may request a guardianship be established for a dependent child by filing a petition in juvenile court under this chapter."). Again, no comparable provision for voluntary deprivation of parental rights exists under RCW 13.34.180/.190.

- b. Stipulation To The Permanent Termination Of Parental Rights Under Chapter 13.34 RCW Takes Place In A Procedural Black Hole, Which Further Shows The Legislature Did Not Intend For Any Such Procedure To Exist.

"The family entity is the core element upon which modern civilization is founded." In re Custody of Smith, 137 Wn.2d 1, 15, 969 P.2d 21 (1998), aff'd sub nom., Troxel v. Granville, 530 U.S. 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000). Parents have a fundamental due process liberty interest in the care and custody of their children. Santosky v.

Kramer, 455 U.S. 745, 753, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982);  
Smith, 137 Wn.2d at 13-14.

The right to raise one's child has been described as a basic civil right. In re Welfare of Luscier, 84 Wn.2d 135, 136, 524 P.2d 906 (1974). It has been deemed "far more precious . . . than property rights." In re Adoption of Infant Boy Crews, 60 Wn. App. 202, 216, 803 P.2d 24 (1991) (quoting Stanley v. Illinois, 405 U.S. 645, 651, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972)), aff'd, 118 Wn.2d 561, 825 P.2d 305 (1992). Indeed, the right to care for one's child is considered to be "more precious to many people than the right of life itself." Luscier, 84 Wn.2d at 137 (quoting In re Welfare of Gibson, 4 Wn. App. 372, 379, 483 P.2d 131 (1971)).

Children have a corollary interest in having the affection and care of their natural parents. Moore v. Burdman, 84 Wn.2d 408, 411, 526 P.2d 893 (1974). The fundamental due process right to the preservation of family integrity "encompasses the reciprocal rights of both parent and children." Duchesne v. Sugarman, 566 F.2d 817, 825 (2d Cir. 1977).

The legislature is aware of these uncontroversial and established propositions. In keeping with the recognition of the fundamental importance of the right at stake for both parent and child, the legislature has crafted the circumstances under which that right may be stipulated away. A parent's loss of the care and custody of a child is a singularly

important event, as is the child's loss of a natural parent. The legislature has recognized that singularity by specifying procedures whereby the fundamental right may voluntarily be given up by way of stipulation.

The dependency statute allows for voluntary stipulation to the temporary, reversible loss of parental rights provided certain safeguards enunciated in the statute are met. RCW 13.34.110(3)(a). The adoption statute allows for the voluntary stipulation to the permanent loss of parental rights provided certain safeguards enunciated in the statute are satisfied. RCW 26.33.090; RCW 26.33.130(1). The termination statute under chapter 13.34 RCW says nothing about stipulating to the permanent severance of the parent-child relationship. That silence is telling.

It is absurd to conclude the legislature would take pains to craft a detailed scheme by which a parent may temporarily relinquish parent rights under the dependency statute and permanently relinquish parental rights under the adoption statute but then provide no scheme, no guidelines and absolutely no procedural safeguards to voluntarily relinquish parental rights under the termination statute in chapter 13.34 RCW.

The State's theory of stipulation operates outside of any recognized statutory framework governing termination of parental rights and for that reason encourages disregard of controlling law. Under RCW

13.34.190(1)(b), "the court may enter an order terminating all parental rights to a child *only* if the court finds that . . . Such an order is in the best interests of the child." (emphasis added). In this case, the trial court entered an order permanently severing the parent-child relationship by way of stipulation without even finding that termination is in the best interests of the child. Rousseau's stipulation reads "I realize that is in the best interest of the above-named child that ~~all of my parental rights to [J.M.R.] be permanently terminated~~ [J.M.R.] be placed with the family where he is currently living permanently." CP 87. That is not the correct standard for terminating parental rights under chapter 13.34 RCW. The plain language of the statute requires the court to find that the termination of parental rights is in the best interest of the child. RCW 13.34.190(1)(b).

Rousseau did not stipulate, and the court nowhere found, that terminating all parental rights was in the best interest of the child. CP 86-89. Yet the child's relationship with his father was severed all the same. Such an outcome illustrates the dangers of allowing a stipulation that operates outside any recognized statutory framework for termination of the parent-child relationship. Notably, the court shall only approve a consent to adoption under RCW 26.33.090(3) "[i]f the court determines it is in the best interests of the child." In contrast, there is no requirement that the court find termination is in the best interests of the child for a

stipulation under RCW 13.34.180/.190 because there is no procedure that addresses stipulations in that context.

RCW 13.34.090(1) states: "*Any party has a right* to be represented by an attorney in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, *to receive a decision based solely on the evidence adduced at the hearing*, and to an unbiased fact finder." (emphasis added). That right may be stipulated away under in a dependency proceeding under RCW 13.34.110(3)(a). But there is no provision that allows the right to be stipulated away for termination proceedings under RCW 13.34.180/.190. The statutory scheme envisions termination under chapter 13.34 RCW take place only after an evidentiary hearing on the matter. Rousseau's stipulation was accepted in lieu of evidence. The stipulation operates outside the statutory framework for terminating parental rights under chapter 13.34 RCW.

RCW 13.34.190(1)(a)(i) provides "the court may enter an order terminating all parental rights to a child *only* if the court finds that . . . The allegations contained in the petition as provided in RCW 13.34.180(1) are established by clear, cogent, and convincing evidence[.]" (emphasis added). Rousseau's stipulation operated in lieu of holding the State to its burden of proof. But the plain language of the statute specifies the "only"

way to terminate parental rights under RCW 13.34.190 is by holding the State to its burden of proof.

"Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous." Whatcom County v. City of Bellingham, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996). Each word in a statute must be given meaning. State v. Roggenkamp, 153 Wn.2d 614, 624, 106 P.3d 196 (2005). The word "only," as used in RCW 13.34.190(1)(a)(i), is restrictive. It means "exclusively, solely." Webster's Third New Int'l Dictionary 1577 (1993).

If the legislature intended to allow a stipulation to be an *additional* means to terminate parental rights under chapter 13.34 RCW, it would not have used the word "only" in RCW 13.34.190(1)(a)(i). This is yet another sign that the legislature did not intend parents be allowed to stipulate to the permanent termination of parental rights under chapter 13.34 RCW.

The Court of Appeals noted the legislature added language to RCW 13.34.110(3) in 2001 to protect the parent's right to due process in stipulating that a child is dependent. J.M.R., 160 Wn. App. at 939 n.8. The final bill report for the 2001 amendment explains, "Due process requirements must be met when entering stipulated or agreed orders of dependency." Final B. Rep. on Engrossed Substitute S.B. 5413, 57th Leg., Reg. Sess. (Wash. 2001).

The Court of Appeals properly recognized a parent's stipulation to give up the fundamental right to the care and custody of a child is analogous to a criminal plea agreement and attendant due process safeguards must be honored. J.M.R., 160 Wn. App. at 942. It accordingly noted "to ensure compliance with due process, the legislature should amend former RCW 13.34.180 to specifically address the due process requirements for accepting a stipulation to terminate parental rights." Id. at 943 n.10.

The Court of Appeals, however, failed to grasp the significance of that omission in determining legislative intent. "Unlike a termination of parental rights, a dependency determination is reversible, and does not sever all contacts between a parent and child." In re Dependency of A.W., 53 Wn. App. 22, 28, 765 P.2d 307 (1988) (citing In re Dependency of Chubb, 46 Wn. App. 530, 536, 731 P.2d 537 (1987), review denied, 112 Wn.2d 1017 (1989)). Yet the legislature saw fit to include due process protections as part of any agreement to the temporary and partial loss of parental rights.

The termination statute is silent just where one would most expect the protections against permanent deprivation to be spelled out to ensure the propriety of the stipulation. Why would the legislature, via statute, provide due process protection for a stipulation that merely involves the

temporary, partial and reversible deprivation of parental rights, but none at all for a stipulation involving the permanent, total and nonreversible deprivation of those rights under chapter 13.34 RCW? The reasonable answer is that the legislature never intended stipulation to the termination of parental rights to be available under chapter 13.34 RCW at all. It had no reason to provide due process protection for a non-existent procedure.

c. Rousseau's Stipulation Was A De Facto Voluntary Relinquishment Under The Adoption Statute Without Its Attendant Procedural Protection.

Voluntary relinquishment procedures under the adoption statute involve no "state action" and are intrinsically nonadversarial. Crews, 60 Wn. App. at 217 (citing In re Adoption of Hernandez, 25 Wn. App. 447, 452, 607 P.2d 879 (1980)); In re A.S., 65 Wn. App. 631, 637 n.1, 829 P.2d 791 (1992). It makes sense that the legislature would provide for the loss of parental rights by agreement in nonadversarial proceedings.

Termination proceedings under chapter RCW 13.34 are by nature adversarial. Hernandez, 25 Wn. App. at 451. Termination under that chapter is involuntary. Courts have always construed the proceeding as such. See, e.g., In re Dependency of M.S., 156 Wn. App. 907, 913, 236 P.3d 214 (2010) (citing RCW 13.34.180 as providing for "involuntary termination under the juvenile dependency statute"), review denied, 170 Wn.2d 1027, 249 P.3d 181 (2011); In re Welfare of J.N., 123 Wn. App.

564, 571-72, 95 P.3d 414 (2004) (citing RCW 13.34.180 as support for the proposition that "Chapter 13.34 RCW is a dependency statute and applies to involuntary termination of the parent-child relationship for a dependent child residing within the petitioner's county"), review denied, 154 Wn.2d 1003, 114 P.3d 1198 (2005).

Neither the Court of Appeals nor the State cite to any case where a parent stipulated to the permanent destruction of parental rights as part of a 13.34.180/.190 proceeding. There are none. All the cases in which a parent stipulated to the permanent deprivation of parental rights took place under the procedures set forth in the adoption statute. See, e.g., M.S., 156 Wn. App. at 912-13; J.N., 123 Wn. App. at 567; A.S., 65 Wn. App. at 633-35; Crews, 60 Wn. App. at 216-17; Hernandez, 25 Wn. App. at 450-53; In re Dependency of M.D., 110 Wn. App. 524, 527, 533, 42 P.3d 424 (2002); In re Welfare of Mary D., 94 Wn. App. 582, 590, 975 P.2d 1 (1999). The one time a parent tried to permanently relinquish parental rights outside the parameters of the adoption statute, the attempt was struck down. In re Marriage of Furrow, 115 Wn. App. 661, 669-70, 63 P.3d 821 (2003) (parent could not voluntarily relinquish parental rights as part of dissolution proceeding).

The legislature has limited the voluntary termination of parental rights on a permanent basis to the statutory provisions set forth in chapter

26.33 RCW. The stipulation to the termination of Rousseau's parental rights is a de facto voluntary relinquishment without its mandatory procedural safeguards.

Under chapter 26.33 RCW, the parent consenting to adoption has the right to revoke that consent at any time before the court approves the consent and the parent has a minimum of 48 hours to revoke that consent. RCW 26.33.160(2)(a), (4)(d); RCW 26.33.090(1). The 48 hour waiting requirement exists to prevent a parent's rash decision to relinquish a child. In re Adoption of Baby Girl K. 26 Wn. App. 897, 906, 615 P.2d 1310 (1980), review denied, 95 Wn.2d 1003 (1981).

The State insisted Rousseau would not be allowed to voluntarily relinquish his parental rights in accordance with the adoption statute, even as Rousseau entered into an open adoption agreement. 1RP 2; CP 23, 67. It unapologetically did so to avoid the possibility that Rousseau could change his mind within 48 hours of signing a consent to adoption as allowed by the adoption statute. CP 22-23. The State accepted the mother's relinquishment under the adoption statute the day before Rousseau stipulated. CP 22, 81-84. The State deliberately bypassed the recognized procedure for voluntary relinquishment when it came to Rousseau's rights.

As it turns out, Rousseau changed his mind about voluntarily terminating his parental rights the day after entering the stipulation. CP 75, 91-95. By then it was too late, at least under chapter 13.34 RCW, which does not allow for revocation within 48 hours of consent. This case would not be pending before the Court if Rousseau, like the mother, had been given the opportunity to follow recognized statutory procedure for relinquishment under the adoption statute. Rousseau's stipulation is nothing but a voluntary relinquishment without the requisite 48 hour statutory safeguard. Statutory authority for this mode of termination does not exist.

D. CONCLUSION

For the reasons stated above, Rousseau respectfully requests that this Court vacate the order terminating parental rights and remand for further proceedings.

DATED this 8th day of December 2011.

Respectfully submitted,

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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In Re the Dependency of J.M.R.,	)	
STATE OF WASHINGTON/DSHS,	)	
Respondent,	)	
v.	)	SUPREME COURT NO. 86048-3
JOHN ROUSSEAU,	)	
Petitioner.	)	

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**DECLARATION OF SERVICE**

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 8<sup>TH</sup> DAY OF DECEMBER 2011, I CAUSED A TRUE AND CORRECT COPY OF THE **FILE SUPPLEMENTAL BRIEF OF PETITIONER JOHN ROUSSEAU** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] MELISSA NELSON  
ATTORNEY GENERAL'S OFFICE  
103 E. HOLY STREET, SUITE 310  
BELLINGHAM, WA 98225

**SIGNED** IN SEATTLE WASHINGTON, THIS DAY 8<sup>TH</sup> DAY OF DECEMBER 2011.

x *Patrick Mayovsky*