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Court of Appeals

Division III

State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON



DIVISION THREE

*In re the Termination of K.J.B.*

STATE OF WASHINGTON/DSHS,

Respondent,

v.

J.B. (Father),

Appellant

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

The Honorable David Elofson

BRIEF IN SUPPORT OF FATHER'S  
MOTION FOR ACCELERATED REVIEW

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## A. SUMMARY OF ARGUMENT

Mr. J.B. respectfully requests that the order terminating his parental rights to K.J.B. be reversed.

DSHS did not satisfy the notice requirements of the federal and state Indian Child Welfare Acts. Mr. J.B. indicated he had Blackfoot ancestry, and DSHS did not submit notice to the Blackfoot tribe. The case should be remanded to the trial court so the State can notify the Blackfoot tribe of the termination proceeding and its right to intervene.

The trial court erred by terminating Mr. J.B.'s parental rights to K.J.B., because the State failed to offer or provide all necessary services. The State failed to timely offer or provide individual counseling, couples counseling, and a mental health assessment to Mr. J.B.

The trial court also erred by finding that RCW 13.34.180(1)(f) had been met, including when it failed to consider the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent.

Finally, termination was not in K.J.B.'s best interests. For all of these reasons, the termination order should be reversed.

## **B. ASSIGNMENTS OF ERROR**

1. The trial court erred by terminating Mr. J.B.'s parental rights to K.J.B. (CL 2.10; CP 23-24).
2. The trial erred by finding the Indian Child Welfare Act, 25 U.S.C. § 901 et seq. does not apply to this proceeding. (FF 1.5).
3. The trial court erred by finding the State offered or provided all necessary services, reasonably available, capable of correcting parental deficiencies within the foreseeable future. (FF 1.9; CL 2.5).
4. The trial court erred by finding there was no evidence of Mr. J.B. having a mental health issue needing a mental health assessment or counseling. (FF 1.19).
5. The trial court erred by finding continuation of the parent-child relationship clearly diminished K.J.B.'s prospects for early integration into a stable and permanent home. (FF 1.23; CL 2.7).
6. The trial court erred by not considering the factors set forth in RCW 13.38.180(1)(f) concerning an incarcerated parent.
7. The trial court erred by finding it is in K.J.B.'s best interests to terminate the parent-child relationship. (FF 1.24; CL 2.8).
8. The trial court erred by concluding the court has jurisdiction over the parties and the subject matter. (CL 2.1).

## **C. ISSUES PRESENTED FOR REVIEW**

Issue 1: Whether DSHS satisfied the notice requirements of the federal and state Indian Child Welfare Acts.

Issue 2: Whether the trial court erred by finding that all necessary services were expressly and understandably offered or provided.

Issue 3: Whether the trial court erred by finding that continuation of the parent-child relationship diminished K.J.B.'s prospects for early integration into a stable and permanent home, particularly because the trial court did not consider the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent.

Issue 4: Whether the trial court erred by finding that it was in K.J.B.'s best interests to terminate her father's parental rights.

#### D. STATEMENT OF THE CASE

K.J.B. was born on April 20, 2012. (CP 17; RP 5-6, 31). She suffers from asthma and reactive airway disease. (RP 28, 79-80, 220). Her father is Mr. J.B. (CP 18; RP 5, 31, 36-38). Mr. J.B. has a long history of methamphetamine use. (CP 19; RP 8, 42, 44-45). The Department of Social and Health Services (DSHS) received a referral for K.J.B. on the day she was born, alleging her mother had a positive drug test one month prior. (RP 31). Her mother later relinquished her parental rights. (CP 18, 178-184).

K.J.B. was initially placed with a relative, and at age one month she was moved to a foster care placement. (RP 6-7, 34, 93). An order of dependency was entered in October 2012. (CP 18; Exhibit 2). The disposition and subsequent review orders required Mr. J.B. to complete the following services, along with any provider recommendations: drug and alcohol evaluation and treatment, parenting assessment and instruction, and random UA/BA testing. (CP 18; Exhibits 2, 3, 5, 6).

Mr. J.B. completed a drug and alcohol evaluation on May 6, 2013. (RP 42). He was diagnosed with methamphetamine dependence and nicotine dependence, and the treatment recommendation was intensive inpatient treatment. (RP 42-43). Mr. J.B. had a bed date scheduled for May 20, 2013, but he did not show. (RP 16-17, 45-46, 72-73). He then participated in intensive outpatient treatment, starting in June 2013. (RP 13-14, 73-74). Mr. J.B. later requested another bed date and entered intensive inpatient treatment

on September 12, 2013. (RP 48, 74). Mr. J.B. left treatment on September 21, 2013, without completing the program. (Exhibit 6; RP 48-49, 74-75).

Mr. J.B. provided several random UAs in 2013: one per month in February, March, May, and August, and two per month in April. (RP 17-18, 70-71). Four of these UAs were negative and two were positive. (RP 18).

Mr. J.B. completed a parenting assessment and some parenting instruction with Esteban Cabrera at New Directions Family Institute in July and August 2013. (Exhibits 6, 10; RP 19, 76-77, 96-97, 118, 120-122, 147-148, 152, 157-158, 161-165). Mr. Cabrera recommended substance abuse treatment, individual counseling, couples counseling with K.J.B.'s mother, and ongoing parenting instruction. (Exhibit 6; RP 138-141, 157, 165-166, 171). In his report, dated September 9, 2013, Mr. Cabrera recommended the following regarding counseling:

[Mr. J.B.] continues to participate in ongoing individual and couple's therapy to address unresolved issues of trauma related symptoms (i.e. rejection, guilt, etc.), after his successful completion of inpatient treatment.

(Exhibit 6).

Mr. J.B. participated in visits with K.J.B. in January 2013, and from March 2013 to January 2014. (RP 22, 77-78, 97-99, 109, 184-185). He visited K.J.B. regularly from March 2013 to January 2014 with only a few missed visits. (RP 22, 78, 184-185).

K.J.B.'s mother indicated she is Native American. (CP 180; RP 191).

Mr. J.B. submitted a declaration stating he has Blackfoot and Cree ancestry. (CP 177; RP 191). DSHS submitted notice of the case, pursuant to the

Federal Indian Child Welfare Act (federal ICWA) and the Washington State Indian Child Welfare Act (state ICWA) to several Cherokee, Cree, and Hopi Indian tribes. (CP 41-174, 284-289, 305-311; RP 191-192).

In January 2014, Mr. J.B. was found guilty of first degree unlawful possession of a firearm and possession of a stolen firearm and later sentenced to 74 months incarceration. (Exhibits 7, 8, 9; RP 14-15). He was incarcerated at the time of the termination trial. (RP 14-15).

The case proceeded to a termination trial in March 2014. (RP 5-251). Cristy Benge, who conducted Mr. J.B.'s drug and alcohol evaluation, testified that Mr. J.B. is still in need of substance abuse treatment. (RP 49-50).

Social worker Marcinna Heine-Rath, assigned to the case from February 2013 to October 2013, testified that prior to leaving intensive inpatient treatment in September 2013, Mr. J.B. "seemed motivated to do what was in the best interest for his daughter[,] and that he "[h]ad been making most of his visits . . . ." (RP 67, 69, 75). She testified that after leaving treatment, Mr. J.B. reported that he had been going to AA meetings and connecting with his sponsor. (RP 76).

Ms. Heine-Rath observed several visits between Mr. J.B., K.J.B. and K.J.B.'s mother, and one visit between Mr. J.B. and K.J.B. only. (RP 78-79, 97-98). She testified the visits went well, with the parents playing with K.J.B. and interacting with her. (RP 78-79).

Ms. Heine-Rath testified she felt K.J.B.'s mother was a trigger for Mr. J.B. and his sobriety. (RP 81-82, 100). She testified she did not make a

referral for Mr. J.B. to do individual counseling after receiving Mr. Cabrera's report because "[t]he recommendation was for him to complete it after he successfully completed his inpatient treatment." (RP 103). Ms. Heine-Rath testified that if Mr. J.B. had completed inpatient treatment, she would have made a recommendation for individual or couples counseling. (RP 104).

Ms. Heine-Rath opined that continuation of the parent-child relationship diminishes K.J.B.'s prospects for early integration into a stable and permanent home, because K.J.B. needs the security of a permanent home. (RP 88-89). She also opined that termination of Mr. J.B.'s parental rights is in K.J.B. best interests, so that K.J.B. can move on and be a legal part of her foster family. (RP 89-90, 106-107).

Mr. Cabrera testified Mr. J.B.'s parenting questionnaire showed he "has some common sense as far as what parenting is and what you should do." (RP 124, 142). Mr. Cabrera observed a visit between Mr. J.B. and K.J.B., and described the bond between them as "[d]istant." (RP 124-125, 138, 152). He testified Mr. J.B. was nurturing and loving towards K.J.B., and that he showed compassion and sensitivity towards her. (RP 159-160).

Mr. Cabrera testified that "in talking with [Mr. J.B.] and identifying the stresses in his life, it turned more of an individual counseling session than it did into a parenting instruction." (RP 122). He testified Mr. J.B.'s health questionnaire indicated some stress in his life, including substance abuse and his relationship with K.J.B.'s mother. (RP 123). Mr. Cabrera stated Mr. J.B.'s relationship with K.J.B.'s mother was one of the triggers in his life.

(RP 123). Mr. J.B. also shared that his family history with Mr. Cabrera: “[v]ery harsh, very physical, had a lot of abuse, parents weren’t very instructive, wasn’t raised in a structured home, parents didn’t provide him with any boundaries or limits.” (RP 123).

In terms of his recommendation of couples counseling, Mr. Cabrera testified “I did not specify the exact time to start, but I did talk to [Mr. J.B.] upon the recommendations prior to submitting those recommendations and encouraged him to start as soon as possible.” (RP 138-139). When asked if his recommendation was for Mr. J.B. to do individual and couples counseling after successful completion of inpatient treatment, or right away, Mr. Cabrera testified “I believe the recommendations written [‘[Mr. J.B.] continues to participate in ongoing individual and couple’s therapy to address unresolved issues of trauma related symptoms (i.e. rejection, guilt, etc.), after his successful completion of inpatient treatment’] are the ones I’m recommending.” (Exhibit 6; RP 139-141). When asked if there would be a benefit to a person participating in this type of counseling while actively using methamphetamine, Mr. Cabrera testified “[t]here may be some, not as effective.” (RP 140).

Mr. Cabrera testified Mr. J.B. contacted him after his report was prepared, sometime during the fall of 2013, to ask when couples counseling would begin. (RP 141-142). He testified it is normal for substance abuse and mental health issues to occur simultaneously, and that a mental health issue can sometimes be a precipitating event to substance abuse. (RP 156). Mr.

Cabrera further testified it is not uncommon for people with a mental health issues to self-medicate by using street drugs. (RP 156).

When asked if he worked on any of Mr. J.B.'s trauma issues with him, Mr. Cabrera testified:

The intent of the service was parenting instruction. However, [Mr. J.B.] disclosed issues, personal issues, that I felt were at the time appropriate to address because if [Mr. J.B.] is not able to fully display or to perform his parenting obligations because of whatever issues are going on with him - - with himself or [K.J.B.'s mother], then I felt it would be of service to him to talk about those at that moment.

(RP 158).

Mr. Cabrera testified that in order for him to recommend parent education, Mr. J.B. would have to fully take care of his relationship issues and personal issues. (RP 171). He further testified this is what led to his recommendation of couples counseling and individual counseling. (RP 171).

Social worker Sonny Laform, assigned to the case in October 2013, referred Mr. J.B. to Catholic Family and Child Services for individual and family counseling on December 18, 2013. (RP 21, 172-174, 178-180). He testified he made the referral so the counseling services would be available for Mr. J.B. after he finished his substance abuse treatment. (RP 179, 197, 199). His recollection was that couples counseling and individual counseling was recommended after the completion of inpatient treatment. (RP 197-198).

In addition to the counseling, Mr. Laform testified his referral asked Catholic Family and Child Services to do a mental health intake or assessment so "the practitioner could properly diagnose if he had any sort of

mental health diagnosis that might be affecting his behaviors or leading him to use drugs or alcohol.” (RP 199). He testified this request was made because “I thought it was important that if in fact there was a co-occurring issue that we could address it.” (RP 199). Mr. Laform testified that a mental health intake conducted prior to the completion of drug treatment could be valid, but he thought Mr. J.B. should take some substantial steps in his substance abuse treatment before the intake is done. (RP 200, 202-207). He recognized Mr. J.B. needed some mental health intervention. (RP 208).

Mr. Laform testified there was no referral for individual counseling from the time of Mr. Cabrera’s report on September 9, 2013 to his referral on December 18, 2013. (RP 196). He testified he made the only referral for counseling in the case. (RP 196-197). He also testified he made the only referral for a mental health intake to identify co-occurring mental health issues. (RP 200-201). Mr. Laform testified that mental health issues can lead to substance abuse, and that they can also be co-occurring issues. (RP 192).

Mr. Laform described Mr. J.B. as having a “semi-engagement” in his court-ordered services, because he had not followed through with his chemical dependency treatment. (RP 184). He testified Mr. J.B. was wonderful in maintaining contact with DSHS. (RP 184). He does not question that Mr. J.B. loves K.J.B. (RP 186).

Mr. Laform opined that continuation of the parent-child relationship diminishes K.J.B.’s prospects for early integration into a stable and permanent home, because it would be a disruption to K.J.B.’s integration into

her current foster family. (RP 189-190). He also opined that termination of Mr. J.B.'s parental rights is in K.J.B. best interests, so that K.J.B. can stay in her current home, be adopted by the foster family, and move forward in her life. (RP 190-191, 193-194).

Mr. Laform testified Mr. J.B. and K.J.B.'s mother identified some possible Native American ancestry. (RP 191). He testified DSHS sent notices when the dependency petition was filed, and that he sent notices to Cherokee, Cree, and Hopi tribes when the termination petition was filed. (RP 191). Mr. Laform testified DSHS did receive any responses indicating K.J.B. was eligible for enrollment in the notified tribes. (RP 191-192).

Mr. Laform testified Mr. J.B. has not contacted him since his incarceration in January 2014. (RP 185, 193, 198). He testified he does not accept collect calls, did not provide Mr. J.B. with pre-addressed stamped envelopes so he could communicate with him, and that he assumed Mr. J.B. had his address available to him while incarcerated. (RP 193).

Guardian ad litem (GAL) Mischa Theall testified that termination of Mr. J.B.'s parental rights was in K.J.B.'s best interests, based on her need for permanency. (RP 220-221). Ms. Theall did not observe Mr. J.B. and K.J.B. together. (RP 225, 228-229).

Mr. J.B. testified he was present at K.J.B.'s birth and was involved in her life for the following two months. (RP 6-7). He testified he initially stayed away from DSHS, but then came forward around December 2012. (RP 7-8). Mr. J.B. testified he tried to keep in contact with DSHS as much as

possible, while working two jobs and battling his drug addiction. (RP 11-12).

He testified he left the intensive inpatient drug treatment in September 2013

“[b]ecause it started working.” (RP 12). Mr. J.B. further testified:

I left because I was getting uncomfortable with the fact that I was sober, getting sober, clean, and I was dealing with my issues and it actually was - - I have to deal with all those things instead of use drugs to mask them and not deal with life on life terms so it was something that - - like I said, it started working, so I left because I was not obviously ready to deal with my issues.

(RP 13, 27-28).

Mr. J.B. acknowledged that he still needs drug treatment, and that he is now ready to get treatment. (RP 13-14). Mr. J.B. testified he and K.J.B.’s mother requested counseling “from the beginning of this.” (RP 21). He testified he had a home to provide for K.J.B. from April to November 2013. (RP 25-27).

Mr. J.B. estimated his early release date from prison is just under four years. (RP 15). He testified since being incarcerated, he has not contacted Mr. Laform to ask him how K.J.B. is doing. (RP 22).

Based on the foregoing, the trial court terminated Mr. J.B.’s rights to K.J.B. (CP 17-24; RP 245-251). In its oral ruling and in its written findings, the trial court did not consider the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent. (CP 17-24; RP 245-251). The trial court found Mr. J.B. currently unfit to parent because his substance abuse prevents him from parenting J.B. (CP 22; RP 83-84, 190).

Mr. J.B. timely appealed. (CP 8-16).

## E. ARGUMENT

### Introduction

Parents have a fundamental liberty interest in the custody and care of their children. *In re Dependency of K.D.S.*, 176 Wn.2d 644, 652, 294 P.3d 695 (2013). This fundamental right is not absolute. *In re Dependency of M.S.*, 98 Wn. App. 91, 95, 988 P.2d 488 (1999). The State may infringe on this right “only when the parent is endangering the child’s physical or emotional welfare.” *In re Welfare of C.S.*, 168 Wn.2d 51, 54, 225 P.3d 953 (2010). Termination of parental rights “should be allowed only for the most powerful reasons.” *In re Welfare of H.S.*, 94 Wn. App. 511, 530, 973 P.2d 474 (1999).

“Parents before the court in dependency proceedings rarely come without significant difficulties.” *In re Dependency of T.L.G.*, 126 Wn. App. 181, 203, 108 P.3d 156 (2005). Nonetheless, “[t]he paramount goal of child welfare legislation is to reunite the child with his or her legal parents, if reasonably possible.” *In re Dependency of K.N.J.*, 171 Wn.2d 568, 577, 257 P.3d 522 (2011).

In order to terminate a parent-child relationship, the State must satisfy a two-part test. *Id.* at 576. First, the State must prove the six statutory elements set forth in RCW 13.34.180(1). *Id.* These six statutory elements are as follows:

- (a) That the child has been found to be a dependent child;
- (b) That the court has entered a dispositional order pursuant to RCW 13.34.130;

- (c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;
- (d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;
- (e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. . . .; and
- (f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

RCW 13.34.180(1). The focus of this first step is the adequacy of the parents. *K.N.J.*, 171 Wn.2d at 576. If these criteria are met, the court then determines if termination is in the best interests of the child. *Id.* at 577 (citing RCW 13.34.190(1)(b)).

In order to terminate a person's parental rights, the State must prove the six statutory elements by clear, cogent, and convincing evidence. *K.N.J.*, 171 Wn.2d at 576-77. "Clear, cogent, and convincing evidence exists when the ultimate fact in issue is shown by the evidence to be highly probable." *In re Dependency of K.R.*, 128 Wn.2d 129, 141, 904 P.2d 1132 (1995) (internal quotation marks omitted) (quoting *In re Sego*, 82 Wn.2d 736, 739, 513 P.3d 831 (1973)). A court may terminate a parent's rights to her child only if there is a showing of current parental unfitness by clear, cogent and convincing evidence. *In re Welfare of A.B.*, 168 Wn.2d 908, 920, 927, 232 P.3d 1104

(2010). If the State satisfies the first part of the test by proving these six statutory elements, then the court proceeds to the second part of the test. *K.N.J.*, 171 Wn.2d at 577. The court may reach the second step only if the first step is satisfied. *Id.*; *see also In re A.B.*, 168 Wn.2d at 911. The second step – that termination is in the child’s best interests - must be proved by a preponderance of the evidence. *A.B.*, 168 Wn.2d at 912.

Whether a termination order satisfies statutory requirements is a question of law, reviewed de novo. *K.N.J.*, 171 Wn.2d at 574. “The court’s factual findings under RCW 13.34.180(1) must be upheld if supported by substantial evidence from which a rational trier of fact could find the necessary facts by clear, cogent and convincing evidence.” *In re Welfare of M.R.H.*, 145 Wn. App. 10, 24, 188 P.3d 510 (2008) (citing *In re Dependency of C.B.*, 61 Wn. App. 280, 286, 810 P.2d 518 (1991)). “Substantial evidence is evidence sufficient to persuade a fair-minded rational person of the truth of the declared premise.” *In re Welfare of C.B.*, 134 Wn. App. 942, 953, 143 P.2d 846 (2006).

**Issue 1: Whether DSHS satisfied the notice requirements of the federal and state Indian Child Welfare Acts.**

The State must comply with the federal ICWA and state ICWA when seeking termination of parental rights. *See* 25 USC § 1901 et seq. (federal ICWA); RCW 13.38.010 et seq. (state ICWA). “Congress enacted the [federal] ICWA to counteract the large-scale separations of Native American children from their families, tribes, and culture through adoption and foster care placement in non-Native American homes.” *In re the Matter of M.S.S.*,

86 Wn. App. 127, 132-33, 936 P.2d 36 (1997) (citing *In the Matter of Adoption of Crews*, 118 Wn.2d 561, 567, 825 P.2d 305 (1992)). In enacting the state ICWA, the Washington Legislature found “the state is committed to protecting the essential tribal relations and best interests of Indian children by promoting practices designed to prevent out-of-home placement of Indian children that is inconsistent with the rights of the parents, the health, safety, or welfare of the children, or the interests of their tribe.” RCW 13.38.030.

When the State seeks termination of parental rights, if the court knows or has reason to know that an Indian child is involved, the federal ICWA requires the State to take the following actions:

[N]otify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No . . . termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary . . . .

25 U.S.C. § 1912(a); *see also In re Welfare of L.N.B.-L.*, 157 Wn. App. 215, 238-39, 237 P.3d 944 (2010).

The State bears the burden of proving notice complied with the federal ICWA. *In re Dependency of E.S.*, 92 Wn. App. 762, 771, 964 P.2d 404 (1998). Notice under the federal ICWA is a jurisdictional requirement. *See, e.g., In re Custody of S.B.R.*, 43 Wn. App. 622, 625, 719 P.2d 154 (1986) (finding that the trial court was without jurisdiction to hear the proceeding until the Indian tribe was notified). “Notice is mandatory

regardless of how late in the proceedings the issue arises.” *In re Dependency of J.A.F.*, 168 Wn. App. 653, 666, 278 P.3d 673 (2012) (citing *T.L.G.*, 126 Wn. App. at 187 n.8). “Failure to provide proper notice or to allow a tribe to intervene constitutes grounds to invalidate the termination proceeding.” *Id.* (citing 25 U.S.C. § 1914; *T.L.G.*, 126 Wn. App. at 192-93).

Under the federal ICWA, an “Indian child” is “any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe[.]” 25 U.S.C. § 1903(4). A court has reason to believe a child is Indian if it is so informed by any party to the case, an Indian tribe, and Indian organization, or a public or private agency. *In re Dependency of Colnar*, 52 Wn. App. 37, 40, 757 P.2d 534 (1988). An “Indian child’s tribe” is “(a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts[.]” 25 U.S.C. § 1903(5).

Likewise, when the State seeks termination of parental rights, if the State or the court knows or has reason to know that the child is or may be an Indian child, the state ICWA requires the State to take the following actions:

[N]otify the parent or Indian custodian and the Indian child's tribe or tribes, by certified mail, return receipt requested, and by use of a mandatory Indian child welfare act notice. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the secretary of the interior by registered

mail, return receipt requested, in accordance with the regulations of the bureau of Indian affairs. The secretary of the interior has fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No . . . termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe.

RCW 13.38.070(1); *see also* RCW 13.34.070(10).

Under the state ICWA, an “Indian child” is “an unmarried and unemancipated Indian person who is under eighteen years of age and is either: (a) A member of an Indian tribe; or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.” RCW 13.38.040(7). An “Indian child’s tribe” is “a tribe in which an Indian child is a member or eligible for membership.” RCW 13.38.040(9).

Here, the court and DSHS had reason to know K.J.B. is an Indian child, because Mr. J.B. and K.J.B.’s mother informed them of their Indian heritage. (CP 177, 180; RP 191). Whether each parent is a member of a tribe is a question only the tribe can answer. *See T.L.G.*, 126 Wn. App. at 191. Therefore, DSHS was required to notify the Indian child’s tribe of the termination proceeding and their right of intervention. *See* 25 U.S.C. § 1912(a); *L.N.B.-L.*, 157 Wn. App. at 238-39; RCW 13.38.070(1); RCW 13.34.070(10).

DSHS did submit notice of the case to several Cherokee, Cree, and Hopi Indian tribes. (CP 41-174, 284-289, 305-311; RP 191-192). However, Mr. J.B.’s declaration also indicated he had Blackfoot ancestry. (CP 177; RP

191). DSHS did not submit notice to the Blackfoot tribe.<sup>1</sup> (CP 41-174, 284-289, 305-311; RP 191-192). The trial court did not have jurisdiction to hear the termination proceeding, because the Blackfoot tribe was not notified. *See S.B.R.*, 43 Wn. App. at 625. DSHS had a duty to notify the Blackfoot tribe of the termination proceeding. *See* 25 U.S.C. § 1912(a); RCW 13.38.070(1); RCW 13.34.070(10); *see also E.S.*, 92 Wn. App. at 771 (the State bears the burden of proving notice complied with the federal ICWA). Therefore, the case should be remanded to the trial court so DSHS can notify the Blackfoot tribe of the termination proceeding and its right to intervene. *See L.N.B.-L.*, 157 Wn. App. at 242, 258 (the remedy for inadequate notice under the federal ICWA is remand so proper notice can be given).

**Issue 2: Whether the trial court erred by finding that all necessary services were expressly and understandably offered or provided.**

The State failed to offer or provide all necessary services to Mr. J.B. The State failed to timely offer or provide individual counseling, couples counseling, and a mental health assessment to Mr. J.B.<sup>2</sup>

RCW 13.34.180(1)(d) “requires the State to prove DSHS ‘offered or provided all and necessary services, reasonably available, capable of

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<sup>1</sup> “The Blackfeet tribe is a federally recognized tribe in Montana.” *In re Dependency of J.A.F.*, 168 Wn. App. 653, 665 n.27, 278 P.3d 673 (2012); *see also In re Welfare of L.N.B.-L.*, 157 Wn. App. 215, 239, 237 P.3d 944 (2010).

<sup>2</sup> Substantial evidence does not support the trial court’s finding of fact that there was no evidence of Mr. J.B. having a mental health issue needing a mental health assessment or counseling. (CP 21, FF 1.19). Mr. Cabrera recommended counseling, and Mr. Laform referred Mr. J.B. for a mental health assessment. (Exhibit 6; RP 21, 171-174, 178-180, 199, 208). Mr. Cabrera identified that Mr. J.B. had mental health issues. (Exhibit 6; RP 123, 158, 171). Mr. Laform identified the need to assess Mr. J.B. for mental health issues. (RP 199, 208).

correcting the parental deficiencies.” *In re Termination of S.J.*, 162 Wn. App. 873, 881, 256 P.3d 470 (2011) (quoting RCW 13.34.180(1)(d)). “This encompasses ‘all reasonable services that are available within the agency, or within the community, or those services which the department has existing contracts to purchase’ in order to enable a parent to ‘resume custody.’” *T.L.G.*, 126 Wn. App. at 198 (quoting RCW 13.34.136(1)(b)(i), (iv)).

To meet its statutory burden under RCW 13.34.180(1)(d), “the State must tailor the services it offers to meet each individual parent's needs.” *S.J.*, 162 Wn. App. at 881 (citing *In re Dependency of T.R.*, 108 Wn. App. 149, 161, 29 P.3d 1275 (2001)). However, “[w]here the record establishes that the offer of services would be futile, the trial court can make a finding that the Department has offered all reasonable services.” *C.S.*, 168 Wn.2d at 56 n.2 (quoting *M.R.H.*, 145 Wn. App. at 25).

It is the State’s duty to provide all court-ordered and necessary services to the parent. *In re Dependency of D.A.*, 124 Wn. App. 644, 651, 102 P.3d 847 (2004). “At a minimum, it must provide a parent with a list of referral agencies that provide those services.” *Id.* It is not the parent’s responsibility to independently search out services. *Id.* at 651-52. Further, services must be offered in a timely manner. *S.J.*, 162 Wn. App. at 881-83.

Here, in his September 9, 2013 report, Mr. Cabrera recommended that “[Mr. J.B.] continues to participate in ongoing individual and couple’s therapy to address unresolved issues of trauma related symptoms (i.e. rejection, guilt, etc.), after his successful completion of inpatient treatment.”

(Exhibit 6) (emphasis added). Mr. Cabrera testified that Mr. J.B. indicated some stress in his life, including substance abuse and his relationship with K.J.B.'s mother, as well as a harsh family background. (RP 123, 158). He testified that in order for him to recommend parent education, Mr. J.B. would have to fully take care of his relationship issues and personal issues. (RP 171). He further testified this is what led to his recommendation of couples counseling and individual counseling. (RP 171).

Over three months after Mr. Cabrera's report and counseling recommendations, on December 18, 2013, Mr. Laform referred Mr. J.B. for individual counseling, family counseling, and a mental health intake or assessment. (RP 21, 172-174, 178-180, 199). Mr. Laform testified he referred Mr. J.B. for a mental health intake or assessment so "the practitioner could properly diagnose if he had any sort of mental health diagnosis that might be affecting his behaviors or leading him to use drugs or alcohol." (RP 199). He testified this request was made because "I thought it was important that if in fact there was a co-occurring issue that we could address it." (RP 199). Mr. Laform recognized Mr. J.B. needed some mental health intervention. (RP 208).

DSHS's referrals, by Mr. Laform, to individual counseling, family counseling, and a mental health assessment, were untimely. *See S.J.*, 162 Wn. App. at 881-83. Mr. Cabrera identified the necessity of these services over three months prior to the referrals. (Exhibit 6; RP 123, 158, 171).

The social workers in the case were under the impression that couples counseling and individual counseling were recommended after the completion of inpatient treatment. (RP 179, 103, 197-199). However, in terms of his recommendation of couples counseling, Mr. Cabrera testified “I did not specify the exact time to start, but I did talk to [Mr. J.B.] upon the recommendations prior to submitting those recommendations and *encouraged him to start as soon as possible.*” (RP 138-139) (emphasis added). Mr. Cabrera testified his recommendations are those written in his report. (RP 139-141). His report recommends “[Mr. J.B.] *continues to participate in ongoing individual and couple’s therapy . . . after his successful completion of inpatient treatment.*” (Exhibit 6) (emphasis added). By recommending that Mr. J.B. *continue* to participate in counseling, the report indicates counseling should have been ongoing prior to completion of inpatient treatment.

Nonetheless, even if Mr. Cabrera’s recommendation was for counseling for trauma-related mental health issues to begin after Mr. J.B.’s completion of inpatient treatment, individual counseling, family counseling, and a mental health assessment were services necessary to correct Mr. J.B.’s identified parenting deficiency of substance abuse. (CP 22; RP 83-84, 190).

First, individual counseling and a mental health assessment were services necessary to correct Mr. J.B.’s identified parenting deficiency of substance abuse. (CP 22; RP 83-84, 190). The testimony at trial showed that Mr. J.B.’s drug use and his trauma-related mental health issues were co-

occurring problems. (RP 13, 27-28, 156, 192). Both Mr. Cabrera and Mr. Laform testified that mental health issues can lead to substance abuse, and that they can also be co-occurring issues. (RP 156, 192). Mr. Cabrera further testified it is not uncommon for people with a mental health issues to self-medicate by using street drugs. (RP 156). And, notably, Mr. J.B. recognized his use of drugs to mask his trauma-related mental health issues: he testified that he left the intensive inpatient drug treatment in September 2013 because he was uncomfortable with the fact that he was dealing with his issues instead of using drugs to mask them. (RP 13, 27-28).<sup>3</sup>

Second, family counseling was also a service necessary to correct Mr. J.B.'s identified parenting deficiency of substance abuse. (CP 22; RP 83-84, 190). Both Mr. Cabrera and Ms. Heine-Rath identified Mr. J.B.'s relationship with K.J.B.'s mother as one of the triggers in his life. (RP 81-82, 100, 123). Mr. J.B. requested couples counseling throughout the dependency case. (RP 21, 141-142).

There is no indication that *dual* mental health and drug treatment services were ever offered here. It is well documented that a parent who faces such dual challenges could likely benefit from dual rather than staggered treatment options. *S.J.*, 162 Wn. App. at 881-84. Given the evidence that the father's apparent reason for drug use was his trauma-related mental health issues, the services were not adequately tailored to his needs

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<sup>3</sup> This testimony also demonstrates that DSHS's referrals, by Mr. Laform, to individual counseling, family counseling, and a mental health assessment, were untimely. *See S.J.*, 162 Wn. App. at 881-83. Around the time of Mr. Cabrera's report, Mr. J.B. was motivated to comply with the dependency case. (RP 67, 69, 75). But, without the necessary mental health services, Mr. J.B. was unsuccessful in his inpatient drug treatment. (Exhibit 6; RP 48-49, 74-75).

where they were not dually offered to address both these challenges at the same time.

The offer of individual counseling, couples counseling, and a mental health assessment to Mr. J.B. would not have been futile. *See C.S.*, 168 Wn.2d at 56 n.2 (quoting *M.R.H.*, 145 Wn. App. at 25). Prior to leaving intensive inpatient treatment in September 2013, Mr. J.B. was motivated to comply with his dependency case. (RP 67, 69, 75). Mr. J.B. was semi-engaged in his court ordered services, and was wonderful in maintaining contact with DSHS. (RP 184). Mr. J.B. requested couples counseling throughout the dependency case. (RP 21, 141-142). Testimony at trial support the fact that mental health services can be beneficial prior to the completion of drug treatment. (RP 140, 200, 202-207). And, because Mr. J.B.'s drug use and his trauma-related mental health issues were co-occurring problems, offering individual counseling, couples counseling, and a mental health assessment to Mr. J.B. would not have been futile. (RP 13, 27-28, 156, 192).

In sum, the State failed to timely offer or provide individual counseling, couples counseling, and a mental health assessment to Mr. J.B., and such services were necessary to correct Mr. J.B.'s identified parenting deficiency of substance abuse. Accordingly, the court's termination order should be reversed and the case remanded so that Mr. J.B. may be offered these necessary services.

**Issue 3: Whether the trial court erred by finding that continuation of the parent-child relationship diminished K.J.B.'s prospects for early integration into a stable and permanent home, particularly because the trial court did not consider the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent.**

The court erred by finding that RCW 13.34.180(1)(f) had been met when it failed to consider the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent. The court further erred by finding that this statutory termination factor had been met under the original legislation.

In order to terminate parental rights, the State must prove “[t]hat continuation of the parent and child relationship clearly diminishes the child’s prospects for early integration into a stable and permanent home.” RCW 13.34.180(1)(f); *see also K.D.S.*, 176 Wn.2d at 654-56 (the State must independently prove the element set forth in RCW 13.34.180(1)(f); proof of the element set forth in RCW 13.34.180(e) does not necessarily prove this element).

The statutory element in RCW 13.34.180(1)(f) was amended, effective July 28, 2013, to require the court to consider the following factors before it terminates the parental rights of someone who is incarcerated:

If the parent is incarcerated, the court shall consider whether a parent maintains a meaningful role in his or her child's life based on factors identified in RCW 13.34.145(5)(b); whether the department or supervising agency made reasonable efforts as defined in this chapter; and whether particular barriers existed as described in RCW 13.34.145(5)(b) including, but not limited to, delays or barriers experienced in keeping the agency apprised of

his or her location and in accessing visitation or other meaningful contact with the child.

RCW 13.34.180(1)(f); *see also* Substitute H.B. 1284, 63rd Leg., Reg. Sess. (Wash.2013).

The “meaningful role” factors identified in RCW 13.34.145(5)(b), referenced in this amended portion of RCW 13.34.180(f), are as follows:

- (i) The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;
- (ii) The parent's efforts to communicate and work with the department or supervising agency or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parent-child relationship;
- (iii) A positive response by the parent to the reasonable efforts of the department or the supervising agency;
- (iv) Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;
- (v) Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and
- (vi) Whether the continued involvement of the parent in the child's life is in the child's best interest.

RCW 13.34.145(5)(b).

Where the trial court does not consider this amended portion of RCW 13.34.180(f) before it terminates the parental rights of someone who is

incarcerated, the case must be reversed and remanded for further proceedings. *In re Dependency of A.M.M.*, No. 70832-5-I, 2014 WL 3842977, at \*5-6 (Wash. Ct. App. Aug. 4, 2014).<sup>4</sup>

In *A.M.M.*, the father was incarcerated after dependency petitions were filed on his three children, and he remained incarcerated at the time of the termination trial. *A.M.M.*, 2014 WL 3842977, at \*1, \*3. On appeal, the father argued the trial court erred in terminating his parental rights because it failed to consider the provision of RCW 13.34.180(f) applicable to an incarcerated parent. *Id.* at \*4.

Although this provision was in effect at the time the trial court issued its order terminating the father's parental rights, the order did not reference it, or the six factors contained in RCW 13.34.145(5)(b). *Id.* at \*5. The court found "[t]his omission indicates both that the Department failed to satisfy its burden of proof as to the termination factor contained within RCW 13.34.180(1)(f) and that the trial court failed to apply the law in effect at the time of its ruling." *Id.* at \*5.

Because the trial court only applied the language within former RCW 13.34.180(f) and made no mention of the amended language added to RCW 13.34.180(1)(f) or to the six factors contained in RCW 13.34.145(5)(b), the court found it would be improper to infer the omitted findings were intended. *Id.* at \*6. Instead, the court reversed the termination order and remanded. *Id.*

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<sup>4</sup> At the time this brief was written, a citation in the Pacific Reporter was available. *See In re Dependency of A.M.M.*, 332 P.3d 500 (Wash. Ct. App. 2014). However, no pinpoint citations to the Pacific Reporter page numbers were available. Therefore, in order to include pinpoint citations to the specific page numbers in the opinion, the opinion is referred to herein using its Westlaw citation.

Here, Mr. J.B. was incarcerated during the dependency and remained incarcerated at the time of the termination trial. (Exhibits 7, 8, 9; RP 14-15). However, in its oral ruling and in its written findings on termination, the trial court did not reference the provision of RCW 13.34.180(f) applicable to an incarcerated parent, including whether the father could nonetheless maintain a meaningful role while incarcerated, whether the department made reasonable efforts in spite of the father's incarceration, or any of the six factors contained in RCW 13.34.145(5)(b). (CP 17-24; RP 245-251). The trial court only applied the language within former RCW 13.34.180(f). (CP 17-24; RP 245-251). Therefore, the presumption is that DSHS did not satisfy its burden of proof as to the termination factor in RCW 13.34.180(1)(f), and the trial court failed to apply the law in effect at the time of its ruling. *See A.M.M.*, 2014 WL 3842977, at \*5.

Where the trial court made no mention of the provision of RCW 13.34.180(f) applicable to an incarcerated parent or the six factors contained in RCW 13.34.145(5)(b), the omitted findings cannot be inferred. *See A.M.M.*, 2014 WL 3842977, at \*6. This court should reverse and remand the case for the trial court to consider the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent. *See A.M.M.*, 2014 WL 3842977, at \*6.

In addition, there was insufficient evidence presented at trial that continuation of the parent-child relationship diminished K.J.B.'s prospects for early integration into a stable and permanent home.

The focus of RCW 13.34.180(f) “is the parent-child relationship and whether it impedes the child’s prospects for integration, not what constitutes a stable and permanent home.” *In re Dependency of K.S.C.*, 137 Wn.2d 918, 927, 976 P.2d 113 (1999). The trial court is not permitted to consider “whether the natural parents or the foster parent would provide the better home.” *Santosky v. Kramer*, 455 U.S. 745, 760, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982).

Here, Mr. J.B. participated in visits with K.J.B. in January 2013, and regularly from March 2013 to January 2014 with only a few missed visits. (RP 22, 77-78, 97-99, 109, 184-185). Ms. Heine-Rath testified the visits went well. (RP 78-79). She opined that continuation of the parent-child relationship diminishes K.J.B.’s prospects for early integration into a stable and permanent home, but simply because K.J.B. needs the security of a permanent home. (RP 88-89).

Mr. Cabrera observed a visit between Mr. J.B. and K.J.B., and he testified Mr. J.B. was nurturing and loving towards K.J.B., and that Mr. J.B. showed compassion and sensitivity towards K.J.B. (RP 124-125, 138, 152, 159-160).

Mr. Laform gave his opinion that continuation of the parent-child relationship diminishes K.J.B.’s prospects for early integration into a stable and permanent home, because it would otherwise be a disruption to K.J.B.’s integration into her current foster family. (RP 189-190).

This testimony does not provide substantial evidence that the relationship between Mr. J.B. and K.J.B. impeded K.J.B.'s prospects for integration into a stable and permanent home. *See K.S.C.*, 137 Wn.2d at 927. The testimony shows Mr. J.B. and K.J.B. are successfully able to have contact. (RP 22, 77-79, 97-99, 109, 124-125, 138, 152, 159-160, 184-185). The focus of the testimony was K.J.B.'s current foster care placement and her need for a permanent home, rather than the required focus of whether K.J.B.'s relationship with Mr. J.B. impeded her prospects for integration into a permanent home. (RP 88-89, 189-190); *see also K.S.C.*, 137 Wn.2d at 927.

There was not substantial evidence presented at trial that Mr. J.B.'s relationship with K.J.B. diminished K.J.B.'s chances for early integration into a stable and permanent home.

**Issue 4: Whether the trial court erred by finding that it was in K.J.B.'s best interests to terminate her father's parental rights.**

The trial court's best interest finding was premature, because the State failed to prove all of the factors in RCW 13.34.180. Should this Court disagree, there was not sufficient evidence presented at trial that termination of the father's parental rights was in K.J.B.'s best interests.

In order to terminate parental rights, the trial court must find that "[s]uch an order is in the best interests of the child." RCW 13.34.190(1)(b). The trial court may consider whether termination of parental rights is in a child's best interests if, and only if, the factors in RCW 13.34.180 were proven by clear, cogent and convincing evidence. *K.N.J.*, 171 Wn.2d at 576-77. "Whether a termination is in the best interests of a child must be

determined based upon the facts of each case.” *In re Dependency of A.M.*, 106 Wn. App. 123, 131, 22 P.3d 828 (2001) (citing *In re Aschauer’s Welfare*, 93 Wn.2d 689, 695, 611 P.2d 1245 (1980)). The State must prove that termination of parental rights is in the best interests of a child by a preponderance of the evidence. *A.B.*, 168 Wn.2d at 912.

“[C]hildren have fundamental liberty interests at stake in termination of parental rights proceedings.” *In re Dependency of M.S.R.*, 174 Wn.2d 1, 20, 271 P.3d 234 (2012). These include a child’s interest in “maintaining the integrity of the family relationships.” *Id.*; *see also, e.g., Kenny A ex rel. Winn v. Perdue*, 356 F.Supp.2d 1353, 1360 (N.D. Ga 2005) (holding that children have fundamental liberty interests in termination proceedings); *Wooley v. City of Baton Rouge*, 211 F.3d 913, 923 (5th Cir. 2000) (“a child’s right to family integrity is concomitant to that of a parent...”); *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977) (internal quotations omitted) (“This right to the preservation of family integrity encompasses the reciprocal rights of both parent and children. It is the interest of the parent in the ‘companionship, care, custody and management of his or her children’ . . . and of the children in not being dislocated from the ‘emotional attachments that derive from the intimacy of daily association,’ with the parent. . . .”).

Here, Mr. J.B. testified he was present at K.J.B.’s birth, and was involved in her life for the following two months. (RP 6-7). He testified he tried to keep in contact with DSHS as much as possible, while working two

jobs and battling his drug addiction. (RP 11-12). Mr. Laform testified Mr. J.B. was wonderful in maintaining contact with DSHS. (RP 184). He does not question that Mr. J.B. loves K.J.B. (RP 186).

Mr. J.B. participated in visits with K.J.B. in January 2013, and regularly from March 2013 to January 2014 with only a few missed visits. (RP 22, 77-78, 97-99, 109, 184-185). Ms. Heine-Rath testified the visits went well. (RP 78-79).

Mr. Cabrera testified Mr. J.B.'s parenting questionnaire showed he "has some common sense as far as what parenting is and what you should do." (RP 124, 142). He observed a visit between Mr. J.B. and K.J.B., and he testified Mr. J.B. was nurturing and loving towards K.J.B., and that Mr. J.B. showed compassion and sensitivity towards K.J.B. (RP 124-125, 138, 152, 159-160).

Ms. Heine-Rath testified that prior to leaving intensive inpatient treatment in September 2013, Mr. J.B. "seemed motivated to do what was in the best interest for his daughter[.]" and that he "[h]ad been making most of his visits . . . ." (RP 67, 69, 75).

Termination of Mr. J.B.'s parental rights was not in the best interests of K.J.B. K.J.B. has a fundamental liberty interest in maintaining her relationship with Mr. J.B. *M.S.R.*, 174 Wn.2d at 20; *see also Kenny A ex rel. Winn*, 356 F.Supp.2d at 1360; *Wooley*, 211 F.3d at 923; *Duchesne*, 566 F.2d at 825. Further, the evidence presented at trial shows that Mr. J.B. loves K.J.B., demonstrated common sense in parenting, was nurturing and loving

towards K.J.B., and showed compassion and sensitivity towards her. (RP 124-125, 138, 142, 152, 159-160, 186). Mr. J.B. regularly participated in visits with K.J.B., and the visits went well. (RP 22, 77-78, 97-99, 109, 184-185). At one point, Mr. J.B. showed motivation to do what was in K.J.B.'s best interests and made the most of his visits with her. (RP 67, 69, 75). Because termination of her biological father's parental rights is not in K.J.B.'s best interests, the termination order should be reversed.

#### **F. CONCLUSION**

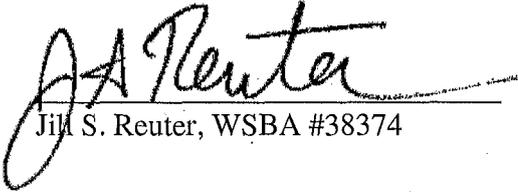
The State failed to prove and the trial court erroneously found, that DSHS offered all necessary services. DSHS failed to timely offer or provide individual counseling, couples counseling, and a mental health assessment to Mr. J.B.

Furthermore, the trial court did not consider the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent. Because the State did not satisfy its burden of proof as to the termination factor in RCW 13.34.180(1)(f) and the trial court failed to apply the law in effect at the time of its ruling, this court should reverse and remand the case for consideration of the factors set forth in RCW 13.38.180(1)(f) concerning the parental rights of an incarcerated parent.

Termination of Mr. J.B.'s parental rights was also not in K.J.B.'s best interests. The termination order should be reversed and the matter remanded for further proceedings.

At a minimum, the case should be remanded to the trial court so DSHS can notify the Blackfoot tribe of the termination proceeding and its right to intervene.

Respectfully submitted this 19th day of September, 2014.

  
Jill S. Reuter, WSBA #38374

/s/ Kristina M. Nichols  
Kristina M. Nichols, WSBA #35918  
Attorneys for Appellant Mother

APPENDIX REQUESTED BY COURT:

Available at:  
Termination Order (CP 17-24);  
Dependency Review Orders (Plaintiff's Exhibits 3, 4, 5, 6, 11)



**NICHOLS LAW FIRM PLLC**

**September 19, 2014 - 12:19 PM**

**Transmittal Letter**

Document Uploaded: 324907-Motion for Accelerated Review K.J.B 324907.pdf  
Case Name: In re Welfare of K.J.B.  
Court of Appeals Case Number: 32490-7  
Party Represented: Appellant father  
Is This a Personal Restraint Petition?  Yes  No  
Trial Court County: Yakima - Superior Court # 13-7-00477-9

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- Response/Reply to Motion: \_\_\_\_\_
- Brief
- Statement of Additional Authorities
- Affidavit of Attorney Fees
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Electronic Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_  
Hearing Date(s): \_\_\_\_\_
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Proof of service is attached and an email service by agreement has been made to CarissaG@atg.wa.gov, CollienN@atg.wa.gov, rsdyakappeals@atg.wa.gov, and jillreuterlaw@gmail.com.

Sender Name: Kristina M Nichols - Email: [wa.appeals@gmail.com](mailto:wa.appeals@gmail.com)