**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**FAMILY COURT**

**DOMESTIC RELATIONS BRANCH -- ADOPTION**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 )

**Ex Parte in the Matter of**  ) Adoption Case No. XXXXXX

 )

 The Petition of ) Adoption Calendar

 )

 [PETITIONERS’ INITIALS] ) Magistrate Judge [NAME]

 )

**For adoption of a minor child.** )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

**Limited Consolidation With**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 )

**In the Matter of** ) Case No. [YEAR] NEG [XXXXXX]

 )

 [CHILD], ) Social File No. [YEAR] JSF [XXXXXX]

 DOB: [CHILD DOB] )

 ) Next Date: [DATE]

 **Respondent.** ) ) Magistrate Judge [NAME]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

This matter came before the court on [DATE] for an adoption trial on the petition for adoption of [CHILD] by [PETITIONERS’ INITIALS], and show cause hearing pursuant to D.C. Code Ann. § 16-304 (d) and (e) (2001). [CHILD]’s biological mother, [BIRTH MOTHER], consents to [CHILD]’s adoption by [PETITIONERS’ INITIALS]. The issues before the court are whether adoption by petitioners [PETITIONERS’ INITIALS] is in [CHILD]’s best interests and whether the consent to [PETITIONERS’ INITIALS]’s adoption of [CHILD] by [CHILD]’s unknown biological father should be waived because he has abandoned [CHILD] and is withholding his consent to [PETITIONERS’ INITIALS]’s adoption contrary to [CHILD]’s best interests. The court finds by clear and convincing evidence, based on the findings and fact and conclusions of law discussed below, that adoption by [PETITIONERS’ INITIALS] is in [CHILD]’s best interests and that the consent of [CHILD]’s biological father is not required and should be waived.

The following parties and counsel were present at the hearing: (1) petitioner [PETITIONER 1]; (2) counsel for petitioners [PETITIONERS’ INITIALS], [ATTORNEY] of [FIRM]; (3) Guardian *ad litem,* [GAL]; (4) counsel for [CHILD]’s unknown biological father, [BIRTH FATHER ATTY]; and (5) Child and Family Services Agency (“CFSA”) social worker [SOCIAL WORKER]. Petitioner [PETITIONER 2] provided testimony by telephone, as permitted by order of the court dated [DATE].

The court heard testimony from petitioners [PETITIONERS] and social worker [SOCIAL WORKER]. The court also accepted the written and sworn testimony of former social worker [FORMER SOCIAL WORKER] and [STATE] case manager [CASE MGR].

The court took judicial notice of the following exhibits for the limited purposes listed below:

|  |  |
| --- | --- |
| **Exhibit** | **Description and Purpose** |
| **[PETITIONERS]/GAL-1** | **Initial Hearing/Further Initial Hearing Order dated [DATE].****Purposes:** Placement: The child was removed from the home on [DATE] and placed in shelter care. Visitation: Visitation with mother shall be supervised by CFSA or its designee. |
| **[PETITIONERS]/GAL-2** | **Disposition Hearing Order dated [DATE].****Purposes:**Placement: The child was removed from the home on [DATE] and was placed In shelter care/foster care/group home with a non-relative.The court has determined that the child cannot safely remain in the home for the following reasons: [*ADDITIONAL FACTS REDACTED*]Due to extraordinary circumstances which include: The mother has not had any contact with the respondent since [HE/SHE] came into care. Additionally, the mother currently resides in a shelter and has had minimal contact with the agency. Finally, the father’s identity and whereabouts are unknown. The agency has been unable to provide services to the birth mother and birth father. Disposition and Placement Order: The court adopts the agency’s disposition recommendation: reunification and adoption.Placement: Ordered that the child shall be placed in commitment. Ordered that the child, [CHILD], shall be committed to the care of CFSA, for a period not to exceed two (2) years . . . . |
| **[PETITIONERS]/GAL -3** | **Stipulation dated [DATE] of [BIRTH MOTHER] and accepted by the Court on [DATE].****Purposes:** 1. Ms. [BIRTH MOTHER] states that she is the biological mother of [CHILD] (DOB [CHILD DOB]). She also states that the father of [CHILD] is unknown.

[*ADDITIONAL FACTS REDACTED*]1. All parties acknowledge that the foregoing provides a legal basis for the court to assume jurisdiction over [CHILD] pursuant to D.C. Code § 16-2301 (9)(A)(ii), (iii) and (iv).
2. All parties agree that at this time the case goal is reunification. All parties also agree that the social worker will develop a case plan prior to the disposition hearing, and that such case plan will describe the services to be offered to the family and the mother’s responsibilities to further the case goal.”

Signed by [BIRTH MOTHER], Mother; [BIRTH MOTHER ATTY], attorney for the mother; [GAL], Guardian *ad litem*; [AAG], assistant attorney General; and [SOCIAL WORKER], social worker.The court accepts the above stipulation and finds that [CHILD] comes within the definition of a neglected child pursuant to § 16-2301 (9)(A)(ii), (iii) and (iv).  |
| **[PETITIONERS]/GAL-4** | **Biological Mother’s Affidavit Concerning Paternity.****Purposes:**“My full name is [BIRTH MOTHER]. I am the biological mother of [CHILD] whose date of birth is [CHILD DOB] and whose place of birth is [CITY, STATE]I am unable to identify anyone as the possible biological father of the child . . . .Other information that may be useful in locating the person, including names, addresses, and phone numbers of friends or relatives who may have information about his whereabouts: dark skin young person is the only information I have.”Signed by [BIRTH MOTHER] and docketed by the clerk on [DATE]. |
| **[PETITIONERS]/GAL-5** | **Review of Disposition Hearing Order dated [DATE].****Purposes:**Placement: The child is placed with a non-relative under committed status.Status of the Parties: The mother, [BIRTH MOTHER]’s whereabouts are unknown. The birth father of [CHILD] is unknown.Reasonable Efforts: Reasonable efforts to achieve concurrent goals of reunification and adoption: [*ADDITIONAL FACTS REDACTED*] |
| **[PETITIONERS]/GAL-6** | **Consent of Biological Parent.****Purposes:**“I, [BIRTH MOTHER], being the biological mother of the minor child, [CHILD], born on [DATE], . . . do hereby consent to the legal adoption of my child by the petitioners [PETITIONERS’ INITIALS], being fully aware that in the event the petition for adoption is granted by this court, I will lose all parental rights and decision-making authority permanently over this child. In addition, I understand that the minor child’s name may be changed to that of the petitioners. I have discussed this matter fully with my lawyer and have concluded that it is in the best interests of my minor child that this adoption is granted. I, therefore, request that the court grant the petition for adoption and that a decree be entered legalizing the adoption of the minor child by the petitioner(s).”Signed by [BIRTH MOTHER] on [DATE]. |
| **[PETITIONERS]/GAL-7** | **Permanency Hearing Order dated [DATE].****Purposes:** Placement: Current placement shall continue.Permanency Goal: Adoption.  |
| **[PETITIONERS]/GAL-8** | **Permanency Hearing Order dated [DATE].** **Purposes:** Attendees: Include [PETITIONER 1], foster parentPlacement: Current placement shall continue.Party Status: Ordered that party status be conferred upon [PETITIONERS’ INITIALS] in accordance with D.C. Code § 16-2304. |
| **[PETITIONERS]/GAL-9** | **Permanency Hearing Order dated [DATE].** **Purposes:** Attendees: Include [PETITIONER 1], foster parent/petitioner (on phone)Permanency Goal: Adoption.Contrary to Welfare Findings: The court further concludes that it would be contrary to the welfare of the child to be returned home at this time because the father’s identity is unknown. The mother has consented to the adoption of respondent on [DATE]. |
| **[PETITIONERS]/GAL-10** | **Order dated [DATE].** **Purpose:** Ordered that CFSA is permitted to serve the unknown birth father by posting the attached notice in the domestic relations clerk’s office for a period of 14 days. |
| **[PETITIONERS]/GAL-11A, 11B, and 11C** | **Photographs of [CHILD] with [PETITIONERS’ INITIALS]’s children, and with [PETITIONERS’ INITIALS].**  |
| **[PETITIONERS]/GAL-12** | **Exhibit List.**Provided for the court’s convenience. |

The court also took judicial notice of the following testimony provided by former social worker [FORMER SOCIAL WORKER]:

1. [FORMER SOCIAL WORKER] is employed by the [AGENCY] as a social worker. The [AGENCY] is a social work agency that contracts with the CFSA and serves children and families who are involved in the D.C. child welfare system, and require physical, emotional, behavioral, and social support through residential and community-based services. [FORMER SOCIAL WORKER] was assigned to the [CHILD]’s case from approximately [MONTH YEAR] to [MONTH YEAR]. [FORMER SOCIAL WORKER] is a licensed graduate social worker, and [HIS/HER] job responsibilities included case management, court report writing, and supervising visits.

[*ADDITIONAL FACTS REDACTED*]

The court also took judicial notice of the following testimony provided by case manager [CASE MGR]:

1. [CASE MGR] is employed by [AGENCY] in [CITY], [STATE], as a dependency case manager. [AGENCY] is a non-profit agency that is sub-contracted through [AGENCY] that is contracted with [STATE] Department of Children and Families.

[*ADDITIONAL FACTS REDACTED*]

After assessing the credibility of the witnesses, evaluating all of the evidence, and considering the arguments of counsel, the court makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. [CHILD] was born in [CITY, STATE] on [DATE].
2. [CHILD]’s birth mother is [BIRTH MOTHER].
3. [CHILD] was removed from the care of [HIS/HER] birth mother and placed in CFSA custody on [DATE].
4. On [DATE], [BIRTH MOTHER] stipulated to facts that supported the court’s finding that [CHILD] comes within the definition of a neglected child.
5. On [DATE], [CHILD] was committed to CFSA custody.
6. [CHILD] was placed with petitioners [PETITIONERS’ INITIALS] on [DATE] in their home in [STATE]. [PETITIONERS’ INITIALS] have been licensed foster parents since at least [YEAR].
7. [PETITIONERS’ INITIALS] filed petitions to adopt [CHILD] on [DATE].
8. [CHILD]’s biological mother has consented to [PETITIONER 1] and [PETITIONER 2]’s adoption.
9. [CHILD]’s biological father is unknown.
10. [PETITIONER 1] described [CHILD] as a “cute, sweet, happy little [BOY/GIRL] . . . with a huge smile.”

[*ADDITIONAL FACTS REDACTED*]

1. [SOCIAL WORKER] is a licensed social worker and has worked at CFSA for two years. [HE/SHE] has been assigned to [CHILD]’s case since early [YEAR].
2. [SOCIAL WORKER] testified that CFSA identified [PETITIONER 1] and [PETITIONER 2] as a possible adoptive placement for [CHILD] at the recommendation of [CHILD]’s maternal grandmother.
3. [SOCIAL WORKER] testified that in placing [CHILD] in a home outside the District of Columbia, CFSA followed procedures required by the Interstate Compact on the Placement of Children (ICPC).

[*ADDITIONAL FACTS REDACTED*]

1. The court credits the testimony of former social worker [FORMER SOCIAL WORKER], who testified that while [HE/SHE] was assigned to the case, [HE/SHE] observed [PETITIONER 1] to be committed to maintaining a relationship with [CHILD]’s biological family. [HE/SHE] also observed [PETITIONER 1]’s interaction with [CHILD] to be loving and appropriate.
2. [CHILD]’s biological mother, [BIRTH MOTHER], consented to the adoption of [CHILD] by [PETITIONER 1] and [PETITIONER 2] on [DATE], by execution of a signed and notarized consent. In the consent, [BIRTH MOTHER] affirmed that adoption by [PETITIONER 1] and [PETITIONER 2] is in [CHILD]’s best interests, and [HE/SHE] acknowledged that [HE/SHE] will permanently lose all parental rights and decision-making authority over [CHILD].
3. [BIRTH MOTHER] signed an affidavit of paternity on [DATE], stating that she was unable to identify anyone that could possibly be [CHILD]’s biological father, and that the only information she had is that [CHILD]’s father is a dark-skinned young person.
4. Constructive service of notice of the adoption of [CHILD] by posting was authorized on [DATE], and notice by posting occurred shortly thereafter for fourteen days, the requisite number of days under Super. Ct. Adoption R. 4 (e)(3).
5. The Court heard evidence from [PETITIONER 1], [PETITIONER 2], [SOCIAL WORKER], former social worker [FORMER SOCIAL WORKER], and case manager [CASE MGR] that no one has been contacted by any one purporting to be [CHILD]’s birth father.

# CONCLUSIONS OF LAW

1. The consent of each biological parent is ordinarily required before an adoption. D.C. Code Ann. § 16-304 (a) (2001). [CHILD]’s biological mother has consented to [HIS/HER] adoption by [PETITIONERS’ INITIALS]
2. Following the evidentiary hearing in this matter, this court waived the consent of the unknown biological father pursuant to D.C. Code Ann. § 16-304 (2001) by a short order dated [DATE].
3. Consent is not required when the parent “has abandoned the prospective adoptee and voluntarily failed to contribute to his support for a period of at least six months next preceding the date of the filing of the petition.” D.C. Code Ann. § 16-304 (d).
4. A biological parent has abandoned a child “when the parent’s conduct manifests an intention to be rid of all parental obligations and to forego all parental rights.” *In re C.E.H.*, 391 A.2d 1370, 1373 (D.C. 1978) (citation omitted). Abandonment does not require that a parent “leave her child on a doorstep” or “cease to feel concern for the child.” *Id.* (internal citation omitted). Therefore, “a court must consider the totality of circumstances, including the degree of parental love, care and attention.” *Id.*
5. Clear and convincing evidence establish that [CHILD]’s biological father has abandoned [CHILD].

[*ADDITIONAL FACTS REDACTED*]

 His failure to act indicates his “intention to be rid of all parental obligations and to forego all parental rights.” *Id.*

1. After considering the totality of the circumstances, the court concludes that [CHILD]’s father’s conduct clearly demonstrates he has no interest in parenting [CHILD] and has not taken the necessary steps to develop or maintain a parental relationship with [HIM/HER]. Therefore, the court concludes that his consent to the adoption is not required and will be waived under D.C. Code Ann. § 16-304 (d).
2. Alternatively, a court may grant a petition for adoption without the consent of the biological parents when the court finds, after a hearing, that consent is withheld contrary to the best interest of the child. D.C. Code Ann. § 16-304 (e) (2001). This determination requires weighing the factors considered in termination of parental rights proceedings pursuant to D.C. Code Ann. § 16-2353 (b). *In re P.S*., 797 A.2d 1219, 1223 (D.C. 2001); *In re A.W.K.*, 778 A.2d 314, 325 (D.C. 2001).
3. After considering the termination of parental rights factors, the court finds that [CHILD]’s birth father’s consent may be waived because petitioners [PETITIONERS’ INITIALS] have established by clear and convincing evidence that the birth father is withholding his consent contrary to [CHILD]’s best interests, and it is in [CHILD]’s best interests to remain with and be adopted by [PETITIONERS’ INITIALS].
	1. The children’s need for continuity of care and caretakers and for timely integration into a stable and permanent home, taking into account the differences in the development and the concept of time of children of different ages:

The court credits the testimony of [PETITIONERS’ INITIALS], as well as social workers [SOCIAL WORKER] and [FORMER SOCIAL WORKER] and case manager [CASE MANAGER NAME]. The court heard testimony that [PETITIONERS’ INITIALS] provide [CHILD] with excellent care and have fully integrated [HIM/HER] into their immediate and extended families. [PETITIONERS’ INITIALS] have a stable and permanent home, and [CHILD] has lived with them in their home for fourteen months, nearly two-thirds of [HIS/HER] life. In contrast, [CHILD] was never in the care of [HIS/HER] biological parents and has never received care or support from them.

* 1. The physical, mental, and emotional health of all individuals involved to the degree that such affects the welfare of the child, the decisive consideration being the physical, mental, and emotional needs of the child:

[PETITIONERS’ INITIALS] are foster parents in good standing and are in good physical and mental health. [PETITIONERS’ INITIALS] provide [CHILD] with a stable home, and they are committed to addressing [CHILD]’s special needs, including [HIS/HER] neutropenia and delays in communication. [CHILD] has bonded with [PETITIONER 2], [PETITIONER 1], and members of their family.

By contrast, [CHILD]’s birth father has not even attempted to meet [CHILD]’s needs.

* 1. The quality of the interaction and interrelationship of the children with parents, siblings, relative, and/or caretakers, including the foster parent:

The court credits testimony that [CHILD] responds to [PETITIONER 1] and [PETITIONER 2] as caretakers and is happy to be in their presence. [CHILD] gets excited when [PETITIONER 1] comes to get [HIM/HER] from his crib in the morning, and [CHILD] runs to [PETITIONER 2] and seeks to be picked up by [HIM/HER]. [PETITIONERS’ INITIALS] have a warm and loving relationship with [CHILD].

[*ADDITIONAL FACTS REDACTED*]

* 1. To the extent feasible, the children’s opinions of their own best interests in the matter:

The Guardian *ad litem* supports [PETITIONER 1] and [PETITIONER 2]’s petition for adoption.

[*ADDITIONAL FACTS REDACTED*]

The court is satisfied that if [CHILD] could express [HIS/HER] opinions in support of adoption by [PETITIONER 1] and [PETITIONER 2], [HE/SHE] would do so.

* 1. Evidence that drug-related activity continues to exist in a child’s home environment after intervention and services have been provided:

The final factor, whether evidence of drug-related activity continues to exist after services have been put into place, is inapplicable here.

Having weighed these factors and considered [CHILD]’s best interests, the court holds that clear and convincing evidence establishes that [CHILD]’s biological father is withholding his consent to [PETITIONERS’ INITIALS]’s petition for adoption contrary to [CHILD]’s best interests. The petitioners are fit, able, and willing caretakers, who are committed to addressing [CHILD]’s special needs. The social workers and [CHILD]’s Guardian *ad litem* support the petition for adoption. Adoption of [CHILD] by [PETITIONERS’ INITIALS] is in the best interests of [CHILD]; accordingly, the consent of [CHILD]’s birth father is not required and has been waived.

**WHEREFORE**, it is this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, [YEAR]

**ORDERED**, that the petition for adoption of [CHILD] is **GRANTED** pursuant to D.C. Code § 16-304 (d) and (e), provided that this decree shall not become effective until the time required for the noting of an appeal has expired and, if an appeal is so taken, until such time as that matter is concluded.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 MAGISTRATE JUDGE [JUDGE NAME]

 (Signed in Chambers)

**Copies to:**

[AAG]

Assistant Attorney General

Child Protection Division

5th Floor

200 I Street S.E.

Washington, D.C. 20003

[GAL]

[FIRM]

[ADDRESS]

[CITY, STATE ZIP]

[SOCIAL WORKER]

CFSA

[ADDRESS]

[CITY, STATE ZIP]

[ATTY NAME], Esq.

[ADDRESS]

*Counsel for Birth Mother*

[ATTY NAME], Esq.

[ADDRESS]

*Counsel for Birth Father*

Respectfully Submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [PETITIONERS ATTY]. (D.C. Bar #####)

 [FIRM]

 [ADDRESS]

[CITY, STATE ZIP]

[TEL./FAX]

[EMAIL]

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing proposed Findings of Fact, Conclusions of Law, and order were served via email upon the following individuals on the \_\_\_\_ day of \_\_\_\_\_\_\_, [YEAR]:

[AAG]

Assistant Attorney General

200 I Street S.E.

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[GAL]

[FIRM]

[ADDRESS]

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[SOCIAL WORKER]

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[ATTY NAME], Esq.

[ADDRESS]

*Counsel for Birth Father*

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [PETITIONERS ATTY]. (D.C. Bar #####)

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