STATE OF MICHIGAN

SUPREME COURT

IN THE MATTER OF:

ALYSSA ANNE KEAST and
AMBER MARIE KEAST,

Minors.

/

Supreme Court No. 134443

Court of Appeals No. 277354

Lower Court No. 05-06388-NA

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APPELLANTS TIMOTHY AND BARBARA ATWOOD'S APPLICATION FOR LEAVE TO APPEAL

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STATEMENT OF ORDER APPEALED FROM AND RELIEF SOUGHT

This Honorable Court has jurisdiction to consider this case pursuant to MCR 7.301(2). Appellants Timothy and Barbara Atwood (the "Atwoods") appeal from an April 17, 2007 order of the Court of Appeals (Exhibit 1) preemptively reversing the decision of the Newaygo County Circuit Court. (Exhibit 3). The Atwoods filed a timely Motion for Reconsideration with the Court of Appeals, which was denied on June 5, 2007. (Exhibit 2).

The Atwoods request that this Honorable Court reverse the decision of the Court of Appeals and remand this matter back to the trial court for a determination of the best interest factors, pursuant to MCL 710.22(g) and MCL 750.51.

STATEMENT OF QUESTIONS PRESENTED

I. DID THE CIRCUIT COURT HAVE THE AUTHORITY TO TERMINATE MICHIGAN CHILDREN'S INSTITUTE'S GUARDIANSHIP OVER THE TWO MINOR CHILDREN DUE TO ITS FINDING THAT THERE WAS A LACK OF PERMANENCY PLANNING?

The Circuit Court says:	Yes
Appellants says:	Yes
Appellees say:	No
The Court of Appeals says:	No

II. WAS THE CIRCUIT COURT CORRECT IN FINDING THAT THE MICHIGAN CHILDREN'S INSTITUTE HAD DEMONSTRATED A LACK OF PROGRESS TOWARD PERMANENCY PLANNING FOR THE TWO MINOR CHILDREN?

The Circuit Court says:	Yes
Appellants says:	Yes
Appellees say:	No
The Court of Appeals says:	No

STATEMENT OF FACTS

The subjects of this appeal are the placements and adoptions of two minor children: Alyssa Anne Keast, DOB 1/22/2000 and Amber Marie Keast, DOB 8/18/2002. (Exhibit 4 – Bethany Christian Services Report of 10/15/06). The minor children are the children of Erica and Douglas Keast. The children were first removed from the care of the mother in March of 2005, due to alleged drug dealing in the home and frequent drug use. (Exhibit 4).

After the removal of the children from their mother in March of 2005, Appellee Department of Human Services ("DHS") moved the minor children on several different occasions. *Id.* DHS removed the children from their mother in March of 2005 and placed with the maternal grandparents until June of 2005. *Id.* DHS then placed the children in the care of an uncle and broke that placement after one week. *Id.* In July of 2006, DHS moved the children to their first foster home for 10 days. DHS then moved the children to their second foster home for another ten days. *Id.* In mid-July, DHS placed the children in their third foster home. DHS put the children back into the care of their mother in December of 2006. *Id.* DHS removed the children from the care of their mother, approximately a week later, when the mother overdosed on drugs in front of the children. *Id.* DHS then placed the children back into their current foster care home in the middle of July, 2005. *Id.*

The parental rights of Douglas Keast were terminated on or about February 22, 2006. (Exhibit 5). Erica Keast's parental rights were terminated on or about May 10, 2006. (Exhibit 6). The children were then placed under the supervision of DHS, pursuant to the Orders of Termination. *Id.*

Appellants Timothy and Barbara Atwood (the "Atwoods"), the parents of Erica Keast, applied to adopt their grandchildren. Bethany Christian Services, which had contracted to provide services to the Michigan Children's Institute, issued a written report suggesting that consent to adopt should be withheld. (Exhibit 7 – Bethany Christian Services report dated 10/26/06). This report was then re-typed and adopted by the Department of Human Services (DHS) and MCI, without any further elaboration. (Exhibit 8). The Atwoods appealed the decision as arbitrary and capricious to the Newaygo County Circuit Court pursuant to MCL 710.45.

A hearing was held on February 7, 2007. (Exhibit 9). The hearing was noticed as a review hearing for post-termination proceedings, as well as a "section 45 hearing." *Id.* The Court took up the issue of the review hearing first. The Court heard testimony from the foster care worker and accepted into evidence the Adoption Progress Report. *Id.* At the review hearing, the question was raised as to whether the Court could terminate the jurisdiction of MCI due to failure to provide reasonable efforts toward permanency planning for Alyssa and Amber Keast. *Id.*, p. 97. The Court requested briefs on that issue. *Id.* After reviewing the briefs, the Court issued an order terminating the guardianship of MCI and awarding custody of the two minor children to Tim and Barbara Atwood. (Exhibit 3). In this order, the Court found:

> Reasonable efforts have not been made to finalize the court-approved permanency plan of adoption for Alyssa and Amber Keast. Progress towards the children's adoption was not made in a timely manner… Although the parental rights to the children were terminated and the children committed to the Department of Human Services for permanency planning, supervision, care and placement under MCL 400.203, by order dated May 10, 2006, as of the date of this review hearing virtually nothing has been done towards the adoption goal other than disapprove the grandparents and request the adoptive mother to reconsider…. [G]iven their ages and the length of time they have been in foster care reasonable efforts have not been made to place them for adoption in a timely manner.

On April 13, 2007, DHS filed an emergency appeal with the Court of Appeals, which required the Atwoods to respond within four days. (Exhibit 10 – Court of Appeals Docket). On April 17, 2007, the Court of Appeals issued a peremptory order reversing the decision. (Exhibit 1). The Atwoods filed a timely Motion for Reconsideration on May 8, 2007, which was denied on June 5, 2007. (Exhibit 2).

ARGUMENT

I. THE CIRCUIT COURT HAD THE AUTHORITY TO TERMINATE MICHIGAN CHILDREN'S INSTITUTE'S GUARDIANSHIP OVER THE TWO MINOR CHILDREN DUE TO ITS FINDING THAT THERE WAS A LACK OF PERMANENCY PLANNING.

A. STANDARD OF REVIEW

This case involves issues of statutory interpretation, as well as interpretation and application of the Michigan Court Rules. The standard of review for issues involving statutory interpretation is *de novo*. *Herald Co., Inc v Eastern Michigan University Bd of Regents*, 475 Mich 463, 470, 719 NW2d 19 (2006). Similarly, the interpretation and application of court rules presents a question of law that is reviewed *de novo*. *Barclay v Crown Bldg & Development, Inc*, 241 Mich App 639, 642, 617 NW2d 373 (2000).

B. ANALYSIS

Post-termination review and permanency placement hearings are governed by MCL 712A.19c. The statute provides that at the time of the hearing, the Court **shall** review all of the following:

(a) The appropriateness of the permanency planning goal for the child.
(b) The appropriateness of the child's placement.
(c) The reasonable efforts being made to place the child for adoption or in other permanent placement in a timely manner.

(Emphasis added).

The Legislature enacted this statute on December 28, 2004. The Legislature specifically stated that, "This section applies as long as the child is subject to the jurisdiction, control, or supervision of the court or of the Michigan children's institute or other agency." MCL 712A.19c(2). The statutory language is a legislative directive of the Circuit Court's duty.

Therefore, the Circuit Court was mandated to consider whether reasonable efforts had been made to place the children for adoption, as these children were under the control and supervision of the Michigan Children's Institute.

The documentation supplied by the prosecutor's office at the time of the review hearing indicates that the permanency planning goal was adoption of the minor children. (Exhibit 9). This was the same permanency planning goal stated in testimony and reports offered to the Court in August, October and November of 2006. At the hearing conducted in November of 2006, a representative of Appellant stated that adoption would be in place by February of 2007. (Exhibit 11). However, no efforts had been made in that regard by the hearing on February 7, 2007. The parental rights of the mother were terminated in May of 2006. (Exhibit 6). Nearly a year later, only one request to adopt the children came before the Michigan Children's Institute, from Tim and Barbara Atwood. At the time of the Consent Hearing, the Superintendent of the Michigan Children's Institute testified that the agency first looks to appropriate family relationships or foster families and then begins to recruit other suitable adoptive placements. Based on affidavits submitted to the Court as exhibits to the briefs filed at the trial court level by MCI, none of the family had been approached or recruited about adopting Amber and Alyssa. (Exhibit 12). The Atwoods learned that the parental rights of their daughter had been terminated in July of 2006 and immediately contacted the Appellants to begin the process of adoption. One other family member approached the Appellant about adoption, but the family member had a protective service history.

In this case, the only person "recruited" to adopt the minor children was the foster mother. The foster mother repeatedly stated that she was unwilling or unable to adopt Amber and Alyssa:

* At a review hearing on August 9, 2006, the DHS worker reported, "she (referring to the foster mother), does not feel it is in their best interest for her to be the adoptive parent. She believes that those children need a two-parent family. I wish she would reconsider, but that's not going to happen." (Exhibit 13 - Hearing transcript, August 9, 2006, p. 3-4).

* A report was issued by Bethany Christian Services in October of 2006, and the foster care mother is reported as stating, that she would move forward with adopting them (the Keast children), but she believes that they deserve to have the benefit of a two-parent family (See Exhibit 4, Bethany Christian Services report).

* At a review hearing in November of 2006, discussions were again held regarding the adoption of the minor children and possible relative placement. There is no mention of the foster care mother requesting to adopt the minor children. (Exhibit 11, Hearing transcript, dated 11-8-06).

As of December of 2006, the foster care mother did not want to adopt the minor children. The minor children had been in her placement nearly nine months at that time. None of the children's immediate family was recruited for adoption of the children. (Exhibit 12 – Affidavits of family members). Since the placement of the children in care outside of their grandparents' home, there was no effort to contact family other than Tim and Barbara Atwood and no adoptive family stepped forward. Bethany Christian Services gave its notice to Tim and Barbara Atwood in October of 2006 that they were denying their consent to the adoption placement. (Exhibit 7). However, no further efforts were made to place the children for adoption or a permanent placement.

MCR 3.978 also provides for post-termination review hearings and states:

> The Court must make findings on whether reasonable efforts have been made to establish permanent placement for the child, and may enter such orders as it considers necessary in the best interests of the child.

MCR 3.978(C). The Circuit Court's priority clearly must be toward permanency of the child. If the Court finds, as in the present case, that such permanency is not being advanced by reasonable efforts, the Court has the power to enter orders in the best interests of the child.

MCR 3.975(g) indicates what orders the Circuit Court may enter at a dispositional hearing.

(1) Order the return of the child home;
(2) Change the placement of the child;
(3) Modify the dispositional order;
(4) Modify any part of the case plan;
(5) Enter a new dispositional order; or
(6) Continue the prior dispositional order.

The Circuit Court was obligated to use its discretion to determine if the goals of permanency have been met for the children and enter orders that advance that goal and are in the best interests of the children. These orders can clearly include the change of the children's placement.

DHS cites the case of *In re Cotton,* 208 Mich App 180, 526 NW 601 (1994), for the premise that a hearing pursuant to MCL 710.45 and order must occur before the Court enters any other orders affecting the best interests of the minor children. (See page 11 of the Appellants' brief for Application for Leave to Appeal to the Court of Appeals). The *Cotton* Court made no such ruling, holding, dicta or inference. Rather, the *Cotton* Court set forth the standard utilized in "section 45" hearings to determine if the denial of consent by MCI is arbitrary and capricious.

DHS also states that an adoption can not occur if a motion has been brought under a "section 45" hearing. The Appellant is correct, in that an **adoption** can not occur until all motions are decided and the applicable appeal periods have expired. No **adoption** was ordered. The Court

* At a review hearing on August 9, 2006, the DHS worker reported, "she (referring to the foster mother), does not feel it is in their best interest for her to be the adoptive parent. She believes that those children need a two-parent family. I wish she would reconsider, but that's not going to happen." (Exhibit 13 - Hearing transcript, August 9, 2006, p. 3-4).

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As of December of 2006, the foster care mother did not want to adopt the minor children. The minor children had been in her placement nearly nine months at that time. None of the children's immediate family was recruited for adoption of the children. (Exhibit 12 – Affidavits of family members). Since the placement of the children in care outside of their grandparents' home, there was no effort to contact family other than Tim and Barbara Atwood and no adoptive family stepped forward. Bethany Christian Services gave its notice to Tim and Barbara Atwood in October of 2006 that they were denying their consent to the adoption placement. (Exhibit 7). However, no further efforts were made to place the children for adoption or a permanent placement.

ordered placement of the minor children with their maternal grandparents and de-committed the children from the guardianship of MCI.

DHS reasoned that MCL 712A.19c(2) under the neglect code did not supersede the statutory provisions of MCL 710.45. This is completely contrary to the language of MCL 712A19c(2):

> Sec. 19c. (1) Except as provided in section 19(4) and subject to subsection (2), if a child remains in placement following the termination of parental rights to the child, the court shall conduct a review hearing not more than 91 days after the termination of parental rights and no later than every 91 days after that hearing for the first year following termination of parental rights to the child. If a child remains in a placement for more than 1 year following termination of parental rights to the child, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of the first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed. **A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether any other matters are pending. . .**
> (Emphasis added).

Further, the following is true:

a. The statutory review hearing scheduled for February 2, 2007 was set by the Court before the Atwoods requested a hearing pursuant to MCL 710.45 and took precedence over the "section 45" hearing due to being scheduled first.

b. MCL 710.45 in conjunction with MCR 3.978 and MCR 3.975(g) also provides for post-termination review hearings and mandates that the Court look to the best interests of the minor children and enter appropriate orders that advance the permanency of the minor children.

c. MCL 710.45 and the "section 45" hearing exist for the limited purpose of reviewing the actions of MCI and does not concern the best interests of the minor children or the permanency of the children.

DHS seemed to admit that the Court "could" go to extraordinary measures to ensure the safety of children, pursuant to MCL 712A.19c(2). If the Court accepts the original argument of DHS as being true, that when a "section 45" hearing is pending, and no other Orders can be entered, then how can the Court go to extraordinary measures to insure the best interests of the minor children pursuant to MCL 712A.19c(2) in any circumstance? Either the Circuit Court has the authority under the statute and court rules to review the placement of the children in the guardianship of MCI or it does not.

Finally, DHS provides no explanation as to why MCL 712A.19c(2), specifically addresses the Court's responsibility to review the placement and progress toward permanency of children when in the care of the Michigan Children's Institute. The most recent amendment to the statute was in 2004. The Legislature did not exclude the Michigan Children's Institute from being subject to the Court's mandated review. Clearly the Legislature intended that the trial courts have the ability to monitor the Michigan Children's Institute like any other agency or placement. It was not the intent of the legislature to place the Michigan Children's institute above reproach or review.

The Court of Appeals, in its Order, stated that the Circuit Court could not revoke the commitment of the children to the Michigan Children's Institute. In making this statement, the Court cited *In the Matter of Griffin*, 88 Mich App 184, 277 NW2d 179 (1979), where the Court of Appeals found that a probate court could not terminate a child's commitment to the Michigan Children's Institute because it lacked the jurisdiction to do so. Since that case was decided, however, the Legislature enacted MCL 712A.19c.[1]

MCL 712A.19c specifically provides the trial court with the jurisdiction and authority to act as it did. The Legislature provided that, "This section applies as long as the child is subject to the jurisdiction, control, or supervision of the court or of the Michigan children's institute or other

[1] MCL 712A.19c was originally enacted pursuant to Public Act 224 of 1988, effective April 1, 1989.

agency." MCL 712A.19c(2). This language was added by Public Act 479 of 1998, effective March 1, 1999. (Exhibit 14). The statutory language **supersedes** the 28-year-old case law found in *In the Matter of Griffin, supra*. Therefore, the trial court clearly had jurisdiction over the review hearing, as these children were under the control and supervision of the Michigan Children's Institute following the termination of parental rights. Indeed, the trial court was legislatively directed to review the case as long as the children were under the jurisdiction, control, or supervision of the court, the Michigan Children's Institute, or another agency. MCL 712A.19c(2); MCL 400.203(a); MCR 3.978(A).

MCL 712A.19c grants the trial court the authority to review:

> (a) The appropriateness of the permanency planning goal for the child.
> (b) The appropriateness of the child's placement.
> (c) The reasonable efforts being made to place the child for adoption or in other permanent placement in a timely manner.

These criteria to be reviewed were added to MCL 712A.19c by Public Act 46 of 2000, effective March 27, 2000. (Exhibit 15). In conducting such a review hearing, "[t]he court must make findings on whether reasonable efforts have been made to establish permanent placement for the child, and **may enter such orders as it considers necessary** in the best interests of the child." MCR 3.978(C) (emphasis added). This court rule was adopted February 4, 2003, and became effective on May 1, 2003.

One of the stated purposes of the Adoption Code is "[t]o achieve permanency and stability for adoptees as quickly as possible." MCL 710.21a(d). It is under this legislative directive that the trial court undertook to remove the children from the Michigan Children's Institute. As the Circuit Court had the jurisdiction and authority to revoke the commitment of the children to the Michigan Children's Institute, the Court of Appeals' decision of April 17, 2007, should be reversed and the decision of the trial court should be affirmed.

II. THE CIRCUIT COURT'S FINDING THAT THE MICHIGAN CHILDREN'S INSTITUTE HAD DEMONSTRATED A LACK OF PROGRESS TOWARD PERMANENCY PLANNING FOR THE TWO MINOR CHILDREN WAS APPROPRIATE.

A. STANDARD OF REVIEW

This issue requires the review of the Circuit Court's findings of fact, which are reviewed for clear error. *K & K Const., Inc. v Department of Environmental Quality*, 267 Mich App 523, 543, 705 NW2d 365 (2005). An appellate court will only disturb such findings where that appellate court is "left with the definite and firm conviction that a mistake has been made." *Ambs v Kalamazoo Co. Rd. Comm.*, 255 Mich App 637, 652, 662 NW2d 424 (2003).

B. ANALYSIS

In the trial court's Order After Post-Termination Review, the court specifically stated:

> Although the parental rights to the children were terminated and the children committed to the Department of Human Services for permanency planning, supervision, care, and placement under MCL 400.203, by order dated May 10, 2006, as of the date of this review hearing virtually nothing has been done towards the adoption goal other than disapprove the grandparents and request the adoptive mother to reconsider.

(Exhibit 3, p. 3). This finding of the trial court is supported by the exhibits and the testimony considered by the Circuit Court and listed on pages 1 and 2 of its Order.

The Department of Human Services must make reasonable efforts to place the children for adoption. MCL 712A.19c. The term "reasonable efforts" is not defined in the adoption or neglect statutes. When a term is not defined by statute, it should be given its plain and ordinary meaning, which may be appropriately determined by consultation with a dictionary. *Halloran v Bhan*, 470 Mich 572, 578; 683 NW2d 129 (2004). The word "reasonable" is defined in Webster's New World College Dictionary, 3rd Ed., as "using or showing reason, or sound judgment; sensible." "Effort" is

defined as "1. the using of energy to get something done; exertion of strength or mental power 2. a try, esp. a hard try; attempt endeavor 3. a product or result of working or trying; achievement."

The review hearing held by the Court on February 2, 2007 was the third post-termination statutory review hearing held. (Exhibit 9). The first was held in August 9, 2006. (Exhibit 13). At that review hearing, the DHS worker indicated that the case had been referred to adoption, because the foster mother did not wish to adopt. (Exhibit 13, p. 3-4). Further, she indicated that there were two interested parties, both relatives. (Exhibit 13, p. 4-5). The foster care worker also indicated that "So, I'm not thrilled about the prospect of adoption with a family member, I'm actually against it." (Exhibit 13, p. 5). She also indicated to the court that if the relatives were denied, that the adoptive agency (Bethany Christian Services) had a home in mind that was non-relative. *Id.* At that time, the Circuit Court then stated, "Well, it appears that reasonable efforts are being made, although progress is slow relative to the adoption of these children." *Id.*

On October 15, 2006, a report was authored by the Adoption Supervisor and caseworker. The report indicated on page eleven that the Atwoods were not an appropriate adoption placement. The report then goes on to indicate what the proposed adoptive family would look like. The report does not state any efforts that the MCI was making towards adoption, despite the report being a Child Adoption Assessment. (Exhibit 4).

On November 8, 2006, the second post-termination review hearing was held before the Circuit Court. (Exhibit 11). The trial court specifically asked if the children had met with any prospective adoptive parents. *Id.*, at 3. The case worker replied that the grandparents and another relative had expressed interest in adoption and that the assessments were being completed. *Id.* That assessment, though, had been completed as of October 15, 2006. (Exhibit 4). The statements of the DHS worker were exactly the same about the relatives wishing to adopt as stated at the August

review hearing. (Exhibit 11, p. 3). Again, the worker at the hearing stated, that if the relative's homes were not found suitable, "there was a possible placement that could potentially be looked into." *Id.*, at 3-4. The Court went on to inquire as to the timetable. *Id.*, at 5. The worker responded, "February of 2007." *Id.* The worker would not give the Court any further information as to what was holding up the process of adoption. *Id.*, at 5-6. The Court then stated, "I can only speculate with that amount of information, but I'll accept the fact that **some** progress is being made towards the permanency plan of adopting these children." *Id.*, at 6 (emphasis added).

In a permanent ward service plan dated January 9, 2007, the only "reasonable efforts" made towards the adoption indicated that a referral had been made to Bethany Christian Services. (Exhibit 16, p. 4). The report also indicates on page four, that the foster mother is now considering adoption, but would not make her decision until after the holidays. *Id.* If she decided not to adopt the children than another prospective family would be identified and the visits would begin. *Id.* On page ten of the service plan, it indicates that the DHS worker had been in contact with the adoption specialist more than once. *Id.* The report also indicates that the children's assessment and the grandparents' assessment had been completed. *Id.* The report indicates that both DHS and Bethany Christian Services are in agreement that the grandparents should be denied. *Id.* No other adoptive families are identified. *Id.* The mysterious adoptive placement, referenced in August and November, are not mentioned or referred to in the report. *Id.*

DHS argued that Bethany Christian Services was waiting for MCI to issue its decision on the Atwoods' request for consent, before they could move forward to locate an adoptive family. The transcripts of the review hearings and the reports do not support this statement. In fact, the DHS worker repeatedly stated from the beginning that she wanted the foster care mother to adopt. The DHS worker stated in August that she would not support the grandparents' adoption. (Exhibit

13). The DHS worker stated in August and again in November that other adoptive placements were already being looked into. (Exhibits 13 and 11). However, that was not true. DHS's delay in finding another adoptive family or approving the Atwoods was based upon the DHS wanting the foster care mother to adopt. It was the original intent from the outset. When the foster care mother declined in August, the matter was just sat on, and the same report relayed to the Court in January as it was in August.

DHS did not begin to move on the issue of adoption until the foster care mother stepped forward, and after the court proceedings for the MCL 710.45 hearing were originally noticed out in this matter (albeit incorrectly). Then, DHS claimed applications were being filed, and reports being completed in favor of the foster care mother pursuing adoption, clearly in an effort to demonstrate to the Court that efforts were finally being made.

Essentially, the Court found that the efforts of DHS were too little and too late. The only effort that DHS had made toward permanency of the minor children was to deny the grandparents the adoption and to lean on the foster care mother to pursue adoption. There were no other individuals recruited. No family members were contacted about adoption. DHS took a wait and see attitude, banking on the foster care mother coming through. It took nine months for the foster care mother to be convinced to pursue the adoption. That was nine months that the minor children languished in foster care, without DHS and the Michigan Children's Institute moving the children towards permanency.

The evidence shows that the foster mother was approached about adopting the minor children, but does not show what other efforts were made by DHS to place the children for adoption after she refused. At a review hearing on August 9, 2006, the DHS worker reported, "she [the foster mother] does not feel it is in their best interest for her to be the adoptive parent. She believes that

those children need a two-parent family. I wish she would reconsider, but that's not going to happen." (Exhibit 13, p. 3-4). A report was issued by Bethany Christian Services in October of 2006, and the foster care mother is reported as stating, that she would move forward with adopting the children, but she believes that they deserve to have the benefit of a two-parent family. (Exhibit 4). In arguing that it did make reasonable efforts, the Department of Human Services contends that it made several telephone calls to the foster mother. (DHS's Application for Leave to Appeal to the Court of Appeals, p. 16). DHS cannot, however, point to any other actions it took with regard to the adoption of these children. No relatives were contacted (Exhibit 12), and the maternal grandparents' application to adopt was denied. The trial court properly found that continuing to press the foster mother about her decision not to adopt the children and not seek any other alternatives did not constitute reasonable efforts. As such, the trial court did not commit clear error when it found that the Department of Human Services had failed to make reasonable efforts to place the children for adoption. The Court of Appeals decision of April 17, 2007, should be reversed, and the case remanded to the Circuit Court for a decision on the best interests of the children.

CONCLUSION

Appellants Tim and Barbara Atwood respectfully request that this Honorable Court grant their Application for Leave to Appeal, or in the alternative, enter an order preemptively reverse the decision of the Court of Appeals and remanding to the Newaygo County Circuit Court for a determination on the best interest factors.

Respectfully submitted,

WILLIAMS, HUGHES & COOK, PLLC

Dated: July 16, 2007

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