

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF NEWAYGO

FAMILY DIVISION

IN THE MATTER OF :

ALYSSA KEAST, d/o/b 1/22/00,
AMBER KEAST, d/o/b 8/18/02.

File No. 05-6388-NA
06-505-AS
06-506-AS
07-515-AM
07-516-AM

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OPINION CONCERNING THE WITHHOLDING OF CONSENT
CONDUCTED PURSUANT TO MCL 710.45

The maternal grandparents of Amber and Alyssa Keast were denied consent to file a petition to adopt their grandchildren by the Superintendent of the Michigan Children's Institute. Consistent with MCL 710.45 they moved this court to find by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious. This court does grant their motion and does find by clear and convincing evidence that the decision to withhold consent is arbitrary and capricious. Consistent with 710.45(6), the court does terminate the rights of Michigan Children's Institute and make the children permanent wards of this court. The court would reimburse the petitioners' costs of preparing, filing, and arguing the motion including a reasonable allowance for attorney fees.

NEWAYGO COUNTY
CIRCUIT COURT

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For the reason that the petitioners' *PROPOSED FINDINGS OF FACT AND LAW* dated June 15, 2007, and filed June 15, 2007, fairly and accurately reflect the evidence and applicable law, the court does adopt those findings and conclusions as its own. The judge's copy of such is attached hereto and incorporated by reference herein.

The court would add that the decision of the Superintendent of the Michigan Children's Institute was based solely on selected and edited reports sent to him and a telephone conference with those that generated those reports. There was no independent investigation. The "decision" of the Superintendent was merely a ratification of a caseworker's bias.

Further, the Superintendent testified that when the Michigan children's institute came into existence [P.A. 1935, No.220, Imd. Eff. June 8, 1935; MCL 400.201] it was located at the edifice known as Arbor Heights near Ann Arbor. Now it consists of a superintendent, two social workers and a clerk housed in the central office of the Department of Human Services. It has no separate budget; the four employees are those of the department. The Superintendent is the guardian of approximately 6,400 children committed to the "Institute". Of those 6,400 approximately 4,500 are eligible for adoption and approximately 2,800 are adopted annually.

Dated: June 21, 2007.

Terrence R. Thomas, Circuit Judge

