

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF MARQUETTE**  
**FAMILY DIVISION**

**In the Matter of:**

**JAMES RONALD DUPRAS, III**  
**d.o.b. 10/11/2009**

**File No. 09-9078-NA**

**minor child.**

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**FINDINGS OF FACT**  
**CONCLUSIONS OF LAW**  
**BEST INTERESTS OF CHILD**  
**ORDER TERMINATING PARENTAL RIGHTS**  
**ORDER FOR TRANSFER TO TRIBAL COURT**

**FINDINGS OF FACT**

James R. Dupras, III was born October 10, 2009. His mother is Cammille Leach. Paternity testing has established that his father is Donald Young, Jr. Donald Young, Jr. and James R. Dupras, III, are both members of the Sault Ste. Marie Tribe of Chippewa Indians. The Indian Child Welfare Act, 25 USC 1901 ff, applies to this case.

An initial petition was filed in this case on October 13, 2009, when the child was three days old. At that time, James R. Dupras, Jr. was listed as the child's father. Mr. Dupras was later ruled out by paternity testing. This court revoked his affidavit of parentage by an Order dated February 22, 2010. Donald Young, Jr. was determined to be James' legal father on July 21, 2010.

The case was sent to mediation, and an agreement was reached on October 11, 2010.

A trial was conducted on December 16, 2010. The evidence at the trial showed that Camille Leach had previously had her parental rights terminated to one child in Delta County and had voluntarily released another child for adoption. Ms. Leach testified that she was not in a position to provide care for James at the time of the hearing. Testimony also showed that Donald Young, Jr., had a guardian appointed for him, and that he has a diagnosis of Post-Traumatic Stress Disorder Syndrome. The expert witness, Sharon Skjolaas, testified that Mr. Young had an extensive history of mental health treatment and psychiatric care, and that the tribe had attempted to provide services to him both as a juvenile and as an adult, including foster care, specialized foster care, and adult foster care. She further testified that his full scale IQ was around 68, and that she thought he was beyond rehabilitation and did not have appropriate parenting skills, although he had had good visits with James and seemed to care about him. Mr. Young himself testified that he wanted what was best for James but he knew he could not care for him and thought he should be adopted.

### CONCLUSIONS OF LAW

#### a.) Jurisdiction

There is clear and convincing evidence, supported by the testimony of a qualified expert witness, that James' mother had her parental rights terminated to other children and could not care for James, and that James' father did not have the ability to provide appropriate parenting for him because of his disabilities. Active efforts to prevent the breakup of the Indian family were provided to Donald by the tribe in the form of mental health treatment, foster care, and other services, but an attempt to place the child with his father would likely result in serious physical or emotional damage to the child.

b.) Termination of parental rights

Ms. Leach executed a release of her parental rights to this court. Her release was understanding, voluntary, and executed after consulting with counsel. The guardian ad litem stated that he thought the release was in the child's best interest.

There was clear and convincing evidence that Mr. Young would not be able to provide proper care and custody for the child within the foreseeable future. Termination of his parental rights is therefore appropriate under MCL 712A196(3)(g). Additionally, there was evidence beyond a reasonable doubt, including the testimony of a qualified expert witness, Sharon Skjolaas. Ms. Skjolaas is recognized by her tribe as someone with knowledge of the tribe's customs and child rearing practices. She testified that Donald Young would not be able to provide proper care for the child. As indicated above, Ms. Skjolaas testified the tribe had provided active efforts to deliver services to Mr. Young, but because of his limitations, these services were not sufficient to allow the child to be placed with him without a high risk of serious physical or emotional damage to the child. Mr. Young's own testimony also supported this finding.

c.) Best Interests

The guardian ad litem stated he felt that termination of Donald Young's parental rights was in the child's best interests. In addition, the court is in receipt of documents from the Sault Tribe's Child Welfare Committee stating that they had determined that adoption of James Dupras was in the child's best interests. This court concurs that, based on the record as a whole, termination of Mr. Young's parental rights is in James' best interests, and that the requirements of MCL 712A.19b(5) have been satisfied.

d.) Tribe's placement preference

There is no evidence in this record that the Sault tribe has established a placement preference different from that set forth in 25 USC 1915(a). However, the tribe has submitted documents signed by the Chairperson of their Child Welfare Committee indicating that the tribe waived its placement preference in this case to allow placement with Amy and Ramsay Gauthier. The documents state that the reason for the waiver is the best interests of the child.

ORDER TERMINATING PARENTAL RIGHTS

Parental rights of Cammille Leach to James R. Dupras, III are HEREBY TERMINATED based on her voluntarily-executed release.

Parental right of Donald Young, Jr. to James R. Dupras, III are HEREBY TERMINATED for reasons stated in the foregoing opinion.

IT IS FURTHER ORDERED that James R. Dupras is placed in the permanent custody of the 25<sup>th</sup> Circuit Court. Pending further proceedings, the child will continue in placement with Ramsay and Amy Gauthier, and they will have the authority to make decisions for the child as though he had been adopted by them.

ORDER TRANSFERRING JURISDICTION

By stipulation of the parties, and with the concurrence of this Court, IT IS HEREBY ORDERED that jurisdiction of this case be transferred to the Tribal Court of the Sault Ste. Marie Tribe of Chippewa Indians, for purposes of adoption. This court will retain jurisdiction to make orders concerning the child until it receives notification that

the Tribal Court has accepted jurisdiction, at which time this case will be dismissed. The appointment of attorney Robbie Powelson as the child's guardian ad litem will continue, and will include appearances in Tribal Court to represent the child if necessary.

DATED:

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HONORABLE MICHAEL J. ANDEREGG  
Probate Court Judge