

CAUSE NO. 06-1034-15

IN THE INTEREST OF § **IN THE DISTRICT COURT OF**
CHILDS NAME CHILDREN § _____ **COUNTY, TEXAS**
A CHILD § **15TH JUDICIAL DISTRICT**

CHARGE OF THE COURT

MEMBERS OF THE JURY:

This case is submitted to you by asking questions about the facts. You must decide the answer to the question from the evidence you have heard in this trial. You are the sole judges of the credibility of the witnesses and the weight to be given their testimony, but in matters of law you must be governed by the instructions in this charge. In discharging your responsibility on this jury you will observe all instructions, which have previously been given.

You are now given additional instructions, which you should carefully and strictly follow during your deliberations.

1. Do not let bias, prejudice, or sympathy play any part in your deliberations.
2. In arriving at your answers consider only the evidence introduced under oath and such exhibits, if any, as have been introduced for your consideration under the rulings of the Court, that is, what you have seen and heard in this courtroom, together with the law as given you by the Court. In your deliberations you will not consider or discuss anything that is not represented by the evidence in this case.
3. Since every answer that is required by the charge is important, no juror should state or consider that any required answer is not important.
4. You must not decide who you think should win, and then try to answer the questions accordingly. Simply answer the questions and do not discuss or concern yourselves with the effect of your answers.
5. You must not decide any issues by lot or by drawing straws or by any other method of chance. Do not return a quotient verdict. "Quotient verdict" means that the jurors agree to abide by the result to be reached by adding together each juror's figures and dividing by the number of jurors to get an average. Do not do any trading on your answers; that is, one juror should not agree to answer a certain question one way if others will agree to answer another question another way.
6. You may render your verdict upon the vote of ten or more members of the jury. The same ten or more of you must agree upon all of the answers made and to the entire verdict. You will not, therefore, enter into an agreement to be bound by a majority or any other vote of less than ten jurors. If the verdict and all of the answers therein are reached by unanimous agreement, the presiding juror shall sign the verdict for the entire jury. If any juror disagrees as to any answer made by the verdict, those jurors who agree to all findings shall each sign the verdict.

These instructions are given because your conduct is subject to review the same as that of the witnesses, parties, attorneys and the judge. If it should be found that you have disregarded any of these instructions, it will be jury misconduct and it may require another trial by another jury, and all of our time will have been wasted.

The presiding juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

When words are used in this charge in a sense which varies from the meaning commonly understood, you are given a proper legal definition, which you are bound to accept in place of any other meaning. If a word or phrase has been defined for your use in this charge, you are instructed that you must use the given definition every time the defined word is used throughout the charge.

Answer "Yes" or "No" to all questions unless otherwise instructed.

Evidence

A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by witnesses who saw the act done or heard the words spoken, or by documentary evidence. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other acts proved.

Burden of Proof

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction as to the truth of the allegations sought to be established.

SECTION ONE: TERMINATION OF PARENTAL RIGHTS

This is a case for termination of parental rights.

"Termination" means that the relationship between the parent and child is ended. All legal rights, privileges, and duties with respect to each other are cut off, except that the child retains the right to inherit from and through the parent unless the Court provides otherwise. The rights, privileges, and duties a parent has are:

1. the right to have physical possession of the child and to establish the children's legal domicile;
2. the duty of care, control, protection, moral and religious training, and reasonable discipline of the child;
3. the duty to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education;
4. the duty, except when a guardian of the child's estate has been appointed, to manage the estate of the child, including a right as an agent of the child to act in relation to the

child's estate if the child's action is required by a state, the United States, or a foreign government.

5. the right to the services and earnings of the child;
6. the right to consent to the child's marriage, enlistment in the armed forces of the United States, and medical, psychiatric and surgical treatment;
7. the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;
8. the right to receive and give receipt for payments for the support of the child and to hold or disburse any funds for the benefit of the child;
9. the right to inherit from and through the child;
10. the right to make decisions concerning the child's education; and
11. any other right, privilege, or duty existing between a parent and child by virtue of law.

If termination of the parent-child relationship is ordered, the court may order a parent who is financially able, to pay child support after the termination.

If no termination of the parent-child relationship is ordered, the court may modify these rights and duties by court order.

For the parent-child relationship in this case to be terminated with respect to MOMS NAME, the mother of the child **CHILDS NAME**, it must be proven by clear and convincing evidence that at least one of the following events has occurred:

**LIST THE APPLICABLE GROUNDS CONSISTENT
WITH THE PLEADINGS AND THE PROOF**

“Endanger” means to expose to loss or injury, to jeopardize. It is not necessary that the conduct be directed at the child or that the child actually suffers injury.

In addition, it must also be proven by clear and convincing evidence that termination of the parent-child relationship would be in the best interest of the child. Some factors to consider in determining the best interest of the child are:

1. the desires of the child;
2. the emotional and physical needs of the child, now and in the future;
3. the emotional and physical danger to the child, now and in the future;
4. the parenting ability of the individuals seeking custody;
5. the programs available to assist those individuals to promote the best interest of the child;
6. the plans for the child of those individuals or by the agency seeking custody;
7. the stability of the home or proposed placement;
8. the acts or omissions of the parent that may indicate that the existing parent-child relationship is not a proper one; and

9. any excuse for the acts or omission of the parent.

Now, bearing in mind the foregoing instructions and definitions, you will answer the following question:

Question No. 1: Termination of the Parental Rights of TANISHIA ANDREWS

Should the parent-child relationship between **MOMS NAME** and the child, **CHILDS NAME**, be terminated?

Answer "Yes" or "No" as to each child:

CHILDS NAME Yes No

If the answer to the question above is "No" as to any child, then answer the questions in **SECTION TWO** as to that child; otherwise, do not answer the questions in Section Two.

SECTION TWO: MANAGING CONSERVATORSHIP

Texas law has adopted certain terminology that varies from common usage of the language. In this state the "primary custodian" of a child is known as the "managing conservator." What is ordinarily called "custody" is known as "managing conservatorship" under Texas law. What is commonly called "visitation" is known as "possession of or access to a child" in Texas. A "non-custodial parent" who is awarded "access and visitation" is known as the "possessory conservator."

The best interest of the child shall always be the primary consideration in determining questions of managing conservatorship and questions of possession or access to a child.

"Preponderance of the evidence" means the greater weight and degree of credible testimony of evidence introduced before you and admitted in this case.

"Managing conservator of a child" means the primary custodian of the child. The rights, privileges, and duties a managing conservator who is not the parent of the child has are:

1. the right to have physical possession of the child and to establish the child's legal domicile;
2. the duty of care, control, protection, moral and religious training, and reasonable discipline of the child;
3. the duty to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education;
4. the duty, except when a guardian of the child's estate has been appointed, to manage the estate of the child including a right as an agent of the child to act in relation to the

- child's estate if the child's action is required by a state, the United States, or a foreign government;
- 5. the right to the services and earnings of the child;
- 6. the right to consent to the child's marriage, enlistment in the armed forces of the United States, and medical, psychiatric and surgical treatment;
- 7. the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;
- 8. the right to receive and give receipt for payments for the support of the child and to hold or disburse any funds for the benefit of the child; and
- 9. any other right, privilege, and duty existing between a parent and child by virtue of law subject to the rights, privileges, and duties of a possessory conservator of the child, if any.

A parent, relative or other person shall be appointed permanent managing conservator, in preference to the Texas Department of Protective and Regulatory Services, unless appointment of a parent as managing conservator would not be in the best interest of the child because the appointment would significantly impair the child's physical health or emotional development; and it would not be in the best interest of the child to appoint a relative of the child or another person as managing conservator.

In determining whether the Department should be appointed as managing conservator of the child without terminating the rights of a parent of that child, you shall take the following factors into consideration:

- 1. that the child will reach 18 years of age in not less than three years;
- 2. that the child is 12 years of age or older and has expressed a strong desire against termination or being adopted;
- 3. that the child has special medical or behavioral needs that make adoption of the child unlikely; and
- 4. the needs and desires of the child.

You should answer the following questions based upon a preponderance of the evidence.

Question No. 2: Permanent Managing Conservatorship

Who should be named permanent managing conservator of the child, **CHILDS NAME?**

Answer "Yes" or "No"

Texas Department of Family and Protective Services Yes No

MOMS NAME Yes No

DELIBERATIONS

After you retire to the jury room, you will select your own presiding juror. The first thing the presiding juror will do is to have this complete charge read aloud and then you will deliberate upon your answers to the questions asked.

It is the duty of the presiding juror:

1. to preside during your deliberations;
2. to see that your deliberations are conducted in an orderly manner and in accordance with the instructions in this charge;
3. to write out and hand to the bailiff any communications concerning the case that you desire to have delivered to the judge;
4. to vote on the questions;
5. to write your answers to the questions in the spaces provided; and
6. to certify your verdict in the space provided for the presiding juror's signature or to obtain the signatures of all the jurors who agree with the verdict if your verdict is less than unanimous.

You should not discuss the case with anyone, not even with other members of the jury, unless all of you are present and assembled in the jury room. Should anyone attempt to talk to you about the case before the verdict is returned, whether at the courthouse, at your home, or elsewhere, please inform the judge of this fact.

When you have answered all the questions you are required to answer under the instructions of the judge and your presiding juror has placed your answers in the spaces provided and signed the verdict as presiding juror or obtained the signatures, you will inform the bailiff at the door of the jury room that you have reached a verdict, and then you will return into court with your verdict.

SIGNED this ____ day of _____, 2007.

JUDGE PRESIDING

CERTIFICATE

We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our verdict.

PRESIDING JUROR

(To be signed by those rendering the verdict if not unanimous.)
