

IN THE DISTRICT COURT FOR THE STATE OF ALASKA

_____ JUDICIAL DISTRICT AT _____

In the Matter of:)
)
_____, dob _____,)
)
child under the age of eighteen (18).) Case No. _____
_____)

MEMORANDUM IN SUPPORT OF TRIBE’S MOTION TO COMPEL OCS TO PROVIDE RECORD OF PLACEMENT

_____, a non-attorney representative of the Native Village of _____, submits this memorandum in support of the *Motion to Compel* (hereinafter “the Tribe’s motion”).

The child at issue in this case (hereinafter “the Child”) is an Indian child, as defined by 25 U.S.C. § 1903(4), and the Native Village of _____ (hereinafter “the Tribe”) is the Indian child’s tribe, as defined by 25 U.S.C. § 1903(5). Therefore, this case is subject to the Indian Child Welfare Act (ICWA).¹

Section 1915(b) of ICWA mandates that any Indian child eligible for foster care or pre-adoptive placement (absent good cause) be placed according to the following placement preferences:

- 1) with a member of the Indian child’s extended family (as defined by tribal law or custom);
- 2) with a foster home licensed, approved, or specified by the Indian child’s tribe;
- 3) with an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

¹ The Indian Child Welfare Act appears at 25 U.S.C. §§ 1901-1963.
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- 4) with an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.²

Furthermore, Section 1915(e) of ICWA requires that a record of each such placement be maintained.³ This record must detail the efforts made to comply with the previously-mentioned placement preferences and it shall be made available at any time upon the request of either the State or the Indian child's tribe.⁴

The Child is currently placed in a home that does not comply with ICWA's placement preferences, because:

- The child is *not* placed in one of the four ICWA placement preferences.
- The child is placed in a lower ICWA placement preference when there is a higher ICWA placement preference available and OCS has not documented good cause to deviate.

On _____, the Tribe sent a letter to OCS requesting that it provide the Tribe with a record of its efforts to comply with ICWA within ten (10) days of the date of the letter. In the letter, the Tribe cited the authority conferred upon it by 25 U.S.C. § 1915(e).⁵ More than ten (10) days have passed since the letter was sent and the Tribe has yet to receive a response.

It is in the best interests of the Child that *he/she* be placed in a foster home that reflects the unique values of the Alaska Native culture.⁶ Therefore, the Tribe requests that

² 25 U.S.C. §§ 1915(b)(i)-(iv).

³ 25 U.S.C. § 1915(e).

⁴ *Id.*

⁵ *Letter*, attached and filed herewith as Exhibit 1.

⁶ 25 U.S.C. § 1902.

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the Court compel OCS to provide the Tribe with a record of the efforts that have been made to place the Child in an ICWA compliant foster home.

Dated this ____ day of _____, 20__.

THE NATIVE VILLAGE OF _____

Address: _____

Phone: _____

By: _____

ICWA Worker

Native Village of _____

VERIFICATION

STATE OF ALASKA)

) ss:

_____ JUDICIAL DISTRICT)

I, _____, swear and affirm that the facts stated above are true and correct to the best of my knowledge.

ICWA Worker
Native Village of _____

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20__ at _____, Alaska.

Notary Public in and for the State of Alaska
My Commission Expires:_____

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