

FILED

SISSETON-WAHPETON-SIOUX  
TRIBAL COURT

7/25/16

Date

SISSETON-WAHPETON OYATE

by:

Clerk of Courts

SUPREME COURT

<p>ANGELITA CHANKU, APPELLANT,</p> <p>v.</p> <p>SISSETON WAHPETON OYATE, APPELLEE.</p>	<p>NO. APP-16-012-006</p> <p>MEMORANDUM OPINION AND ORDER</p>
--	---

Per Curiam (Thor Hoyte, Chief Justice and Associate Justices Russel Zephier and Pat Donovan)

Appellant, Angelita Chanku, appeals an order of the Sisseton Wahpeton Oyate court terminating her parental rights to her daughter. We affirm.

Oral arguments in this matter were held on June 30, 2016. Appellant appeared pro se and the Oyate was represented by Oyate prosecutor, Karen Gangle.

**PROCEDURAL HISTORY**

Chanku is the mother of A T-C born on January 8, 2012 and is currently 5 years old. The father is Colin Thompson and his parental rights to A T-C was terminated on July 27, 2015 and is not a part of these proceedings.

A T-C was removed from Chanku's care and custody after an incident on January 16, 2013. On that date Chanku was involved in a motor vehicle accident while under the influence of illegal drugs while A T-C in the vehicle. A T-C was placed in the emergency legal custody of the Tribal Child Protection program and was physically placed with Chanku's mother<sup>1</sup> on an emergency basis until June 6, 2013 at which time she was placed with Chanku. At some point after a couple of days, A T-C was removed from Chanku and placed in foster care where she has

<sup>1</sup> Chanku's mother was unable to continue as a physical placement option for A T-C due to unsuitable living space.

remained since.<sup>2</sup>

The Oyate filed a petition with the Oyate Court alleging A T-C was a dependent and neglected child. A hearing on the petition was held on October 23, 2014 where the court found A T-C was a dependent and neglected child. The court ordered Chanku to enter into a case services plan with the Tribal Child Protection program as part of an effort to reunify A T-C with Chanku.<sup>3</sup> The case services plan required Chanku to enter and complete inpatient treatment for her substance abuse problems and perform aftercare, find suitable housing and employment or other form of financial security, complete parenting classes and seek counseling for her PTSD.

Several review hearings were held where it was documented that Chanku had entered inpatient drug treatment multiple times but failed to complete the treatment programs each time. It was finally recommended that the parental rights to A T-C be terminated.

The Oyate filed a petition to terminate parental rights and a hearing on the petition was held on July 27, 2015. At the hearing Chanku admitted she failed to comply with the case service plan by failing to complete treatment 4 times, failed to complete parenting classes and failed to maintain stable housing and employment and continued to have drug and alcohol problems. The guardian ad litem for A T-C recommended Chanku be given one last chance. The court deferred ruling on termination of Chanku's parental rights for three months to give Chanku an opportunity to complete the case services plan.

On September 28, 2015 a review hearing was held. The court found that Chanku had not complied with the court's order to complete the case services plan and that there was an altercation between Chanku and her mother during visitation between A T-C and the

---

<sup>2</sup> It is unclear from the record why she was again removed from Chanku's care but at oral arguments Chanku stated she voluntarily gave up the physical custody of A T-C after a few days.

<sup>3</sup> The purpose of a case service plan is to avail a parent of services to remedy the reasons for the removal of their child. This could include parenting classes, counseling, seeking employment and suitable housing.

grandmother where police were called. The court noted the Tribal Child Protection program was still recommending termination of parental rights and that Chanku's visitation with A T-C be terminated. The court terminated Chanku's visitation with A T-C and ordered the Tribal Child Protection program continue reasonable efforts to achieve a permanent plan for the child pending the court's review of evidence in support of termination of parental rights.

A final review hearing on termination of parental rights and a permanency plan for the child was held on March 23, 2016. The court noted it would enter a final order and findings on the termination of parental rights issue.

On May 9, 2016 the court entered findings of facts and conclusions of law and an order terminating the parental rights of Chanku to A T-C. Chanku timely appealed the order of termination of parental rights.

#### **ISSUE ON APPEAL**

Chanku raises the following issue on appeal:

1. That the Oyate failed to meet its Burden of Proof to terminate her parental rights to her child, A T-C.

#### **DISCUSSION**

Termination of the Parent-Child Relationship is addressed in Chapter 9 of the Sisseton Wahpeton Tribal Code. The code provides that the burden of proof to terminate parental rights is beyond a reasonable doubt of the evidence.<sup>4</sup>

The code allows the court to terminate parental rights if it has been substantiated that reasonable efforts by an appropriate child-care agency has been unable to rehabilitate the

---

<sup>4</sup> 39-13-01

family.<sup>5</sup> The code further allows the court to terminate parental rights where the child is not in the physical custody of the parent(s) and the parent fails to maintain regular visitations or other contact with the child as designed in a plan to reunite the child with the parents or fails to maintain reasonably consistent contact or communication with the child.<sup>6</sup>

In its order to terminate parental rights, the court found that Chanku had not complied with or followed through with her case services plan including parenting and failed to maintain a consistent visitation schedule. The court further found Chanku had not addressed her chemical dependency issues. The court then specifically concluded that Chanku's parental rights should be terminated on the grounds that she is unable to meet the physical, emotional, medical, financial and educational needs of the child, and has not demonstrated the ability or the willingness to change her circumstances to do so.

The record backs up these findings and conclusion. A T-C has been in foster care for over 3 years. Chanku entered into the case services plan with the Tribal Child Protection Program over 3 1/2 years ago. She was aware of what she needed to do to reunite with A T-C. The Tribal Child Protection Program case services plan advised she was to complete inpatient treatment for chemical dependency and do aftercare, complete parenting classes, obtain suitable housing for her and A T-C, obtain financial stability and seek counseling for her mental issues.

The record shows Chanku failed in her attempts to complete inpatient treatment and aftercare. A report to the Court date May 18, 2015 noted that on 3/12/13 Chanku did not complete treatment. The report noted that a 7/18/13 home visit did not go well she was high as a kite. It further noted that on 8/18/14 she left treatment in Yankton and has been in treatment several times but left and has yet to complete.

---

<sup>5</sup> 39-12-01(10).

<sup>6</sup> 39-12-02(2) and (3)

Another undated Court Report noted that on 1/12/13 she struck the child in the face and left a bruise. It noted she left 3 treatment centers. It also noted that on 10/3/14 she did a couple of parenting classes but did not follow through. And it finally noted that on 12/6/14 Chanku was involved in kidnaping the child while grandmother was watching the child.

The court noted that after a review hearing on September 28, 2015 it had terminated visitation after finding Chanku had not complied with her case services plan and had engaged in inappropriate behavior in front of the child causing stress to the child and resulting in the police being called.

In another review hearing order, the court noted Chanku admitted she has drug and alcohol problems and had entered inpatient treatment four times and never completed treatment.

At oral arguments, Chanku admitted that she has abandoned her daughter. As noted earlier, A T-C has been in foster care for over 3 years.

The court further found A T-C was in need of a permanent plan that will provide the stability needed for healthy growth and development. Federal law requires permanency planning and for states and tribes to move to terminate parental rights when a child has been in foster care 15 out of the last 22 months.<sup>7</sup>

At oral arguments, Chanku claims she completed treatment in October, 2015 and has applied for housing in the last month but still lives in a homeless shelter. There are several problems with these assertions. Chanku has not provided proof of these efforts to the Oyate court and if the assertions are true, the efforts come well after the time for her to establish she had complied with the case services plan. Chanku does not point to any errors in the Oyate court's findings of fact or conclusions of law. She merely argues the court did not meet its burden of proof. Chanku had ample time and opportunity to comply with the case services plan and waited until after the

---

<sup>7</sup> Adoption and Safe Families Act Public Law 105-83.

last hour to comply. The Oyate was required to engage in a permanency plan and to terminate parental rights for lack of progress by Chanku. It is in the A T-C best interest that Chanku make efforts to remedy her situation to reunite with her daughter. In this she miserly failed until after the time to do so.

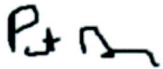
There was more than ample evidence in the record proving beyond a reasonable doubt that Chanku's parental rights to A T-C should be terminated. We therefore affirm the Oyate court's order terminating Chanku's parental rights to A T-C.

**ORDER**

The Oyate court's decision to terminate Chanku's parental rights to A T-C is affirmed in all respects.

Dated this 25<sup>th</sup> day of July, 2016.

FOR THE COURT:



---

Pat Donovan,  
Associate Justice