

IN THE SEPARATE JUVENILE COURT OF DOUGLAS COUNTY, NEBRASKA

IN THE INTEREST OF

) JV15-78

)

)

REPORT OF GUARDIAN AD LITEM

KIYAH MILLER, a Juvenile(s).

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A. Information

The undersigned individual was appointed by the Court as the Guardian Ad Litem for the above-named child(ren).

Date of Report: November 22, 2016

Date of Hearing: 30 November, 2016

Type of Hearing: Review and Permanency Planning

1. IDENTIFYING INFORMATION

Mother: Cindi Miller
Legal Father: Bradell Williams
Legal Custodian: NDHHS

Child's Name	Age (at time of report)	Placement
Kiyah Miller	7 years	Maternal grandmother

2. CONTACT WITH CHILD(REN) SINCE LAST HEARING:

Since the date of the last hearing, if any, I have had the following contact with the child(ren):

Date of Contact	Child Contacted	Type of Contact & by Whom (In-person, Phone, Other)
10/17/16	Kiyah Miller	In-person at kinship placement

If no contact has been made, please explain why: N/A

Expressed preferences of children, if any: **Kiyah would like to live with her mother.**

3. PERSONS AND OTHER RESOURCES CONTACTED SINCE LAST HEARING:

Since the date of the last review hearing, if any, I have had contact with the following persons and/or other resources, including caseworkers, physicians, psychologists, parents, foster parents, and teachers, in an effort to learn information about the child(ren)'s and family's circumstances and progress:

Date of Contact	Person or Resource Contacted	Title or Agency
Multiple	Susanne Dempsey-Cook	Attorney for Interveners
Multiple	Jill Johnson	NFC/FPS
Multiple	Brian Muench	Father's attorney
9/8/16 10/10/16	Carol Simonsen	Kinship placement
8/3/16 11/9/16	Mary Atwood	Child's therapist
9/13/16 10/19/16	Family team meetings with father/attorney/FPS	Family Team meeting
11/7/16	NDHHS attorney-John Baker Brian Muench, Jill Johnson	Safety Planning
9/29/16	County Attny-Jennifer Clark Jill Johnson	TPR staffing

4. DOCUMENTS REVIEWED SINCE LAST HEARING:

Since the date of the last hearing, if any, I have reviewed and relied upon the following documents:

Date of Document	Document Type/Title
Various	e-mails from NFC, legal parties, and Mother-Cindi Miller
10/14/16 11/10/16	Affidavits from NFC
Aug-Sep 2016	Visitation updates from visitation worker
11/9/16	NDHHS Case Plan and Court Report
11/4/16	Education Court Report
8/3/16 11/9/16	Treatment Progress Report/completed by child's therapist/Mary Atwood
9/9/16	Letter signed by school staff (Sally Ellis/Janet Glick)
Various	Court orders/legal record

B. Guardian Ad Litem Report to the Court

1. CONTACT WITH CHILD(REN) SINCE LAST HEARING:

Based upon information available, the following is a comprehensive outline of the relevant information and concerns about the child(ren) or family situation:

Kiyah appears comfortable, safe in her current placement, and healthy. She enjoys being in the relative placement with her maternal grandmother and older brother Devon. She regularly enjoys her Girl Scout (Daisy) activities and enjoyed participating in the family trip this summer. Kiyah is an excellent student and a very social child. The guardian ad litem believes that the current placement is appropriate for Kiyah. The placement has expressed a willingness to provide permanency for Kiyah if it is needed.

Documentation indicates that her medical, dental, and eye exams are current with no identified concerns. Kiyah is currently not on any medication but sees Mary Atwood of Reliable Rock Counseling for therapy services to address the diagnoses and symptoms identified in her IDI. Ms. Atwood has developed a good rapport with Kiyah and they have worked on coping skills. The therapist and foster parent reports that Kiyah seems to be feeling overall more secure and less emotional since the visits with the mother were temporarily suspended on August 23, 2016. The exception is that Kiyah has exhibited high levels of emotional turmoil immediately following her mother's attempts to make unauthorized contact with her.

Ms. Miller has made at least 5 alleged attempts to circumvent the court's initial order of 23 August, 2016 and subsequent order of 20 September, 2016 which temporarily suspended her contact with Kiyah. The mother's attempts were reported as follows:

- 1) In September 2016 foster parent reported that the mother showed up at the foster home and attempted to enlist law enforcement to assist in removing the child from foster home;
- 2) 8 September 2016 mother briefly accessed child at Florence Elementary School;
- 3) 9 October, 2016 mother accessed child at church;
- 4) 23 October, 2016 mother showed up at the foster home demanding the child be returned to her/police intervened/ban and bar against mother obtained for foster parent property; and
- 5) 2 November, 2016 mother unsuccessfully attempted to access child at Florence Elementary School.

Kiyah's therapist, Ms. Atwood, is recommending that the mother participate in a psychological, a psychiatric, and a chemical dependency evaluation with collateral information provided to the evaluator by NDHHS/Nebraska Families Collaborative before

supervised visitation is resumed. (Please see Ms. Atwood's therapy report dated 11/9/16). Based on the mother's history and behaviors the guardian ad litem believes that the results of the diagnostic testing are important to determining what kind of contact is safe and appropriate between the minor child and the mother. The diagnostic testing results would also assist in identifying any underlying issues which may be affecting the mother's ability to make progress towards reunification and may identify appropriate services to assist the mother.

Kiyah is a very bright, astute, little girl who is able to triangulate between adults somewhat. She is able to piece together a lot of what is going around her through observation. She is very parentified with respect to her mother. Kiyah can get very agitated and somewhat evasive when asked about her visits with her mother. In the past, she has told me that she needs to be with her mother to protect her mother from R.J. (her mother's boyfriend) and that she (Kiyah) would have to kill RJ if he comes around her mother.

More recently, Kiyah has reported to her therapist that she is afraid that her mother will kidnap her. (See report from Mary Atwood dated 11/9/16). Kiyah continues to exhibit very mixed emotions regarding her mother. The guardian ad litem is providing a letter written by Kiyah to the Judge in which Kiyah requests that she be allowed to see her mother. Both the therapist and the foster parent report that contact with the mother seems to negatively affect Kiyah's behaviors, emotions, and anxiety. Given the dichotomy between Kiyah's requests to resume contact with the mother and the Guardian ad Litem's best interest position that the visitation not be resumed at this time, the Guardian ad Litem believes that it would be appropriate to have separate legal counsel provided to the minor child to advocate for the child's position.

Mr. Williams is identified on Kiyah's birth certificate and is therefore the legal father but acknowledges that he does not believe he is the biological father of Kiyah. She knows only Mr. Williams as her father. He is generally cooperative, but has been historically slow and inconsistent with services. He completed Substance Abuse counseling with Lutheran Family Services in April 2016. His supervised visits with Kiyah were reported to be positive. Mr. Williams home was approved as a location for his visits. Kiyah typically discusses her visits with her father very matter of fact, without undue emotion.

Mr. Williams and Ms. Miller have a long history of an on-again, off-again relationship. There have been mixed messages about the status of the parent's relationship during the entire course of this case. The guardian ad litem has **continuously expressed** a concern that Mr. Williams has a history of capitulating to Ms. Miller's demands. In June 2016, the father received semi-supervised visitation which afforded him an opportunity to demonstrate his ability to safely protect Kiyah from Ms. Miller's behaviors should he successfully reunify with the child. However, there were allegations that he allowed contact between the mother and the minor child during an unsupervised portion of his visit. His visitation with Kiyah has been court ordered to return to fully supervised pending a scheduled evidentiary hearing on the matter.

At the time of this report, the guardian ad litem does not have information that indicates that the mother has made any sustained, meaningful progress with the court ordered services identified to facilitate safe reunification with the child. The mother was initially court ordered to submit to a psychological evaluation in April 2015. Despite the continuing court order for over a year and a half, the mother has not provided any evidence that she has complied by submitting to a psychological evaluation and allowing collateral information to be provided by NDHHS to an evaluator. In my opinion, Ms. Miller has displayed behaviors indicative of significant untreated mental health and instability. There have been reports of threats from the mother towards treatment providers and family members; the mother has refused to attend the Family Team meetings; it has been reported that she continues contact on some level with the individual she engaged in domestic violence with at the outset of this case in the presence of the child; and, she has attempted to circumvent the court's orders regarding contact with the minor child. Ms. Miller is currently representing herself rather than utilizing the offered court appointed legal counsel.

Kiyah has been placed in out of home care since January 2015; approximately 22 months. Based on the mother's lack of demonstrated progress, the guardian ad litem's continuing concerns about the father's ability to demonstrate protective capacity, the child's length of time in out of home care, and the lack of evidence that reunification can be safely facilitated any time soon, the guardian ad litem recommends that the permanency objective be changed to adoption with a concurrent permanency objective of guardianship.

The guardian ad litem recognizes the relationship between Kiyah and Mr. Williams and is amenable to a concurrent permanency objective of a juvenile court guardianship for Kiyah. Mr. Williams and the maternal relative caregivers have historically had a very positive relationship. Under a guardianship Kiyah could remain in a secure living arrangement with protective caregivers and the court could choose to continue to direct appropriate contact between Kiyah and Mr. Williams, if necessary.

2. RECOMMENDATIONS:

Based upon my contact with the child(ren), contact with others, and review of documents since the date of the last hearing, if any, and based upon all the files, records, and proceedings related to this matter,

As Guardian Ad Litem, I find that reasonable efforts have been made by the Nebraska Department of Health and Human Services for the child(ren) to return to or remain in the parental home:

Yes No N/A

As Guardian Ad Litem, I find that the child(ren) would be at risk of harm if the child(ren) returned to or remained in the parental home at this time, and recommend removal or continued removal by the Court from the parental home: Yes No

As Guardian Ad Litem, I have identified the following as possible barriers to permanency:

Mother's lack of progress with court ordered services.

Mother's lack of insight into the effect of her behaviors and actions on the child.

Concerns that the mother may be in need of mental health or substance abuse treatment based on reported and observed behaviors.

Effect on child's emotional stability when having contact with the mother.

Uncertainty regarding the father's ability and/or willingness to demonstrate protective capacity with regard to the mother.

Length of time child has been in out of home care.

As Guardian Ad Litem, I have identified the following active efforts (if applicable): N/A

As Guardian Ad Litem,

☒ I am in agreement with the recommendations made by the NDHHS.

☒ I recommend the following additional requirements be court ordered:

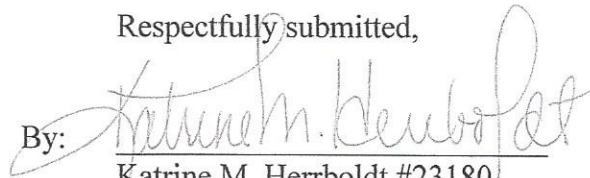
1. That the mother participates in psychological testing with collateral information provided by NDHHS/Nebraska Families Collaborative as previously court ordered.
2. That the mother participates in a psychiatric evaluation with collateral information provided by NDHHS/Nebraska Families Collaborative to determine whether there is a need for medication management.
3. That the mother participates in a chemical dependency evaluation with collateral information provided by NDHHS/Nebraska Families Collaborative to determine whether there is a need for any substance abuse treatment services.
4. That the results of the requested evaluations be distributed to the appropriate legal parties.
5. That the mother have no further contact with the minor child until the requested evaluations are received and reviewed by the court to determine if and how visitation with the minor child can safely occur.
6. That the father's visitation remains fully supervised pending the evidentiary hearing on the issue.
7. That the minor child continues to participate in therapeutic services until successfully discharged by the therapist.
8. That the minor child be appointed a separate attorney to represent her position with regard to reunification.
9. That the permanency objective is adoption with a concurrent permanency objective of guardianship.

☐ I disagree with the recommendations of the NDHHS & instead request that the Court order:

Dated this 22nd day of November, 2016.

Respectfully submitted,

By:



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GAL for Kiyah Miller

cc: Brian Muench
Paulette Merrell
John Baker
Cindi Miller
Susanne Dempsey-Cook