IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF:

ESTHER BELLA RODRIGUEZ
Date of Birth: 06-15-2015

A Minor

CASE NO: 73198

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Case No.: J-15-337398-P1
Dept. No. K
Courtroom 22

PETITIONERS' SUPPLEMENT TO APPENDIX TO PETITION FOR WRIT OF MANDAMUS AND STAY OF DISTRICT COURT PROCEEDINGS

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CERTIFICATE OF MAILING

I hereby certify that I am an employee of the MILLS, MILLS & ANDERSON and that on the _____ day of July, 2017, I duly deposited for mailing in the U.S. Mail at Las Vegas, Nevada, postage prepaid thereon, or had hand-delivered, a true and correct copy of the above and foregoing **PETITIONERS' SUPPLEMENT TO APPENDIX TO PETITION FOR WRIT OF MANDAMUS AND STAY OF DISTRICT COURT PREOICEEDINGS** addressed to the following at their last known address:

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EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION – JUVENILE
CLARK COUNTY, NEVADA

IN THE MATTER OF: **ESTHER BELLA RODRIGUEZ** Date of Birth: 06-15-2015 A Minor	CASE NO: J-15-337398-P1 DEPT. NO. K COURTROOM 22

ORDER

This matter came on calendar for an objection hearing on May 23, 2017. The court is not required to rely on the master's findings, but if the court chooses to rely on the master's findings, it may do so only if the findings are supported by the evidence and not clearly erroneous. *In the Matter of A.B, a Minor*, 291 P.3d 122 (Nev. 2012). This court is not obligated to adopt the juvenile dependency master's findings and can exercise its own independent judgment in deciding the disposition of a case. *Id.* After reviewing the record and considering the pleadings filed in this matter, the court hereby finds as follows:

The minor child was placed into protective custody on July 27, 2015. An order terminating the parental rights of the natural parents was filed on February 18, 2017. The minor child has resided in her current foster placement since September 9, 2016. The current foster placement is an adoptive resource. The natural mother's cousin, Stephanie Rozier, contacted the Department in October 2016 when she became aware that the child was placed in protective custody. An ICPC for placement of the child with Ms. Rozier and her husband was approved in

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DISTRICT JUDGE
FAMILY DIVISION, DEPT. K
LAS VEGAS NV 89101

March 2017. At the status check hearing on April 4, 2017, the Hearing Master set a placement hearing since the Department objected to placement with the Rozier's.

After the placement evidentiary hearing which occurred on April 13, 2017 and April 14, 2017, Hearing Master Norheim found that the Department should have located Ms. Rozier earlier. He further found that Ms. Rozier demonstrated a reasonable excuse for the delay in coming forward and requesting placement of the child and it is highly likely that the Rozier's will end up with one of the siblings of the minor child. The Hearing Master recommended that the child be placed with the Rozier's so long as they provides proof of the familial relationship and comply with the trauma minimization transition as outlined by the Department. On May 1, 2017, the Department of Family Services filed an Objection to the Hearing Master's Findings of Fact, Conclusions of Law, and Recommendations.

The Department makes numerous arguments including that the Hearing Master did not apply the placement standard set forth under NRS 432B.550; the familial preference does not exist since the parents' rights have been terminated; Ms. Rozier did not provide a reasonable excuse for the delay in seeking placement; DFS could not have known about Ms. Rozier's existence since the child's adult half sibling failed to disclose the existence of Ms. Rozier; at this time, Ms. Rozier does not have custody of the child's sibling; and it is not in the child's best interest to be placed with Ms. Rozier since the child is bonded to her foster family.

Ms. Rozier, who resides in Georgia, testified that she was not aware that the minor child was placed into foster care until maternal uncle "Tony" told her in October 2016. This court agrees with the Hearing Master that Ms. Rozier had a reasonable excuse for not coming forward sooner. The court further agrees with the Hearing Master that the Department should have located Ms. Rozier earlier since the Department had contact with the child's adult half sibling in April 2016. The unity notes from the Department attached as Exhibit 1 to the objection do not indicate that the Department asked the child's adult half sibling in April 2016 about other relatives who could take placement of the child.

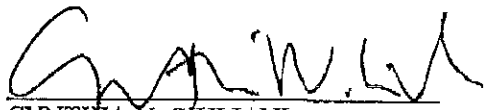
NRS 432B.550 provides that in determining the placement of a child, it must be presumed to be in the best interests of the child to be placed together with the siblings of the child. Here, the child's adult sibling indicated that she was not a placement option for the child. Ms. Rozier is seeking placement of the child's other sibling who is presently in foster care. NRS 432B.550 provides that preference must be given to placing the child with any person related within the fifth degree of consanguinity to the child or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State. Any search for a relative with whom to place a child must be completed within 1 year after placement of the child outside the home. Here, the child was placed outside the home in July 2015. The Department had contact with the child's adult sibling but it doesn't appear that the Department asked the child's adult sibling whether there were other relatives who could take placement of the child.

This court agrees with the Hearing Master's finding that the Department should have located Ms. Rozier earlier since they had contact with the child's adult sibling. This court finds that the familial preference does apply in this case. The Hearing Master appropriately found that Ms. Rozier had a reasonable excuse for the delay in seeking placement of the child. Further, he appropriately found that both the foster parents and the Rozier's are good and dedicated parents; both have good community involvement; and both have more than adequate resources to care for the child. The Hearing Master appropriately determined suitability of the Rozier's and considered the best interest of the child when making his decision. The Hearing Master found that although the child is bonded to the foster parents, the Rozier's have a biological connection with the child and it is highly likely that the Rozier's will end up with one of the child's siblings.

The court finds that the Hearing Master's findings are not clearly erroneous. It is hereby ordered that the Department of Family Services objection to the Hearing Master's Findings of Fact, Conclusions of Law, and Recommendations is DENIED.

IT IS SO ORDERED.

Dated this 12th day of June, 2017.



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