

Richard England Sr. L.C.S.W.
Indian Child Welfare Act Expert Witness
April 8, 2017

**To: The Honorable Judge
Juvenile Court,
City and County of Denver,
State of Colorado**

Indian Child Welfare Act Expert Witness Declaration

In the matter of:

<u>Name</u>	<u>Date of birth</u>	<u>Age</u>	<u>Sex</u>	<u>Court #</u>
<i>Redacted</i>	<i>Redacted</i>	2 mos.	M	<i>Redacted</i>
<i>Redacted</i>	<i>Redacted</i>	2mos.	M	<i>Redacted</i>

I have the following qualifications as an Expert in this ICWA case, I am a Yurok Tribal member with Karuk, Tolowa, and Cherokee descent and a professional having substantial education and experience in the area of my specialty, namely as a Tribal Psycho-Therapist, Tribal Social Worker, Tribal Social Services and ICWA Director, and Tribal Community Organizer in Service to Native American Communities for over 20 years.

As an Expert Witness, I have provided Declarations and testimony in hundreds of cases in the past 17 years in California, Oregon, Washington, Colorado, Nevada, and Idaho Courts. I have worked with State and County Social Service departments, and various tribes throughout the United States as an Expert Witness and consultant in Indian Child Welfare Cases.

My Native American ancestry includes enrollment in the Yurok Tribe, roll # 562-9065, located on the Yurok Indian Reservation in California. I am a descendant of the Karuk Tribe, the Tolowa Tribes, the Chetco Tribe, and the Cherokee Tribe.

My work experience includes; Yurok Tribe Social Services and Indian Child Welfare Program Director, Klamath Tribe Crisis Prevention Social Worker and Mental Health Program Manager, and United Indian Health Services Youth Prevention Coordinator. Over the past 20 years I have been employed as a Indian Child Welfare Expert Witness, Therapist/Counselor for Indian Children and their Families in Indian Country, and as a School Counselor in my ancestral aboriginal territory.

My education includes; a Minor Degree in Native American Studies, an Indian Teacher Education Personnel Program Certification from Humboldt State University, a Bachelor Degree in Social Science from Humboldt State University, a Master Degree in Clinical Social Work from Portland State University, a school counseling credential from Sacramento State University, I am a credentialed K-12 Pupil Personnel School Counselor, and I am a Licensed Clinical Social Worker through the Board of Behavioral Sciences in California.

I also have substantial experience working with Native American families and Tribal services in the areas of substance abuse, suicide prevention and intervention, domestic violence, inter-generational trauma, child abuse and neglect, and culturally appropriate service integration. In addition, I possess extensive knowledge of the social and cultural standards of child-rearing practices of Indian Tribes.

To familiarize myself with this case I have reviewed the Petition to the Court dated February 23, 2017. I have been in contact with Lori Weiser from the Child Protection Department at Denver Department of Human Services, Shannon Meddings and Michelle Jones from the Denver City Attorney's office, Robyn Spang from the Northern Cheyenne Tribe, and with *Redacted*.

Continued Custody

Based on the information I have reviewed, it is my opinion that if *Redacted* and *Redacted* were to remain in the care and custody of *Redacted* at this time, it is likely to result in serious emotional or physical damage to them.

On or about January 18, 2017, *Redacted* tested positive for amphetamines while pregnant at St. Joseph's Hospital. The report indicated that *Redacted* had previously tested positive for amphetamines and THC on December 21, 2016, when she came in due to concerns she may be in labor. At that time, *Redacted* admitted to smoking marijuana and using methamphetamines on December 21, 2017.

Redacted was admitted to the hospital on January 18, 2017, due to a high risk pregnancy. On January 24, 2017, *Redacted* delivered the twins. *Redacted* admitted to using marijuana on January 2, 2017, but denied methamphetamine use that was present in the January 18, 2017, urine sample. The twins were born at 32 weeks at a significantly low birth weight. At birth the twins tested negative for all substances, however, the meconium was positive for THC. The children remained hospitalized due to prematurity and prenatal drug exposure as they needed specialized care.

Redacted reported having two older children that reside with their father in North Carolina. She also reported moving from Florida to Colorado approximately one year prior and that she had been experiencing homelessness, domestic violence, and she had been using drugs. *Redacted* chose to breast-feed the children and she cooperated with hospital, and DHHS staff, in utilizing the lactation bank until her drug test results were confirmed negative. *Redacted* was reportedly actively involved with the twins while they were in the hospital, however, her interactions with hospital staff was described as contentious. Hospital staff reported that they offered multiple solutions to her lack of housing and *Redacted* refused to follow through with housing options and denied services through community providers. At the time the children were ready to be discharged, *Redacted* had not secured appropriate housing, thus did not have the ability to appropriately meet the twins basic and medical needs outside of the hospital.

At that time there was no information regarding the biological father or other possible resources, and financial support that *Redacted* may be utilizing for herself and the children.

Active Efforts

Based upon my review of the matter, it is my opinion that the Denver Department of Human Services and the Hospital Staff offered *Redacted* remedial services and rehabilitative programs to prevent the break-up of this Indian family, and *Redacted* did not demonstrate that she was willing or able to engage in those services.

More specifically, *Redacted* was given options to avoid homelessness and offered services to address other issues that prevented her from meeting her children's basic needs, and *Redacted* failed to comply with and/or engage in the services that were offered to her.

Current Placement

Based upon my review of the matter, it is my opinion that the current licensed and certified placement is the most appropriate and least restrictive placement at this time taking into consideration the twin's needs.

Due to the emergent nature of the circumstances, there was not an alternative ICWA preferred placement available at the time of the children's removal. Since that time, the department has been working with the Arapahoe and Northern Cheyenne Tribes. With the support of the Northern Cheyenne Tribe, the department is currently looking into an ICWA preferred relative placements that may be appropriate. The department have been diligent in their efforts to search for an ICWA preferred placement and they are continuing to pursue other potential options at this time.

Strengths

The twins are receiving support and resources from the Department, the Northern Cheyenne Tribe, and the Arapahoe Tribe. Both Tribes have worked with the family and the department to provide the twins and *Redacted* with support.

After speaking with both the Arapahoe Tribe and the Northern Cheyenne Tribe, it is my understanding that the Northern Cheyenne Tribe is taking the lead and the Arapahoe Tribe is stepping back to allow this. As of last week, the children were enrolled in the Northern Cheyenne Tribe and the department is working concurrently with the Tribe to ensure that all available resources will be provided.

Redacted has been referred to a Native American Health Clinic by the department as part of the active efforts to provide the family with culturally appropriate services. *Redacted* has access to counseling and other supports if she chooses to engage in those services. This facility is specifically for Native American clients and also provides them with access to medical services.

Conclusion

Based on the information that I have reviewed, the children were at great risk of harm due to their mother being homeless and having substance abuse issues. *Redacted* was using amphetamines and marijuana and she has a history of domestic violence. In addition, both of the children's meconium was positive for THC after their birth. *Redacted* placed her children in danger and was not prioritizing their best interests or basic needs. *Redacted* used substances while she was pregnant and her children were born premature, with medical issues, and with evidence of her drug use in their meconium. Furthermore, *Redacted* currently has a warrant for her arrest and has been minimally engaged in working with the department to have the opportunity to reunify with her children.

The behaviors that *Redacted* has displayed are not reflective of the Northern Cheyenne Tribe's child-rearing practices. Children who are exposed to drugs in utero have a much greater chance

of difficulties that include premature birth, low birth weight, and other potential effects that can hinder their physical health and development. In speaking with *Redacted* and in reviewing the case documents, it seems as though she still may be using substances and making poor choices at this time.

When I spoke with *Redacted*, she seemed agitated, irritable, and unhappy with the current circumstances and our conversation as a whole. *Redacted* asked about my involvement in the process and I explained that under the Indian Child Welfare Act, the minimum federal standards included the testimony of an Expert Witness to assess the circumstances of her case, and to develop an opinion in specific areas of the case. I also shared with her that this is something that supports the process and can be helpful for her if she chooses to engage in services.

Throughout our conversation, *Redacted* seemed edgy and untrusting of what my role was. We communicated about her contacts with the Arapahoe and Northern Cheyenne Tribes and she stated that she was not pleased with the contacts that she had with either Tribe. When we discussed her children's enrollment in the Northern Cheyenne Tribe, it seemed as though she had some difficulty tracking the conversation and what we were talking about. At that time, I shared with her that I had been in contact with June, the Arapahoe ICWA Worker, and with Robyn, the Northern Cheyenne ICWA Worker, and that they were both supportive of the family's best interest and engaging her in services to work on her issues. I further stated that Robyn Spang is very supportive of ensuring that all Northern Cheyenne children are provided with the opportunity to receive support from the Northern Cheyenne Tribe. *Redacted* did not seem receptive to these aspects of our conversation and responded in a seemingly defensive manner. At that point in the conversation, it became difficult to engage *Redacted* in anything positive about the supports and resources that the department and the Tribe are offering at this time.

Redacted seemed suspect with regard to my involvement in the case and she continued to present in a manner that seemed to convey an agitated mood and disdain with the content of our conversation. She stated that she didn't understand why I was calling her on a Friday before court. *Redacted* stated very clearly that she was unhappy with the help that she has been provided. She also stated that she would like her children to be placed with her niece and that no

one was doing anything in this area to help her. I interjected that both the Department and the Tribe had stated that they are looking at appropriate ICWA placement and that it is a process that includes certification and background checks to ensure the safety of the children. At that time *Redacted* stated that she has a warrant for her arrest and she was not sure if she would be coming to court on Monday.

It is concerning that *Redacted* was using substances and did not have a plan to treat her substance abuse. *Redacted* seemed defensive and had rapid speech throughout our conversation. Parents who are using amphetamines often have difficulty with consistently attending to their children and providing them with their basic needs.

Placing a newborn infant with a caregiver that is using substances would be detrimental and harmful to the children. The twins need to have around the clock care and it is imperative that they have someone who is lucid, sober, and capable of meeting their basic needs. The twins need to be fed, bathed, changed, clothed, protected, and nurtured in order for them to meet their physical, emotional, and psychological developmental milestones.

These aspects of care are also true for the child-rearing practices of the Northern Cheyenne Tribe. Within the Tribal community, children are viewed as sacred beings and their early childhood development and environment promotes and supports trust and interdependence, which is significant to the child-rearing practices of the Northern Cheyenne Tribe.

In order for *Redacted* to parent in a manner that is reflective of the child-rearing practices of the Northern Cheyenne Tribe, she needs to prioritize the twins' best interest and make choices that will reflect supportive, caring, nurturing, and consistent care. This also includes providing a substance-free environment for herself and the children to ensure their safety and well-being.

Various aspects of cultural development center around family and ensuring that children have the opportunity to experience culture, customs, and traditions on a daily basis. In order for this to take place, it is vitally important to have a caregiver who can provide the structure, consistency, love, and nurturing that newborn children need. This approach creates opportunities for bonding and connecting children with their families, as well as the extended families, as they develop and

create strengths and protective resiliency factors. All of these components of child rearing support the Tribe's way of raising their children that has been in place since time immemorial. Children are the center of the world for Tribal culture and without them the future of the Tribes, and their ongoing existence, will cease to exist. With this in mind, it is vitally important for a parent to be stable, consistent, and grounded when providing care for their children. This also includes having extended family and other support systems to keep children safe while providing them with what they need to meet their best interests.

Redacted is the primary caregiver for her children and it is imperative that she has all her faculties and available support to ensure she can provide for her children. At this point in time, *Redacted's* behaviors and actions are concerning, and they pose a risk to her newborn children that is serious and impactful on their best interests. *Redacted* needs to acknowledge that in order to effectively change her situation she needs to work with the department and the Tribe.

The Department and the Tribe are continuing to attempt with engaging *Redacted* in the case plan in order for her to develop the necessary tools for appropriate children rearing. The difficulty remains that when people are deeply embedded within their addiction, it impedes their ability to think rationally and logically. Based on the conversations that I have had with the department, the Northern Cheyenne Tribe, and *Redacted*, it is evident that she is not accessing what is being offered at this time. It is also my opinion that *Redacted* needs to take responsibility for her choices and actions to remediate her circumstances.

I am hopeful that with the support of the Department and the Tribe, that *Redacted* will initiate the steps to address her legal issues and engage in the services that are being offered at this time. I am also hopeful that as the case moves forward, the children will have the opportunity to have age-appropriate immersion with their Tribal culture as deemed age appropriate by the Tribe. This aspect of the case plan is an important component of child rearing practices of the Tribe, and the early childhood development of Tribal children, that will provide connections to their culture and the Tribal Community.

I declare under penalty of perjury that the foregoing declaration, including any addendums, is true and correct and is based on my personal knowledge except as to those matters which are therein stated upon my information and belief, and as to these matters I believe them to be true.

Respectfully,

Richard England Sr. M.S.W., L.C.S.W., PPSC

Indian Child Welfare Expert Witness

Yurok Tribal Member, Karuk, Tolowa, Cherokee Descendant