



Oregon

Kate Brown, Governor

Department of Human Services

Child Welfare

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October 12, 2015

Elkton High School
Superintendent, Andy Boe
739 River Dr
Elkton, OR 97436



RE: Student, Xavier Delacruz, (Date of Birth, 10/14/98)

Dear Mr. Boe:

This is to confirm the conversation we had today regarding student, Xavier Delacruz. This includes the following information:

Xavier is in foster care through DHS/Child Welfare Program which means he is a ward of the court in Douglas County. Please find the attached court order reflecting this for your records. DHS/Child Welfare Program is his legal guardian and I am his assigned caseworker.

Xavier has a history of playing school sports. However, he has struggled academically and was unable to play last year. He also had to change placements last year, which was very difficult for him as he had been living with relatives. Xavier started this school year at Elkton high school and is trying to make a fresh start. Since he decided to join and is practicing with the football team his foster parents have noticed a definite positive change in him. This includes him being more talkative, willing to share his thoughts and feelings and he appears more confident and positive. I hope that you would consider this in allowing Xavier to play football. If you have further questions please contact me at (541) 430-7442 and/or email me at lisa.alvarez@state.or.us.

Sincerely,

Lisa Alvarez, Teen Worker

Social Service Specialist

DHS/CHILD WELFARE PROGRAM

LA:

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR DOUGLAS COUNTY

FILED

SEP - 1 2015

In the Matter of:

Case Number: 09JU462

Xavier Delacruz

PERMANENCY JUDGMENT

A Child.

Time _____
DOUGLAS COUNTY CIRCUIT COURT

► This matter came before the Court on September 1, 2015, for a permanency hearing, pursuant to ORS 419B.470 and 419B.476.

Parties Appearing:

<input type="checkbox"/> Legal <input type="checkbox"/> Putative Father:	Attorney for Father:	DHS Caseworker:
	<i>Tony Griffin</i>	Lisa Alvarez
Mother:	Attorney for Mother:	Juvenile Department:
Child:	Attorney for Child:	CASA:
	<i>Danielle O'Brien (phone)</i>	
Guardian:	Attorney for Guardian:	Guardian Ad Litem:
Tribe:	Attorney for Tribe:	Other:
Deputy District Attorney:	Assistant Attorney General:	Other:
	<i>Summer Baranico</i>	

Type of Permanency Hearing:

- ☒ **Annual Review:** 12 months after jurisdictional finding or 14 months after child's placement in substitute care, or subsequent annual review. ORS 419B.470(2) and (6).
- ☐ **At the request of:** _____ ☐ **By order of the court.** ORS 419B.470(5)
- ☐ **Delayed initiation of adoption proceedings/placement:** six months have passed since child was surrendered or parental rights were terminated (permanency hearing required every six months until child is placed, or adoption proceedings initiated). ORS 419B.470(4) and (7).
- ☐ **Child removed from court sanctioned permanent foster care** (hearing within 90 days). ORS 419B.470(3).
- ☐ **Special circumstances:** within 30 days when DHS has determined it will not provide reunification services based on a judicial finding that DHS is not required to make reasonable efforts. ORS 419B.340(5); 419B.470(1).
- ☐ Child in substitute care 15/22 months. ☐ Parent convicted of crime listed in ORS 419B.498(1)(b)
- ☐ A court has determined that the child is an abandoned child. ORS 419B.498(1).

Standard of Proof / Evidence Considered:

The Findings made below are based on ☒ a preponderance of the evidence ☐ clear and convincing evidence, because the child is an "Indian child" under the ICWA (25 USC §§ 1901-63).

The court considered the following evidence in making the Findings and Orders in this Judgment:

- ☒ Stipulations by the parties.
- ☐ The exhibits offered by the parties and admitted at the hearing.
- ☐ The exhibits received by the court under ORS 419A.253.
- ☐ The testimony of the witness(es) at the hearing.
- ☐ The following facts and/or law, of which the court has taken judicial notice: _____

THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:

1. JURISDICTION AND WARDSHIP:

☒ The child was found to be within the juvenile court's jurisdiction and made a ward of the court by judgment(s) entered on: June 1, 2010.

2. PLACEMENT, ICWA, NOTICE AND CONCURRENT PLANNING:

► **Placement:**

☒ The child's current placement is in **substitute care** with/in: ☐ Relative foster care ☒ Non-relative foster care ☐ Permanent foster care ☐ Residential treatment: _____ ☐ Pre-Adoptive Home ☐ Other: _____. The placement ☒ **is** ☐ **is not** in the best interests of the child and the least restrictive, most family-like setting that meets the health and safety needs of the child and is in reasonable proximity to the child's home. The current placement ☐ **is** ☒ **is not** an interstate placement. ☐ DHS is ordered to modify the child's care, placement, and/or supervision, as follows: _____

☐ Additional findings/orders: _____

► **Indian Child Welfare Act (ICWA):**

☒ ICWA **does not** apply.
☐ ICWA **does** apply, because the child is an "Indian child" under the ICWA (25 USC §§ 1901-63), who is a member of, or is eligible for membership in, the following Indian tribe(s): _____

The court finds that the selected placement ☐ **does comply** ☐ **does not comply** with the placement preference(s) established by 25 USC §1915. Additional findings/orders: _____

► **Diligent Efforts – Child in Substitute Care:**

Relative Placement

☒ The child is in substitute care, and DHS ☒ **has made** ☐ **has not made** diligent efforts to place the child with a relative/person who has a caregiver relationship with the child, as required by ORS 419B.192.

☐ DHS has decided to place the child with a relative/person who has a caregiver relationship with the child, but that placement is not in the child's best interest, because: _____

Sibling Placement

☒ The child is in substitute care and has one or more minor siblings in substitute care. DHS ☒ **has made** ☐ **has not made** diligent efforts to place the child with siblings, as required by ORS 419B.192.

► **Foster Parent(s)/Care Provider(s) -- Notification and Participation:**

☒ The child is in substitute care, and DHS ☒ **did** ☐ **did not** give the foster parent(s)/current care provider(s) notice of the hearing.

☒ The foster parent(s)/current care provider(s) **did not attend** the hearing.

☐ The foster parent(s)/current care provider(s) **attended** the hearing and had an opportunity to be heard.

► **Grandparent(s) - Notification and Participation:**

DHS ☒ **made** ☐ **did not** make diligent efforts to identify, obtain contact information for, and notify all legal grandparents as defined by ORS 109.119(10)(c) of the hearing.

☒ No grandparents attended the hearing.

☐ The ☐ maternal ☐ grandmother ☐ grandfather

☐ paternal ☐ grandmother ☐ grandfather

attended the hearing and had an opportunity to be heard.

☐ The grandparents who attended the hearing were informed of the date of a future hearing.

☐ DHS **did not** give the legal grandparents notice of the hearing because: _____

☐ For good cause shown, the court has relieved DHS of the responsibility to provide notice of this hearing.

► **Number of Placements, Visits, School Changes and DHS Contacts the Child Has Had Since the Child Has Been in the Legal Custody and Guardianship of DHS:**

The child has been in 3 out-of-home placement(s), and the number of placements ☒ is ☐ is not in the child's best interests.

The child has attended 2 school(s), and the number attended ☒ is ☐ is not in the child's best interests.

The child has had 67 face-to-face contacts with a DHS caseworker, the caseworker currently sees the child at least 1 time(s) every 30 days, and the number and frequency of the child's face-to-face contacts with a DHS caseworker ☒ is ☐ is not in the child's best interests.

The child has had 50 visits with the child's mother and 50 visits with the child's father, and the number of visits ☒ is ☐ is not in the child's best interests.

The child has had 30 sibling visits, and the number of visits ☒ is ☐ is not in the child's best interests.

► **Concurrent Planning:**

☒ There is not a concurrent plan because: The concurrent plan has been implemented.

☐ There is a concurrent plan: ☐ Adoption ☐ Permanent guardianship under ORS 419B.365 ☐ Guardianship under ORS 419B.366 ☐ Placement in the legal custody of a fit and willing relative ☐ A planned permanent living arrangement (APPLA), which is ☐ permanent foster care ☐ permanent connections and support (residential treatment, independent living, substitute caregiver).

☐ DHS has made the following efforts to develop the concurrent plan, which ☐ include ☐ do not include efforts to identify appropriate permanent placement options both inside and outside this state: _____

Those efforts ☐ are ☐ are not sufficient. ☐ DHS is ordered to make the following additional efforts to develop the concurrent plan and report those efforts to the court: _____

3. PERMANENT PLAN AT TIME OF HEARING IS REUNIFICATION (ORS 419B.476(2)(a) AND (5)):

☐ This case is an ICWA case, therefore, DHS is required to make **active efforts** to reunify the family.

DHS ☐ has ☐ has not made ☐ reasonable ☐ active efforts to reunify the family during the period under review. The court considered whether placement of the child and referral to the Strengthening, Preserving and Reunifying Families Program is in the child's best interest as required by ORS 418.595. The DHS efforts include the following: _____

☐ Description of reasonable/active efforts attached as Exhibit ____, and is adopted as the Court's written findings.

DHS ☐ has ☐ has not made reasonable efforts to finalize the permanent plan of reunification.

► **The reunification efforts of DHS (i.e., services provided either directly or through DHS referrals or financial support) include the following:**

Mother	Father	Substance Abuse	Mother	Father	Mental Health	Mother	Father	Child Treatment & Care
<input type="checkbox"/>	<input type="checkbox"/>	Alcohol & drug evaluation or treatment	<input type="checkbox"/>	<input type="checkbox"/>	Psychological evaluation & treatment	<input type="checkbox"/>	<input type="checkbox"/>	Family counseling
<input type="checkbox"/>	<input type="checkbox"/>	UA or other drug testing	<input type="checkbox"/>	<input type="checkbox"/>	Psychiatric evaluation & treatment	<input type="checkbox"/>	<input type="checkbox"/>	Counseling or treatment & assessment
<input type="checkbox"/>	<input type="checkbox"/>	Dual Diagnosis evaluation & treatment	<input type="checkbox"/>	<input type="checkbox"/>	Mental health evaluation & treatment or counseling services	<input type="checkbox"/>	<input type="checkbox"/>	Development of safety plan
Domestic Violence & Anger			<input type="checkbox"/>	<input type="checkbox"/>	Medication management	<input type="checkbox"/>	<input type="checkbox"/>	Individual counseling
<input type="checkbox"/>	<input type="checkbox"/>	Anger management counseling	<input type="checkbox"/>	<input type="checkbox"/>	Neuropsychological evaluation	<input type="checkbox"/>	<input type="checkbox"/>	Intensive Family Services
<input type="checkbox"/>	<input type="checkbox"/>	Anger management education	Parenting & Home			<input type="checkbox"/>	<input type="checkbox"/>	Supervised visitation with child

<input type="checkbox"/>	<input type="checkbox"/>	Domestic violence batterer intervention program	<input type="checkbox"/>	<input type="checkbox"/>	Parent training	<input type="checkbox"/>	<input type="checkbox"/>	Other:
<input type="checkbox"/>	<input type="checkbox"/>	Domestic violence victim counseling & education	<input type="checkbox"/>	<input type="checkbox"/>	Specialized parent training			
		Support	<input type="checkbox"/>	<input type="checkbox"/>	Homemaker services			
<input type="checkbox"/>	<input type="checkbox"/>	Housing assistance	<input type="checkbox"/>	<input type="checkbox"/>	Failure-to-thrive assessment and recommended aftercare			
<input type="checkbox"/>	<input type="checkbox"/>	Transportation assistance	Sex-Offense-Related			<input type="checkbox"/>	<input type="checkbox"/>	Other:
<input type="checkbox"/>	<input type="checkbox"/>	Clothing vouchers	<input type="checkbox"/>	<input type="checkbox"/>	Psycho-sexual evaluation and treatment			
<input type="checkbox"/>	<input type="checkbox"/>	In-home outreach assistance						
<input type="checkbox"/>	<input type="checkbox"/>	In-home safety and reunification services	<input type="checkbox"/>	<input type="checkbox"/>	Non-offending parent sex offense education program			

► **Case Plan Compliance/Progress – DHS and Parent(s):**

DHS:

☐ DHS is in compliance with the current case plan. ☐ DHS is not in compliance with the current case plan, and, to correct the non-compliance, DHS is ordered to: _____

☐ DHS is ordered to develop/modify the case plan, as follows within ____ days of this permanency hearing and to provide a case progress report to the court and the parties: _____

Mother:

☐ Mother is involved in the case and ☐ has ☐ has not made sufficient progress toward meeting the expectations set forth in the service agreement, letter of expectation and/or case plan, and the child ☐ can be ☐ cannot be ☐ has been safely returned to mother's care. Additional findings: _____

☐ Mother is not involved in the case, because: ☐ mother's parental rights terminated/relinquished ☐ mother is deceased ☐ other: _____

Father:

☐ Father is involved in the case and ☐ has ☐ has not made sufficient progress toward meeting the expectations set forth in the service agreement, letter of expectation and/or case plan, and the child ☐ can be ☐ cannot be ☐ has been safely returned to father's care. Additional findings: _____

☐ Father is not involved in the case, because: ☐ father's parental rights terminated/relinquished ☐ father is deceased ☐ other: _____

► **CONTINUE case plan of reunification:**

☐ The court orders that the permanent plan of reunification continue in effect as set forth in SECTION (5) of this judgment.

► **CHANGE case plan from reunification to a different plan:**

☐ **The permanent plan of reunification should be changed to a different permanent plan because:** despite the ☐ reasonable ☐ active reunification efforts of DHS, the child cannot be safely returned to ☐ mother's ☐ father's care at the time of the hearing, and the evidence does not support a determination under ORS 419B.476(4)(c) and (5)(c) that further efforts will make it possible for the child to safely return home within a reasonable time.

☐ **THEREFORE,** the court orders that the permanent plan is changed from reunification of the family to the permanent plan specified in **SECTION 5** below.

4. **PERMANENT PLAN AT TIME OF HEARING IS NOT REUNIFICATION** (ORS 419B.476(2)(b), (2)(c) and (5)):

- **The permanent plan in effect at the time of the hearing is:** ☐ Adoption ☐ Permanent guardianship under ORS 419B.365 ☐ Guardianship under ORS 419B.366 ☐ Placement in the legal custody of a fit and willing relative ☐ A planned permanent living arrangement (APPLA), which is ☒ permanent foster care ☒ permanent connections and support (residential treatment, independent living, substitute caregiver).

► **DHS compliance with case plan:**

The child ☒ is ☐ is not in the permanent placement designated by the case plan. The date of permanent placement ☒ was ☐ will be: August 12, 2014.

DHS ☒ has ☐ has not made reasonable efforts to place the child in a timely manner (including, if applicable, in an interstate placement) in accordance with the plan and to finalize the child's permanent placement. The DHS efforts include the following: _____

☐ Description of reasonable efforts attached as Exhibit _____, and is adopted as the Court's written findings.

DHS ☒ has ☐ has not considered the appropriate and available permanent placement options for the child, both in-state and interstate.

☒ DHS is in compliance with the current case plan. ☐ DHS is not in compliance with the case plan, and, to correct the non-compliance, DHS is ordered to: _____

☐ DHS is ordered to develop/modify the case plan, as follows within _____ days of this permanency hearing and to provide a case progress report to the court and the parties: _____

- ☒ **CONTINUE THE CURRENT PERMANENT PLAN.** The current permanent plan IS the most appropriate plan for the child under the existing circumstances and IS in the child's best interest. Therefore, based on the findings above and the findings set forth in SECTION (5), the court orders the current permanent plan continue in effect.

- ☐ **CHANGE THE CURRENT PERMANENT PLAN.** The current permanent plan IS NOT the most appropriate plan for the child under the existing circumstances and IS NOT in the child's best interest. THEREFORE, the court orders that the current permanent plan IS CHANGED to the permanent plan specified in SECTION 5 below.

5. COURT'S DETERMINATION OF THE PERMANENCY PLAN. ORS 419B.476(5)(a)-(g)

THE COURT ORDERS THE PLAN BE ☐ CHANGED OR ☒ CONTINUED AS FOLLOWS:

☐ REUNIFICATION, under ORS 419B.476 (4)(c) and (5)(c), because further efforts will make it possible for the child to be safely returned to ☐ mother's ☐ father's care within a reasonable time.

☐ THEREFORE, the court orders that, between _____, 20__ and _____, 20__:

☐ Mother participate in the following services and make the progress specified below:

Services: _____

Progress: _____

☐ Father participate in the following services and make the progress specified below:

Services: _____

Progress: _____

☐ If the parent(s) make(s) the progress described above and any additional progress that the court may require hereafter, based on a subsequent review or permanency hearing, the child will be returned to ☐ mother's ☐ father's care by _____, 20__.

☐ ADOPTION

☐ None of the circumstances described in ORS 419B.498(2) applies because: ☐ the child is not currently being cared for by relative in a placement that is intended to be permanent, as provided in ORS 419B.498(2)(a), ☐ there is not a "compelling reason" within the meaning of that term in ORS 419B.498(2)(b) for determining that filing a petition to terminate the parent's/parents' parental rights would not be in the child's best interests, and ☐ the circumstances described in ORS 419B.498(2)(c) are not present. ☐ Additional findings: _____

☐ This court determines the permanency plan shall be ADOPTION, and, THEREFORE, the court orders that the termination-of-parental-rights petition be filed not later than _____, 20__, and the child placed for adoption not later than _____, 20__.

☐ GUARDIANSHIP ☐ ORS 419B.366 (Durable) ☐ ORS 419B.365 (Permanent), or ☐ PLACEMENT WITH A FIT AND WILLING RELATIVE

☐ Placement of the child with a parent is not appropriate, because, despite the ☐ reasonable ☐ active reunification efforts of DHS, the child cannot be safely returned to a parent within a reasonable time.

☐ Adoption is not appropriate because the child currently is being cared for by a relative in a placement that is intended to be permanent, as provided in ORS 419B.498(2)(a), or because the following "compelling reason(s)" under ORS 419B.498(2)(b) is/are applicable and establish(es) that adoption would not be in the child's best interest: ☐ another permanent plan – guardianship – is better suited to meet the child's health, safety and attachment needs; ☐ the child has needs that require a therapeutic or other specialized placement; ☐ adoption is unlikely, or otherwise inappropriate, because of the child's ☐ unwillingness to consent ☐ health and safety needs ☐ sibling attachment(s) ☐ attachment to a parent; ☐ other "compelling reason(s)": _____

☐ Additional findings: _____

☐ The court determines the permanency plan shall be GUARDIANSHIP, and, THEREFORE, the court orders that the child be referred for establishment of the guardianship not later than _____, 20__, and the guardianship be established not later than _____, 20__.

☐ The court determines the permanency plan shall be **PLACEMENT IN THE LEGAL CUSTODY OF A FIT AND WILLING RELATIVE**, and, **THEREFORE**, the court orders that the child be placed in the legal custody of a fit and willing relative not later than _____, 20_____.

☒ **ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA)**

☒ Placement of the child with a parent is **not appropriate**, because, despite the ☒ **reasonable** ☐ **active** reunification efforts of DHS, the child cannot be safely returned to a parent within a reasonable time.

☒ Adoption is **not appropriate** because the following "compelling reason(s)" under ORS 419B.498(2)(b) is/are applicable and establish(es) that adoption would **not** be in the child's best interest: ☒ another permanent plan – APPLA – is better suited to meet the child's health, safety and attachment needs; ☐ the child has needs that require a therapeutic or other specialized placement; ☒ adoption is unlikely, or otherwise inappropriate, because of the child's ☐ unwillingness to consent ☒ health and safety needs ☒ sibling attachment(s) ☒ attachment to a parent; ☐ other "compelling reason(s): _____.

☒ Guardianship or a relative placement is **not appropriate**, because, despite reasonable and diligent efforts, DHS has been unable to identify ☒ a relative or non-relative who is willing and qualified to serve as the legal guardian for the child, or ☒ a fit and willing relative who could provide a permanent home for the child.

☐ Additional findings: _____

☒ The court determines the permanency plan shall be **APPLA** ☐ permanent foster care ☒ permanent connections and support (residential treatment, independent living, substitute caregiver), and, **THEREFORE**, the court orders that the child be placed in the APPLA placement not later than _____, 20_____, and that DHS promptly notify the court and the parties if the child is not placed by that date.

6. NEED FOR CONTINUED SUBSTITUTE CARE AND DHS LEGAL CUSTODY, REVIEW OF COMPREHENSIVE TRANSITION PLANNING AND PROGRESS TOWARD HIGH SCHOOL GRADUATION.

► **Substitute care and custody:**

☐ The court continues the child in the legal custody of DHS for care, placement and supervision. The child is in substitute care, which is not a permanent placement, and continued substitute care is necessary and is in the child's best interest for the following reasons: _____

☐ The child is in the legal custody of DHS and is placed with a parent (or guardian appointed before the child was found to be within the juvenile court's jurisdiction), and it ☐ is ☐ is not necessary and in the child's best interest that the child continue in the legal custody of DHS because: _____

Termination of the child's ☐ commitment to the legal custody of DHS is expected to occur by, or before, _____, 20_____. ☐ juvenile court wardship is expected to occur by, or before, _____, 20_____.

► **Transition plan:**

☐ **Plan review not required**

☒ **Plan review required:** ☒ the child is 16 years of age or older ☐ the child is 14 years or older and DHS has developed such a plan for the child. The comprehensive plan ☒ **is adequate** ☐ **is not adequate** to ensure the child's successful transition to independent living. DHS ☒ **has** ☐ **has not** offered appropriate services pursuant to the comprehensive plan and ☒ **has** ☐ **has not** involved the child in the development of the comprehensive plan. ☐ DHS is ordered to modify the comprehensive plan and/or the development of the plan, as follows: _____

► **Education (child 14 or older):**

☒ The child ☒ is ☐ is not progressing adequately toward graduation from high school, needs _____ more credits to graduate, and is expected to graduate June 2017.

☒ DHS has made the following efforts to assist the child to graduate: Xavier will be attending Elkton High School this year to help him achieve graduation. The worker and foster parent are supportive of this.

☐ DHS is ordered to make the following additional efforts: _____

7. ADDITIONAL FINDINGS AND ORDERS:

► ☒ The court incorporates and adopts by this reference the oral findings made by the court at the conclusion of the permanency hearing.

► The court ☒ has ☐ has not consulted with the child, in an age appropriate manner, regarding the permanency and transition plans proposed for child, as required by 42 U.S.C. § 675.

► ☒ The court makes the following additional findings and orders: DHS to prepare a transition plan with the child and provide it to the parties and the court. A party may request a hearing if any party sees an issue with the plan.

8. THIS CASE SHALL NEXT BE REVIEWED:

APPEARANCE TYPE:	DATE:	TIME:
► Review hearing		
► Permanency hearing	9.13.16	9:00 am
► Because the child is in the legal custody of DHS and placed in substitute care, the CRB will conduct a review of this case in:	<input type="checkbox"/> six months <input type="checkbox"/> three months	
► Other:		
► <input type="checkbox"/> No further hearings.		

DATED: 9.1.15

CIRCUIT JUDGE

Luke A Stanton
Print, Type or Stamp Name of Judge