

At a term of the Family Court of the
State of New York, held in and for the
County of _____,
at _____ New York,
on _____, _____.

P R E S E N T:

Hon.
Judge

In the Matter of the Application for Approval
of an Extra-judicial Surrender Instrument Concerning

Docket No.

Child’s Name:
Date of Birth:

ORDER
 APPROVING DISAPPROVING
EXTRA-JUDICIAL SURRENDER
INSTRUMENT

CIN #
Pursuant to Section 383-c 384 of the
Social Services Law

THE NEXT PERMANENCY HEARING SHALL BE HELD ON [specify date/time]:¹:

The petition of [specify]: _____, an authorized agency, dated [specify]: _____,
having been filed requesting Court approval of an extra-judicial instrument of surrender executed on
[specify date]: _____, by [specify person executing surrender]: _____,
committing the guardianship of the person and custody of [specify child’s name]: _____,
a child under the age of eighteen years to [specify agency]: _____, an authorized agency;

And the person executing the surrender having been duly served with notice of this proceeding
and having [check applicable box(es)]: personally appeared not appeared before this Court, and
counsel for the person who executed the surrender having personally appeared not appeared
before this Court;

¹If the surrender is approved, a permanency hearing must be scheduled for a date certain not later than 30 days
after the earlier of this Order or the Court’s oral ruling. If it is denied, but the child remains in foster care, the permanency
hearing shall be held, in most cases on the previously-scheduled date certain, not later than eight months from removal of
the child from home or no more than six months from the most recent permanency hearing. If the child is finally
discharged from foster care, the previously-scheduled hearing date shall be cancelled. If the child’s placement has been
continued and the child has a sibling or half- sibling removed from the home, whose permanency hearing is scheduled
before this Court, the date certain shall be the same as the date certain for the sibling’s or half-sibling’s permanency
hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or PINS petition or unless he or she has
been freed for adoption.

And an attorney for the child having been appointed to represent the child and having personally appeared not appeared before this Court;

And the following persons having been given notice pursuant to Section 384-c of the Social Services Law [specify, including relationship to child and whether they appeared or not]:

[Required in cases involving Native-American children; check if applicable]:

And the following having been duly notified [check applicable box(es)]:

parent/custodian (unless parental rights have been terminated)

tribe/nation United States Secretary of the Interior;

And the tribe/nation having: appeared and participated as a party;

appeared and declined to assume jurisdiction;

appeared and requested transfer of jurisdiction;

not appeared;

And this Court having determined by satisfactory proof that there are no additional persons who are entitled to notice pursuant to Social Services Law §384-c;

And the following person(s) having intervened as (an) interested party (parties):

Name²

Relationship

prospective adoptive parent

prospective adoptive parent

custodian in excess of 12 months

custodian in excess of 12 months

other [specify]:

[Required finding where surrender is subject to condition of adoption by specific individual; check box if applicable]:

And the surrender having been conditioned upon adoption by [specify]:

who, in accordance with regulations of the NYS Office of Children and Family Services, has been [check applicable box(es)]: investigated and approved as a prospective adoptive parent

certified or approved as a foster parent

[Required finding where post-adoption contact agreement has been submitted for approval; check box if applicable]:

And the annexed post-adoption contact agreement having been determined to be:

in the child's best interests not in the child's best interests;

[Required findings where surrender is of a child in foster care pursuant to Social Services Law §383-c; check boxes if applicable]:

And affirmations of at least two witnesses to the execution of the surrender instrument, at least one of whom was an employee of the authorized agency and one of whom was a certified social worker or attorney independent of the authorized agency, having been filed with the petition in accordance with Section 383-c(4)(b) of the Social Services Law;

And an affirmation of an authorized agency employee responsible for arranging supportive

² Intervenors may proceed in their true names or anonymously. See S.S.L. §§383-c(9), 384(3).

counseling for persons executing surrender instruments having been filed with the petition in accordance with Section 383-c(4)(c) of the Social Services Law;

And an affirmation from the provider of supportive counseling having been filed with the petition in accordance with Section 383-c(4)(c) of the Social Services Law

And the person executing the surrender instrument having been provided with a copy of the surrender which was read in full in his or her principal language, and such person having been given an opportunity to ask questions and obtain answers regarding the nature and consequences of the surrender, including the consequences of, and procedures to be followed in, cases of a substantial failure of a material condition, if any, contained in the surrender instrument;

And the person executing the surrender instrument having been informed of the obligation to provide the authorized agency with a designated mailing address, as well as any subsequent changes in such address, at which he or she may receive notices regarding any substantial failure of a material condition, unless this notification is expressly waived by a statement written by such person and appended to or included in the surrender, which notification was was not waived in this case;

[Required finding where an extra-judicial surrender of a child not in foster care, pursuant to Social Services Law §384, is approved; check box if applicable]:

And the person executing the surrender instrument having acknowledged in writing on the surrender instrument that he or she has been provided with a copy of the instrument and the date on which the instrument was provided;

[Required in ALL cases; check applicable boxes and attach General Form GF-32, if applicable]:

And the Court having inquired as to whether the child may be a Native-American child who may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963], subject to the ultimate determination by the tribe or nation, the Court has determined the following:

A. the Court has reason to believe that the child may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963], subject to the ultimate determination by the tribe or nation;

And the following having been duly notified [check applicable box(es)]:

parent/custodian tribe/nation [REQUIRED]

United States Secretary of the Interior [REQUIRED if tribal contact undetermined];

And the tribe/nation having: appeared and participated as a party;

appeared and declined to assume jurisdiction;

appeared and requested transfer of jurisdiction, which was granted denied;

not appeared;

And the required findings of fact and conclusions of law having been made pursuant to the *Indian Child Welfare Act* and **General Form GF-32** having been attached in an Addendum to this Order.

OR

B. the Court does not have reason to believe that the child may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963].

And the matter having duly come on for a hearing before this Court, and the Court, after hearing the proof and testimony offered in relation to the case, and having determined that the person executing the surrender did did not execute such instrument knowingly and voluntarily;

NOW THEREFORE, it is [Check applicable box or delete inapplicable provision]:

ORDERED that the petition herein is hereby GRANTED, and the extra-judicial surrender, dated [specify]: _____, executed by [specify]: _____, is hereby APPROVED;
OR

ORDERED that the petition herein is hereby DENIED, and the extra-judicial surrender, dated [specify]: _____, executed by [specify]: _____, is hereby DISAPPROVED;

[Applicable where petition is granted; check box(es) if applicable]: and it is further

ORDERED that the transfer of custody and guardianship to Petitioner is hereby approved; _____; and it is further

ORDERED that the annexed post-adoption contact agreement is approved and is incorporated into this Order is not approved; and it is further

[Authorized where petition to surrender a child in foster care is denied; check box if applicable]:

ORDERED that this extra-judicial surrender shall be deemed a nullity without force and effect; and it is further

ORDERED that any subsequent surrender of the above-named child executed by the person who executed this extra-judicial surrender shall be required to be a judicial surrender in accordance with Section 383-c(3) of the Social Services Law; and it is further

ORDERED that a copy of this Order shall be served personally by certified mail by the Petitioner upon the person who executed the extra-judicial surrender instrument within [specify]: _____ days of this order; and it is further

[Authorized in cases involving Native-American Child(ren); check box(es) if applicable]:

ORDERED that the following should be notified of this proceeding [specify]: _____
the custodian of the child; tribe/nation; United States Secretary of the Interior

ORDERED that in light of the assumption of jurisdiction by the tribe/nation, this petition is DISMISSED WITHOUT PREJUDICE; (and it is further)

ORDERED that the next permanency hearing shall be held on [specify date certain]:³

ORDERED that [specify; delete if inapplicable]: _____

ENTER

Dated:

Judge of the Family Court

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OR ELECTRONIC TRANSMISSION OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE

³ See footnote 1.

ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

Order mailed or electronically transmitted on [specify date(s) and to whom sent]:

Order received in court on [specify date(s) and to whom given]:
