

10-542. Order accepting relinquishment of parental rights and consent to adoption.

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
IN THE CHILDREN'S COURT

No. _____

STATE OF NEW MEXICO ex rel.
CHILDREN, YOUTH AND FAMILIES DEPARTMENT

In the Matter of _____, a Child, and Concerning
_____, Respondent(s).

**ORDER ACCEPTING RELINQUISHMENT OF PARENTAL RIGHTS
AND CONSENT TO ADOPTION**

THIS MATTER, having come before the Court on _____ (*insert date*) before the Honorable _____ (*name of Judge*), at the _____ (*indicate judicial district*) Judicial District Court, State of New Mexico, _____ (*name of individual relinquishing parental rights*) did personally appear with counsel. This Court makes the following findings:

1. I am an official authorized to accept this "Voluntary Relinquishment of Parental Rights and Consent to Adoption" under Section 32A-5-23 NMSA 1978 [and 25 U.S.C. § 1913(a)].¹

2. This relinquishment is made in contemplation of the child's adoption. [*Or: This relinquishment is not made in contemplation of adoption, and this Court has found that good cause exists, the New Mexico Children, Youth and Families Department has made reasonable efforts to preserve the family, and that relinquishment of parental rights is in the child's best interests.*]

3. _____ (*name of individual relinquishing parental rights*) was advised that he/she remains financially responsible for the child until the adoption is finalized, and this Court may order this Respondent to pay the reasonable costs of support and maintenance for the child.

4. _____ (*name of individual relinquishing parental rights*) was advised that the child is in the legal custody of the New Mexico Children, Youth and Families Department, which has responsibility for caring for the child and will retain legal custody until the adoption is final.

5. _____ (*name of individual relinquishing parental rights*) was advised of his/her right to be counseled, and was counseled by _____ (*name of person providing relinquishment counseling, include agency name and licensure*), a certified counselor. This counselor meets the requirements set forth in Section 32A-5-22 NMSA

1978 and 8.26.3.25 B(1) NMAC. [*Or*: There is good cause to waive the relinquishment counseling requirement.]

6. _____ (*name of individual relinquishing parental rights*) was advised of the rights and responsibilities of a parent to a child, and was advised of the legal consequences of voluntary relinquishment and consent to adoption by _____ (*attorney for individual relinquishing parental rights or judge*).

7. _____ (*name of individual relinquishing parental rights*) was advised that no informal agreements will be enforced by the Court, but where a post-adoption contact agreement has been included in the final decree of adoption, the court will enforce the post-adoption contact agreement.

8. _____ (*name of individual relinquishing parental rights*) was advised that this voluntary relinquishment of parental rights and consent to adoption is final. [*Or, if ICWA applies to the child*: Pursuant to 25 U.S.C. § 1913(c) (1978) and 25 C.F.R. § 23.128 (2016), _____ (*name of individual relinquishing parental rights*) was advised that this voluntary relinquishment of parental rights and consent to adoption is final, but may be withdrawn for any reason at any time before the entry of a final decree of termination of parental rights or adoption.]²

9. [*In cases where the consent or relinquishment is in English and English is not the first language of the individual relinquishing parental rights*: Under Section 32A-5-21(c) NMS 1978, I certify that the relinquishment form has been read and explained to _____ (*name of individual relinquishing parental rights*) in that person's first language by _____ (*name of individual who read the form in the first language of the individual relinquishing parental rights*) and that the meaning and implications of the document are fully understood by the person giving the relinquishment.]

10. [*If ICWA applies*: Under the Indian Child Welfare Act, 25 U.S.C. § 1913(a), I certify that the terms and consequences of the relinquishment of parental rights and consent to adoption were fully explained in detail and were fully understood by the parent or Indian custodian. I further certify that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood.]³

11. _____ (*name of individual relinquishing parental rights*) is entering into an unconditional relinquishment of their parental rights to _____ (*name of child*). [*Or, if relinquishment is conditional*: _____ (*name of individual relinquishing parental rights*) is entering into a conditional relinquishment of their parental rights to _____ (*name of child*) under the following conditions: _____]. The conditions under this relinquishment are for good cause and are approved and permitted by this court. All conditions permitted shall be met within 180 days of the execution of the conditional relinquishment or the conclusion of any litigation concerning the petition for adoption. The court may grant an extension of this time for good cause.]

12. The Voluntary Relinquishment of Parental Rights and Consent to Adoption by _____ (*name of individual relinquishing parental rights*) to _____ (*name of child*) was executed voluntarily and with knowledge of its content and legal effect, and not the result of force, threats, promises, fraud, or duress.

ON THE BASIS OF THESE FINDINGS, THE COURT concludes that _____ (*name of individual relinquishing parental rights*) knowingly, voluntarily, and intelligently relinquishes his/her rights to _____ (*name of child*), and accepts the relinquishment of parental rights and consent to adoption.

Children's Court Judge

USE NOTES

1. This bracketed language should be used when the child is an Indian child as defined in the ICWA, 25 U.S.C. §§ 1901, et seq. (1978).
2. In all cases, the relinquishment may be withdrawn before entry of the adoption decree with a court finding, after notice and opportunity to be heard, that the relinquishment was obtained by fraud. NMSA 1978, § 32A-5-21(I) (2005). No relinquishment may be withdrawn after the entry of an adoption decree. *Id.* However, in cases in which the ICWA applies, the Court may invalidate an adoption decree upon a finding that the parent's relinquishment of an Indian child was obtained through fraud or duress. "No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law." 25 U.S.C. § 1913(d) (1978).
3. Certification by the Judge is required for ICWA cases under 25 U.S.C. § 1913(a) (1978). This language may be modified to clarify explicitly whether an interpreter was used and in what language.

[Adopted by Supreme Court Order No. 20-8300-007, effective for all cases pending or filed on or after December 31, 2020.]