

STATE OF MINNESOTA  
COUNTY OF KANDIYOHI

DISTRICT COURT  
EIGHTH JUDICIAL DISTRICT  
CASE TYPE: CHIPS

Court File No. 34-JV-24-96

In the Matter of the Welfare of the Children of  
Kayla Rekieta and Nicholas Rekieta,  
Parents

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER FOLLOWING A JOINT  
EMERGENCY PROTECTIVE CARE  
HEARING AND ADMIT/DENY  
HEARING**

The above-entitled matter came before the undersigned Judge of District Court on June 6, 2024 at the Kandiyohi County Courthouse, Willmar, Minnesota. Present at the hearing were the following:

Kristen Pierce, Assistant Kandiyohi County Attorney;

Rachel Molsberry, Assistant Kandiyohi County Attorney;

Aliesha Sweep, Kandiyohi County Health and Human Services (KCHHS);

Dawn Weber, Attorney at Law, with and for Nicholas Rekieta;

John Mueller, Attorney at Law, with and for Kayla Rekieta;

Carter Greiner, Attorney at Law, with and for Sylviamaria, Christian, and Avery; and

Kristi Barber, Guardian ad Litem (GAL).

The foster parents also appeared.

All parties and participants appeared in person.

At the beginning of the Joint Emergency Protective Care Hearing and Admit/Deny Hearing, the Court met the requirements for hearing procedure outlined in Minn. R. Juv. P. Proc. 46.03, subd. 1.

Based upon the Petition and attachments herein and on the testimony and exhibits, the Court makes the following

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#### FINDINGS OF FACT

1. **Subject matter.** The children subjects of the Petition are:
  - a. Christian R. Rekieta, male, DOB: 11/17/2007;
  - b. Avery A. Rekieta, male, DOB: 1/13/2011;
  - c. Sylviamaria M. Rekieta, female, DOB: 12/24/2012;
  - d. Audreyrose Rekieta, female, DOB: 6/10/2015; and
  - e. Cecialjayne A. Rekieta, female, DOB: 9/30/2017<sup>1</sup>.
2. **Venue** is proper in Kandiyohi County because the children reside in this county.
3. **Parentage.** Kayla Rekieta is the mother of the minor children. Nicholas Rekieta is the father of the minor children. Ms. Rekieta and Mr. Rekieta are married, and they share joint legal and physical custody of the children.
4. **Petition.** A CHIPS Petition was filed on May 24, 2024. The alleged statutory grounds listed in the CHIPS Petition are incorporated herein by reference.
5. **Prima Facie Finding Child Protection Matter.** The Court previously found that the Petition establishes a prima facie showing that a juvenile protection matter exists and the children are the subjects of that matter.
6. **Prima Facie Finding Regarding Endangerment.** The Court previously found that the Petition establishes a prima facie showing that the children's health, safety, or welfare would be immediately endangered if the children were released to the care of the parents.

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<sup>1</sup> Cecialjayne's name is incorrectly listed in the Petition as "Cecialjane" and her date of birth is incorrectly listed as 9/6/2017.

7. **Service.** Mr. Rekieta and Ms. Rekieta were each personally served with the Summons and Petition on May 28, 2024.
8. **Motions to Intervene.** No motions to intervene were made.
9. **ICWA.** The protections of the Indian Child Welfare Act (ICWA) do not apply to this case.
10. **McKenna's Law.** The Court provided the McKenna's Law Advisory to Sylviamaria, Christian, and Avery.
11. **Representation.** The parents were previously advised of the right to be represented by counsel on the record as required by Rule 36, and the parents were each represented by an attorney at this hearing.
12. **Ex Parte Hold and Order for Hearing.** The children were placed on a law enforcement hold. The date of removal is May 23, 2024. The facts that warranted removal of the children from the caregiver on an ex parte emergency basis are as follows:
- a. On May 23, 2024, law enforcement officers from the Kandiyohi County Sheriff's Office executed a search warrant at the family residence. During the search, narcotics and drug paraphernalia were located, the parents were placed under arrest, and the law enforcement officers placed the children on a law enforcement hold.
13. **Continued EPC Hearing.** An Emergency Protective Care (EPC) Hearing was scheduled to be held on May 28, 2024. At that time, the parents motioned to continue the hearing for good cause. The Court found good cause to continue the EPC Hearing to protect the rights of the parties.

14. Testimony. The Court received testimony from Alesha Sweep, Kristi Barber, and Robert Rekieta. All witnesses were placed under oath prior to providing testimony.

15. Exhibits. The Court received the following Exhibits:

- a. Exhibit 001 – Drug testing of the parents.
- b. Exhibit 002 – Drug testing of the children.

16. Protective Care Determination. All parties and participants were offered the opportunity to cross examine Petitioner regarding the ex parte filings. After receiving additional facts, the Court determined that protective care shall continue. The Court makes the following Explicit and Individualized Findings in support of continued placement:

- a. KCHHS received a report involving Mr. Rekieta and Ms. Rekieta on May 23, 2024. The report was that law enforcement was going to the home of Mr. Rekieta and Ms. Rekieta to execute a search warrant.
- b. Upon executing the search warrant, the law enforcement officers found over 26 grams of Cocaine, Ketamine, drug paraphernalia, firearms, and ammunition in the home.
- c. Ms. Sweep went to the family home while the search was ongoing. At that time, she learned that the home was very cluttered, it was difficult to walk around the home without stepping on clothing, bedding, or blankets. Avery, Sylviamaria, Audreyrose, and Cecialjayne were present at the home when Ms. Sweep arrived. Christian was not present.



- d. After being placed out of the home, the children were subject to hair follicle drug testing. All of the children except for Audreyrose tested negative. Audreyrose tested positive for Cocaine at a level of over 5000 with a cutoff of 500.
- e. Mr. Rekieta and Ms. Rekieta each submitted to a hair follicle drug test through Minnesota Monitoring, Inc. (MMI) on May 30, 2024. However, KCHHS has not received the results of those tests because subsequent to taking those tests, Mr. Rekieta and Ms. Rekieta revoked their Releases of Information (ROI) from MMI to KCHHS. Because the ROIs have been revoked, KCHHS has been unable to monitor the parents through additional drug testing.
- f. Ms. Sweep went to the home on May 28, 2024. She was allowed into the home, but she was not allowed access to the parents' bedroom.
- g. The GAL is in agreement that it is in the best interests of the children to remain in out-of-home placement at this time.

17. **Surroundings or Conditions.** The children are in surroundings or conditions that endanger the children's health, safety, or welfare requiring responsibility for the children's care and custody to be immediately assumed by KCHHS.

18. **Contrary to Welfare and Best Interests - Children out of Home.** It is in the *best interests of the children* for care, custody, and control of the children to remain with KCHHS for the purpose of placement with a suitable foster care provider. *Continued custody of the children by the parents is contrary to the welfare of the children.* The placement proposed by KCHHS is in the children's best interest. In making this finding, the Court relies upon the best interest factors considered by KCHHS as set forth in the CHIPS Petition, which are incorporated herein by reference. It is in the best interests of

the children to remain in foster care until the parents are able to provide a safe environment demonstrated through substantial compliance with the case plan and by correcting the conditions which have led to out of home placement. The placement proposed by the agency is the least restrictive and most home-like setting that meets the needs of the children.

19. **Reasonable Efforts.** Given the particular circumstances of the children and family at the time of children's removals, there were no services or efforts available that could have allowed the children to safely remain in the home.
20. **KCHHS is providing reasonable efforts to reunify the children with their parents and to prevent the need for further out-of-home placement.** However, those efforts have been hampered by the parents because the parents have revoked ROIs, have not been submitting to drug testing, and have not allowed KCHHS full access to the home.
21. **Removal Date and Permanency Deadlines.** The children were removed from the home on May 23, 2024, which is 14 days in out-of-home placement. The permanency progress review hearing must be held no later than 180 days after removal, which is November 19, 2024. If applicable, the permanency petition must be filed no later than 335 days after removal, which is April 23, 2025. If applicable, an admit/deny hearing to determine the permanent status of the children shall be held by May 23, 2025, pursuant to Minn. Stat. § 260C.503, subd. 1.
22. **Admit/Deny.** An Admit/Deny Hearing was held on June 6, 2024. The parents were each represented by an attorney. The parents were advised of the right to have a trial regarding the CHIPS Petition, including the right to testify or question and call witnesses

at the trial and to require Petitioner to prove its CHIPS Petition by clear and convincing evidence. After consulting with counsel, the parents each entered a denial.

23. **Protective Order.** The parties have agreed to a Protective Order for Discovery.

24. The parents have agreed to waive the timing requirement that the Pretrial Hearing be held at least 10 days prior to the start of Trial pursuant to Minn. R. Juv. Prot. P. 48.01.

### **CONCLUSIONS OF LAW**

1. **Best Interests.** It is in the best interests of the children that they shall remain in the protective care of KCHHS for the purpose of placement with an appropriate licensed foster care provider.
2. **Reasonable Efforts.** KCHHS is providing reasonable efforts to reunify the children with their parents and to prevent the need for further out-of-home placement. However, those efforts have been hampered by the parents because the parents have revoked ROIs, have not been submitting to drug testing, and have not allowed KCHHS full access to the home.
3. **ICWA.** The Indian Child Welfare Act does not apply.

### **ORDER**

1. The children shall remain in the protective care of KCHHS for the purpose of placement with an appropriate licensed foster care provider.
2. **Services, examinations, or evaluations.** The following shall be provided to the child and the child's family pursuant to Rule 42.09:
  - a. The parents shall each submit to a Chemical Use Assessment and shall follow all recommendations.

- b. The parents shall abstain from the use and possession of all mood altering substances except as prescribed by a medical professional
  - c. The parents shall each submit to chemical testing of any type at the request of KCHHS and/or the GAL to verify abstinence
  - d. The parents shall sign all necessary releases of information so that the service providers may share information with KCHHS and the GAL.
  - e. The parents shall sign releases of information from MMI to KCHHS and the GAL so that KCHHS and the GAL may monitor and verify the parents' drug testing results.
3. **OHPP.** KCHHS shall file an out-of-home placement plan and provide it to the parties and foster care providers within 30 days of the court order placing the children in foster care, an order for protective care, or order transferring legal custody to KCHHS, whichever is earliest. The out of home placement plan shall be filed no later than June 22, 2024.
4. **Family Time.** The terms of parental and sibling visitation pending further proceedings are:
- a. Visitation between the parents and the children shall be supervised at a supervised safety center or supervised at the KCHHS building by a member of KCHHS staff.
5. **Relative Search.** KCHHS shall exercise due diligence to identify and notify adult relatives of the family within thirty (30) days after removal pursuant to Minn. Stat. §260C.221. The agency shall continue to appropriately involve relatives who have responded to the notice. The parents shall cooperate in providing sufficient information to identify relatives. No later than ninety (90) after placement, the agency shall report to



the court its efforts and decisions regarding placement according to Minn. Stat. §260C.221 (d)(1) and (2)

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6. This Order shall be shared with providers of service under the case plan and such providers are authorized to share information with each other, as necessary, to carry out the intent and purpose of the case plan ordered herein.
7. KCHHS is authorized as follows with respect to the children:
  - a. To arrange for major medical care and surgery for the children in a life threatening situation;
  - b. To arrange appropriate routine medical and dental care for the children, including necessary immunizations and vaccinations for the children;
  - c. To obtain the children's educational, medical, dental, psychological, psychiatric, and dental records, including mental health and chemical dependency records, if any, for the purpose of meeting the children's health needs; and
  - d. To approve educational or mental health services for the children as needed.
8. Pursuant to Minn. Stat. § 260C.208, subd. 2, KCHHS is specifically authorized to have access to the following data on the children:
  - a. Medical data under § 13.384;
  - b. Corrections and detention data under § 13.85;
  - c. Juvenile Court data under § 260C.171;
  - d. Court services data under § 13.84; and
  - e. Health records under § 144.335.
9. Providers of services to the children, including education, medical, and mental health, are authorized to release information regarding the children to KCHHS. This Order shall be

shared with providers of service under the case plan and such providers are authorized to share information with each other, as necessary, to carry out the intent and purpose of the case plan ordered herein.

10. Pursuant to Rule 6 of the Rules of Juvenile Protection Procedure, this Order establishes the following deadlines or specific dates for the proceedings in this matter:

a. **Discovery (Rule 17):** The deadline for discovery is July 15, 2024. This includes the following:

- i. Inspection and copying of documents or other tangible evidence.
- ii. Identify the names and addresses of all persons intended to be called as witnesses at trial, and shall allow all other parties to inspect and copy such witnesses' written or recorded statements, within the party's knowledge, relating to the case.
- iii. Identify the names and addresses of all persons intended to be called as expert witnesses at trial, the subject matter about which each expert is expected to testify, and a summary of the grounds for each opinion to be offered.
- iv. The following additional pretrial preparation and discovery is authorized and the reports from such discovery shall be completed and disclosed to the other parties:
  1. physical examination;
  2. psychological examination;
    - a. depositions

11. All proposed exhibits must be uploaded to the Minnesota Digital Exhibit System (MNDES) no later than July 15, 2024. Information on how to use MNDES can be found on [mncourts.gov/mndes](http://mncourts.gov/mndes).

12. **Pretrial Motions (Rule 14):** All pretrial motions shall be filed and served by July 15, 2024.

13. **Pretrial Conference (Rule 48)(CHANGED AFTER HEARING):** A Pretrial Conference shall be held on July 15, 2024, at 3:00 p.m. The parties and their legal counsel shall come to the Pretrial Conference prepared to determine whether a settlement of any or all issues has occurred or is possible, and to discuss the issues set forth in Juvenile Protection Rule 48.02.

14. **Trial (Rule 49):** Trial in this matter shall begin on July 23, 2024; July 24, 2024; July 25, 2024; or July 26, 2024 at 8:30 a.m. The parties shall be ready to commence trial on any of the given dates. The court will try to notify the parties of the priority status one week prior to trial. The trial shall not be continued or adjourned for more than one week.

unless the court finds that the continuance or adjournment is in the best interests of the children. The trial shall continue until completed. The trial shall be conducted pursuant to the procedure set forth in Rule 49.02.

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15. **Court Settlement Conference.** The parties shall participate in a court settlement conference or other form of Alternative Dispute Resolution.
  16. **Hearing location.** All hearings take place at the Kandiyohi County Courthouse, Willmar, Minnesota.
  17. This Order is subject to revision as necessary to serve the best interests of the children and the interests of justice, so long as the permanency timelines are not delayed.
  18. All previous Orders of the Court remain in effect, except as explicitly amended herein.

**BY THE COURT:**

*Keith Helgeson*  
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(Judge)  
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**KEITH HELGESON**  
**JUDGE OF DISTRICT COURT**