

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TKLM, Minor.

ROBIN BALLARD,

Petitioner-Appellant,

v

DEPARTMENT OF HUMAN SERVICES,

Respondent-Appellee,

and

TKLM, Minor,

Appellee.

UNPUBLISHED

August 19, 2010

No. 298067

Genesee Probate Court

LC No. 10-016859-AM

Before: WILDER, P.J., AND CAVANAGH AND SAAD, JJ.

WILDER, P.J. (*concurring*).

I concur in the result in this case, but write separately to state that the position of the Attorney General's office, not to oppose a remand for a hearing pursuant to MCL 710.45 (Section 45 hearing), is in my view commendable. The Attorney General's office makes clear in its briefing that the Michigan Children's Institute Superintendent had a telephone communication with petitioner, in which the Superintendent informally but definitively declined to consent to her request for adoption. As the Attorney General's office suggests, the Superintendent should either have refused to engage in the oral and informal communication, perhaps prompting petitioner to file a formal request under MCL 710.45, or he should have committed to writing a record of the ultimate decision from the conversation in the form of an order denying her request. Thus, while it is accurate that, within the meaning and requirements of MCL 710.45, petitioner did not attempt to obtain consent and the MCI Superintendent did not deny petitioner's request for consent, and that, therefore, this Court must affirm, the Superintendent's role in the result we here reach is not a proud chapter for the MCI.

/s/ Kurtis T. Wilder