

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

JERRI G. SMITKO

NO. 2020 CW 0576

VERSUS

MARISSA ACHEE AND KIEL
THERIOT, II

SEPTEMBER 14, 2020

In Re: Kiel and Jessica Theriot (Intervenors), applying for supervisory writs, 32nd Judicial District Court, Parish of Terrebonne, No. 185476.

BEFORE: McCLENDON, WELCH, AND HOLDRIDGE, JJ.

WRIT GRANTED IN PART AND DENIED IN PART. The consent judgment does not affect the rights of the biological grandparents nor does it increase their evidentiary burden at trial beyond proving the "best interest of the child". Parents who are unable to provide a wholesome and stable environment for their child cannot use Civil Code article 132 to give custody to a third party and preclude biological grandparents from seeking custody by attempting to impose unproven factual determinations and heightened legal burdens in a consent judgment. The writ is granted in part to remand this matter to the trial court for a full custody trial after discovery and court ordered evaluations are completed. The writ is denied in all other respects.

**JEW
GH**

McClendon, J., concurs.

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DEPUTY CLERK OF COURT
FOR THE COURT