

IN THE SUPREME COURT OF THE STATE OF NEVADA

JENNIFER ELISE GORDON,

Appellant,

v.

MATTHEW ROBERT GEIGER,

Respondent.

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Supreme Court Case No. 67955
Dist. Court Case No. 10-43068
Tacie K. Lindeman
Clerk of Supreme Court

**APPELLANT'S APPENDIX
VOLUME 2 OF 2
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Tami D. Cowden, Esq.
Nevada Bar No. 8994
Moorea L. Katz, Esq.
Nevada Bar No. 12007
GREENBERG TRAUIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
E-mail: cowdent@gtlaw.com
katzmo@gtlaw.com
Attorneys for Appellant

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1	APP0001-0073	8/28/14	Transcript re: All Pending Motions in the matter Geiger v. Gordon, Case No. D-10-430639 filed in the Eighth Judicial District Court, Clark County, Nevada
II	APP0074-0265	10/9/14	Transcript re: All Pending Motions in the matter Geiger v. Gordon, Case No. D-10-430639 filed in the Eighth Judicial District Court, Clark County, Nevada
II	APP0266-0282	3/24/15	Transcript re: All Pending Motions in the matter Geiger v. Gordon, Case No. D-10-430639 filed in the Eighth Judicial District Court, Clark County, Nevada

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EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

MATTHEW ROBERT GEIGER,

Plaintiff,

vs.

JENNIFER ELISE GORDON,

Defendant.

CASE NO. D-10-430639-D

DEPT. T

APPEAL NO. 67955

BEFORE THE HONORABLE GAYLE NATHAN
TRANSCRIPT RE: ALL PENDING MOTIONS
THURSDAY, OCTOBER 09, 2014

APPEARANCES:

The Plaintiff: MATTHEW ROBERT GEIGER
For the Plaintiff: PETER J. BELLON, ESQ.
Bellon & Maningo, Ltd.
732 S. Sixth St., #102
Las Vegas, Nevada 89101
(702) 452-6299

The Defendant: JENNIFER ELISE GORDON
For the Defendant: GARY M. ZERNICH, ESQ.
Zernich Law Office
600 Whitney Ranch Dr., #A-5A
Henderson, Nevada 89014
(702) 616-9838

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I N D E X O F W I T N E S S E S

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THURSDAY, OCTOBER 09, 2014

PLAINTIFF'S WITNESSES
(None offered.)

DEFENDANT'S WITNESSES

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By Mr. Zernich

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By Mr. Bellon

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JENNIFER GORDON

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I N D E X O F E X H I B I T S

THURSDAY, OCTOBER 09, 2014

<u>PLAINTIFF'S EXHIBITS</u>	<u>IDENTIFIED</u>	<u>ADMITTED</u>
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(None offered.)

DEFENDANT'S EXHIBITS

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1 LAS VEGAS, NEVADA

THURSDAY, OCTOBER 09, 2014

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 14:21:19.)

4 THE COURT: All right. Thank you. This is Geiger v
5 Gordon, D-10-430639.

6 Counsel, your appearances.

7 MR. BELLON: Thank you very much. Good afternoon, Your
8 Honor. Attorney Pete Bellon, Bar Number 4528, present with
9 the plaintiff in this mat -- matter, Matthew Geiger.

10 THE COURT: Okay.

11 MR. ZERNICH: Thank you, Your Honor. Gary Zernich, Bar
12 Number 7963. I'm here with the defendant, Jennifer Gordon.

13 THE COURT: Okay. Good afternoon.

14 All right. So we're on today for testimony from the
15 probation officers on -- on -- this is actually defendant's
16 motion to reduce dad's time, plaintiff's time, based on his
17 being in jail for 23 years, the warrant being issued --

18 MR. GEIGER: Days.

19 THE COURT: -- him being an absconder. That's kind of
20 the essence of it. So I asked for a -- an evidentiary hearing
21 to hear from the probation officers as to exactly what
22 transacted. I'm gonna call you by your first names. You've
23 been in here so often.

24 So, Jennifer, I saw your supplement. Thank you. I

1 read it. And I'm glad you have an attorney here today. And
2 so this is probably your burden, actually.

3 And so whenever you're ready, Gary.

4 MR. ZERNICH: I guess we're going to call the probation
5 officer.

6 THE COURT: Okay.

7 MR. ZERNICH: Right? Because you said that's who you --
8 we were here most today --

9 THE COURT: Yes.

10 MR. ZERNICH: -- primarily about that.

11 THE COURT: Sir, if you would take the stand over here,
12 please.

13 THE MARSHAL: 23 days, not years.

14 THE COURT: Uh-huh, what?

15 THE MARSHAL: 23 days, not years.

16 THE COURT: 23 days. I'm sorry. I said years. I
17 correct the record.

18 MR. BELLON: (Indiscernible) right.

19 THE COURT: That would be -- oh, my gosh.

20 THE CLERK: You do solemnly swear the testimony you're
21 about to give in this action shall be the truth, the whole
22 truth and nothing but the truth, --

23 OFFICER LAPUTT: Yes.

24 THE CLERK: -- so help you God?

1 OFFICER LAPUTT: Yes.

2 THE CLERK: Name?

3 OFFICER LAPUTT: Mike Laputt, L-A-P-U-T-T.

4 THE COURT: Okay.

5 UNIDENTIFIED SPEAKER: Officer --

6 MR. BELLON: The court actually just asked me as a
7 courtesy to -- to subpoena Officer Laputt.

8 THE COURT: Okay.

9 MR. BELLON: He basically wasn't our witness, but you had
10 asked me to do it. And I think the court wanted him. So I
11 think he's the court's witness; but --

12 MR. ZERNICH: Oh, I overreached. I'm sorry.

13 MR. BELLON: -- however, the case in chief --

14 MR. ZERNICH: Excuse me.

15 MR. BELLON: No, no, no. It's yours. It's -- it's your
16 case in chief.

17 THE COURT: No, the clerk had just asked whose witness he
18 was. So it's -- it's --

19 MR. BELLON: (Indiscernible.)

20 MR. ZERNICH: (Indiscernible.)

21 THE COURT: -- sort of a strange procedural question
22 because -- not a question, but a strange procedural situation
23 because I had asked for the evidentiary hearing.

24 Well, the defendant had brought the motion, and I

1 had said we need an evidentiary hearing. So it's -- it's
2 technically defendant's witness; although, because defendant
3 was in proper person at the time, plaintiff was kind enough to
4 extend the courtesy of doing the subpoena for the witness. So
5 it's defendant's witness.

6 MR. ZERNICH: Okay. Thank you, Your Honor.

7 THE CLERK: Thank you.

8 THE COURT: Whenever you're ready, Gary.

9 **MIKE LAPUTT,**

10 having been duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 **BY MR. ZERNICH:**

13 Q For the record, Mike, can you state your name?

14 A Officer Mike Laputt, M-I-K-E, L-A-P-U-T-T.

15 Q Okay. Do you know this gentleman sitting over here
16 to my right?

17 A Yes.

18 Q Can you identify him by name?

19 A Mr. Geiger.

20 Q Okay. And how do you know him?

21 A He is -- was on my caseload as a probationer.

22 Q Okay. Is he no longer in your caseload?

23 A Yes, he is no longer on my caseload.

24 Q Okay. And when did -- when did that take place?

1 A Fairly recently, sometime, I think, in September.

2 Q Okay. Do you know if he recently spent some time at
3 the -- in state custody?

4 A Yes.

5 Q How much time did he spend?

6 A I think a month or so.

7 Q Okay. Do you recall the dates?

8 A My apologies. Unfortunately, no. We -- he was -- I
9 can tell you when he was reinstated.

10 Q Okay.

11 A He was reinstated August 18th of 2014. I'm spec --
12 I'm thinking he was also probably released sometime later that
13 day.

14 Q Okay. I'm gonna read you and ask you the -- the --
15 the -- strike that. And I'll form a question.

16 Do you recall if he was arrested approximately on
17 July 26th, 2014?

18 A That sounds about right.

19 Q Do you recall why he was arrested?

20 A He was arrested on a bench warrant.

21 Q Okay. In a document I'm gonna read from, it says,
22 Matthew had changed probate -- probation officers almost a
23 year ago. I'm going to -- it's referencing the date of the
24 doc -- a document that would go back to about August of 2013.

1 Is that accurate?

2 A Actually, I took over the caseload, January of 2013,
3 approximately, two -- roughly under two years ago.

4 Q It says, he was told that he no longer -- that he
5 was told that he was no longer on monthly reporting. Is that
6 an accurate statement?

7 A That's an accurate statement.

8 Q Okay. He was told that he only needed to contact
9 them, probation I would presume, if any of his information
10 changed. Is that an accurate statement?

11 A Partly accurate statement.

12 Q And what -- and what -- how's it partly accurate?
13 And if you don't mind, tell us how it partly is not accurate.

14 A As far as my requirements as being the -- the case
15 officer, he -- my instructions were for my probationers to --
16 to call me and report over the telephone every other month.

17 Q Okay.

18 A With regards to reporting, he was also supposed to
19 report any changes in residence, employment, contact
20 information, address, telephone number.

21 Q Okay.

22 A Any new prescriptions received also.

23 Q Okay. I'm gonna get back to those questions. It
24 says, oddly enough Matthew even left numerous voice mails for

1 his new probation officer whenever they would leave a note on
2 his front door over this period of time. Had you ever left
3 any notes on his front door?

4 A Yes, from what I remember when I did a home contact,
5 if you --

6 Court's indulgence.

7 October 9th, 2013, I did a home contact; and I taped
8 a note to the front door.

9 Q Do you recall getting numerous voice mails --

10 A No.

11 Q -- after that time?

12 A No.

13 Q Do you recall getting any voice mails after that
14 time?

15 A I do not recall getting any voice mail messages from
16 Mr. Geiger.

17 Q It says, while there was apparently a warrant out
18 for him, Matthew was continuing to communicate with the
19 probation department; and they were visiting his home, the one
20 he lived at the entire time; and that they could have arrested
21 him at any time during this period, as well. Is that -- is
22 that statement more true or more false?

23 A I'd say it would be true.

24 Q Do you recall Matthew continuing to communicate with

1 the probation department?

2 A Other than us meeting when we met in court, I think
3 when he was reinstated, no, he has not contacted me as his
4 probation officer. I have not received any telephone calls or
5 office visits from Mr. Geiger.

6 Q Okay. Well, I'm sorry. I'm gonna have to clarify
7 and or clear up your answer to my -- the --the initial
8 question in that regard. It says, while there was apparently
9 a warrant out for him, Matthew was continuing to communicate
10 with the probation department. Is that --

11 A No.

12 Q -- portion of the statement true or false?

13 A That would be false.

14 Q Okay.

15 THE COURT: Can I get testimony on the warrant issued and
16 when? Are we gonna go there? Are you gonna ask that
17 question?

18 MR. ZERNICH: (Indiscernible) chance to get around to it.
19 I was just --

20 Q BY MR. ZERNICH: When did the warrant issue?

21 A The violation report for the requested warrant was
22 sent out October 11th. As far as the exact date of the
23 warrant, it should have been shortly after that.
24 Unfortunately, I don't have a copy of the warrant with me

1 right now; but it should have been after October 11, 2013.

2 Q Okay. So from October 11th, or so, of 2013, until
3 July of 2014, there was an active warrant for Matthew.

4 A Yes, some -- some -- sometime after October two --
5 October 11, 2013, the warrant was issued, yes.

6 Q Okay. If it wasn't exactly on -- in -- in -- on the
7 11th, would it be your understanding that it was closer to that
8 date or closer to a more recent date such as --

9 A Oh, it would be closer to --

10 Q -- (indiscernible)?

11 A -- October 11, 2013.

12 Q Okay. You have some warrant conditions of his
13 probation, I -- I -- I understand, in the -- in the report
14 that you have in front of you.

15 A Yes.

16 Q Can you tell the court which of those conditions
17 that Matthew was in violation of?

18 A Reporting; residence; intoxicants; directives and
19 conduct; weapons was withdrawn; special conditions, no use,
20 possession, control of alcohol; employment; special condition
21 number 4, 16 hours of community service each month; maintain
22 full-time employment; out-of-state travel.

23 THE COURT: Can you -- can you start from the top? I --
24 I'm taking notes. So you have to --

1 THE WITNESS: My apologies, Your Honor.

2 THE COURT: -- you have to talk a little slower, so I can
3 get my notes in here. I got reporting.

4 THE WITNESS: Reporting.

5 THE COURT: Okay.

6 THE WITNESS: Residence.

7 THE COURT: Yes.

8 THE WITNESS: Intoxicants; directives and conduct;
9 special condition number 3, no use of alcohol, no use,
10 possession, control of alcohol; employment/program; special
11 condition number 4, 16 hours of community service each month
12 of probation; special condition 5, maintain employment; and
13 out-of-state travel.

14 THE COURT: And -- and I heard you say that firearms was
15 stricken --

16 THE WITNESS: Yes.

17 THE COURT: -- as a condition. Why is that?

18 THE WITNESS: It -- sometime shortly after -- shortly
19 before the reinstatement, Ms. Gordon provided me with text
20 messages as far as the subject going to Utah on a hunting
21 trip. Later did I realize it was a fishing trip, which was
22 why it was withdrawn.

23 THE COURT: Okay. What you just told -- what you just
24 testified to were the things he was violated on?

1 THE WITNESS: That's correct.

2 THE COURT: I see. Okay.

3 THE WITNESS: Weapons was initially there, but it was
4 withdrawn in court --

5 THE COURT: Okay.

6 THE WITNESS: -- when he was reinstated.

7 THE COURT: So what you just testified to are the items
8 he was violated on that resulted in a warrant being issued?

9 THE WITNESS: Other than out-of-state travel, which I
10 discovered at a later date, yes.

11 THE COURT: Okay.

12 MR. ZERNICH: Your Honor, I'm gonna approach and -- and
13 hand the witness the --the copy of some of the exhibits that
14 we have produced.

15 THE COURT: All right. Thank you.

16 MR. ZERNICH: And, Your Honor, I did provide you with a
17 tabbed book of exhibits. We brought that in this morning.
18 I'm referencing Exhibit K.

19 Peter, for your reference, because you don't have
20 tabs, I have everything Bates numbered so it will make them
21 easy --

22 MR. BELLON: Okay.

23 MR. ZERNICH: -- at least for you to find. I'm sorry.

24 MR. BELLON: That's fine. I -- I --

1 MR. ZERNICH: It's gonna be Bates number 45, Peter; and
2 they're -- and they're in order so you should be able to --

3 Q BY MR. ZERNICH: Officer, can you refer to this
4 exhibit right here?

5 MR. ZERNICH: It's Exhibit K, Your Honor. It's got Bates
6 stamp number 45.

7 THE WITNESS: This would be his original sentencing
8 minutes.

9 Q BY MR. ZERNICH: Okay. Does that give you an -- any
10 idea, then, regarding the other proba -- any -- anything
11 regarding the probation in K?

12 A Yes, the special conditions that he was ordered to
13 perform by Judge Mosley.

14 Q Okay. Were some of those some of the conditions
15 that you just read?

16 A Yes, for some reason I also missed financial
17 obligations. My apologies.

18 Q Okay. I'm going to ask that you turn over --

19 MR. ZERNICH: Here. I'll admit it.

20 THE COURT: Which exhibit is this? Exhibit what?

21 MR. ZERNICH: This is --

22 THE CLERK: K.

23 MR. ZERNICH: -- this is K.

24 THE COURT: K. Can we stipulate to admit this so I can

1 look at it?

2 MR. ZERNICH: I move to admit.

3 MR. BELLON: Yes, Your Honor, I'll stipulate.

4 (Whereupon Defendant's Exhibit K was admitted.)

5 Q BY MR. ZERNICH: Can you look at L before -- just
6 identify L for the court before we talk about it.

7 MR. ZERNICH: L -- L consists of -- Peter, that's Bates
8 number 46 --

9 MR. BELLON: I'll stipulate to L, too.

10 (Whereupon Defendant's Exhibit L was admitted.)

11 THE COURT: Thank you.

12 MR. ZERNICH: -- and 47.

13 Q BY MR. ZERNICH: Does L -- does L -- does L give you
14 any indication of the exact date of the probation violation or
15 when the warrant was issued, I should say?

16 A Bench warrant, October 23rd, 2013, 10/23/13.

17 Q Oh, okay. Very good. Let me get right -- right to
18 the next question. Did Jennifer have anything to do with Mash
19 -- with Matthew -- with the bench warrant -- with the bench
20 warrant being issued against Matthew?

21 A No, the bench warrant was issued way before Ms. Gor
22 -- Ms. -- Ms. -- Mrs. Gordon. Mrs. Gordon contacted me.

23 Q Okay. Did Mrs. Gordon have anything to do with his
24 subsequent arrest wherein he was incarcerated from July 16th,

1 you know, to August 23rd?

2 A It was a supplemental; but, no, regardless of
3 whether she would have contacted me or not, he would have been
4 arrested on the bench warrant issued on October 23rd, 2013.

5 Q Do you recall the first date of -- that you had any
6 communication with Mrs. Gordon?

7 A June 23rd of 2014.

8 Q June 23rd of 2014. Can you tell the court what that
9 -- what was the -- what that communication was about?

10 A She provided us evidence that Mr. Matthews -- Mr.
11 Geiger was traveling out of state.

12 Q Did she provide you that evidence directly?

13 A Yes.

14 Q And in what form did she provide you that evidence?

15 A Images of text messages.

16 MR. ZERNICH: Okay. Which exhibit do we have here,
17 Jennifer? Is it B?

18 MS. GORDON: Yes.

19 Q BY MR. ZERNICH: Can you reference Exhibit B in
20 front of you?

21 MR. ZERNICH: That starts, Peter, on -- on Bates number
22 9.

23 MR. BELLON: I -- I've got them actually marked A, B. So
24 I'm good.

1 MR. ZERNICH: Okay. Well, I -- I --

2 MR. BELLON: I appreciate it.

3 MR. ZERNICH: -- I know. But you didn't have tabs so --

4 MR. BELLON: That's all right.

5 MR. ZERNICH: -- at least it leads you to the right blue
6 page.

7 MR. BELLON: I appreciate it.

8 Q BY MR. ZERNICH: And Exhibit B is page 9 through 16.

9 MR. ZERNICH: Oh, by the way, Your Honor, I move to -- I
10 move to enter --

11 Oh, you already stipulated, too.

12 MR. BELLON: Yes.

13 MR. ZERNICH: I'm sorry.

14 THE CLERK: I'm sorry. I missed. What did you stipulate
15 to?

16 MR. BELLON: K -- K and L is stipulated to admission.

17 THE COURT: We're now on D, which --

18 Q BY MR. ZERNICH: On -- on B, can you identify what
19 -- what Exhibit B is?

20 A This seems to be the text message where Mr. Geiger
21 was telling Ms. Gordon that he was going to go to California
22 UC Davis Medical Center, which I'm thinking was in California.

23 Q Okay. Was Exhibit B, was this -- was this something
24 that you had received from Ms. Gordon?

1 A I think so. You'll have to forgive me. I've
2 submitted all my evidence to the judge. I have no copies
3 since I don't have the file anymore. But, yes, this does look
4 familiar.

5 THE COURT: Not to this judge.

6 THE WITNESS: Oh, my apologies, to Judge --

7 MR. BELLON: Delaney.

8 THE WITNESS: -- Delaney.

9 THE COURT: Okay.

10 MR. BELLON: Criminal court.

11 THE WITNESS: I apologize, Your Honor.

12 THE COURT: I just wanted the record to be clear. Okay.

13 Q BY MR. ZERNICH: The information that you received
14 from Jennifer, does this look to be a complete -- does this
15 look to include all of the information that you received
16 according to, you know, from your memory?

17 A Yes, in all honesty, as soon as I have evidence of
18 at least one travel to California without permission,
19 generally, it's enough for me to violate.

20 Q Okay. Do you know a person named Norma?

21 MS. GORDON: Medina.

22 MR. BELLON: Medina.

23 Q BY MR. ZERNICH: Norma Medina?

24 A Maybe by first name but not by last name. You'll --

1 you'll have to forgive me. You'll have to be more clear as
2 far as which --

3 Q Okay. How are you -- I'm just trying -- you said
4 that you had first contacted Jennifer on June 23rd.

5 A She contact -- she -- I think she called us. Yes,
6 she notified us on the twenty -- June 23rd. She contact --
7 made contact with me.

8 Q Okay. Do you recall talking to her on the 23rd or
9 was that just -- was that just a message that was left?

10 A You'll have to forgive me. It's been so long. I'm
11 -- it's either a message or else me returning a phone call.

12 Q Okay.

13 A We either talked, or I either returned a phone call.

14 Q If I were to tell you that Jennifer informed me that
15 the first time that she had talked to you was in --

16 MS. GORDON: August 14th.

17 Q BY MR. ZERNICH: -- on August 14th, would you be able
18 to look through your records and verify whether that's an
19 accurate statement or not?

20 THE WITNESS: Court's indulgence.

21 Unfortunately, I have no -- I do not have record of
22 any contact August 14th. Oh, my apologies. Yes, August 14th at
23 approximately 11:25, a phone call received -- was received
24 from Ms. Gordon.

1 Q BY MR. ZERNICH: Okay. Do you recall talking to
2 her. Was there any indication of whether you actually talked
3 to her on that date or not?

4 A She actually -- from -- from what I'm looking at,
5 she actually talked to somebody named N. Medina.

6 Q Okay.

7 A Which I'm thinking is the Norma Medina you were --
8 you're talking about.

9 Q These -- these texts that you received that we just
10 referenced, these are Exhibit B.

11 MR. ZERNICH: Oh, by the way, Your Honor, move to exhibit
12 -- admit Exhibit B into evidence.

13 MR. BELLON: I would object, Your Honor, improper
14 foundation. He not only testified that he's not familiar with
15 them completely, but they're not his text messages. He
16 doesn't know how they originated or he can't authenticate
17 those messages. Even if he read them, he doesn't know that
18 they came from the defendant. She'd have to take the stand
19 and testify as to text messages she received or sent.

20 MR. ZERNICH: Well --

21 THE COURT: Mr. Zernich.

22 MR. ZERNICH: -- Your Honor, we're -- we're not -- we're
23 not trying to admit these for the truth of the allegation, in
24 other words as a hearsay. We're just trying to admit them as

1 what he said he received from her. And -- and then I'm going
2 to ask him what day he received these.

3 THE COURT: All right. On that basis, they're admitted.

4 (Whereupon Defendant's Exhibit B was admitted.)

5 Q BY MR. ZERNICH: Do you recall the date that you
6 received these -- the -- the text messages or the -- or the
7 packet? (Indiscernible) we'll just refer to them as the --

8 A I think --

9 Q -- (indiscernible).

10 A -- it was -- it was shortly before -- shortly before
11 the reinstatement date of Mr. Geiger.

12 Q What was the reinstatement date?

13 MR. BELLON: August 14th, (indiscernible) trouble.

14 THE WITNESS: 'Cause I'm -- you'll have to forgive me, my
15 memory of -- of -- because of my caseload, it's very difficult
16 to remember details.

17 Q BY MR. ZERNICH: Jenn -- Jenn -- Jennifer alleges,
18 and maybe you could find something (indiscernible) that she
19 provided you with this package on August 18th, which she
20 believes was the reinstatement date.

21 A Yes, I think that was about the time she -- she --
22 the day she dropped it off. It was shortly before Mr. Geiger
23 was reinstated.

24 Q Okay. So -- so he was -- he was put into jail on

1 July 23rd --

2 MR. BELLON: Sixth.

3 Q BY MR. ZERNICH: -- and you didn't --

4 MR. ZERNICH: Twenty --

5 MR. BELLON: 26th.

6 Q BY MR. ZERNICH: July 26th, and you didn't receive
7 these until shortly before the reinstatement date. Did -- did
8 this package have anything to do with his going to jail?

9 A No.

10 THE COURT: Mr. Zernich, I have a question.

11 MR. ZERNICH: Yes, please, Your Honor, because I --

12 THE COURT: I'm a little confused.

13 MR. ZERNICH: -- I -- I'm not sure that I have much more
14 for (indiscernible).

15 THE COURT: Okay. You had a -- a litany of violations
16 that led to the request for a bench warrant in 2013, correct?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Okay. How did those violations come to your
19 attention?

20 THE WITNESS: When I did -- initially what -- initially
21 we got a report of police contact with Mr. Geiger. I think it
22 was a traffic stop on October 4th, 2013. That prompted me to
23 check all local detention centers whether he was in custody or
24 not.

1 THE COURT: Okay.

2 THE WITNESS: Because there was a report from highway
3 patrol and that the subject had a knife in the vehicle. A
4 hold was requested; but unfortunately, a hold wasn't placed
5 on. So with me not knowing where he is, I tried to make
6 contact with him. I think I -- oh, I did go to his house a
7 couple -- shortly after on October 9th, 2013; and I left a note
8 for him to report and come to the off -- report and contact
9 me.

10 THE COURT: Okay.

11 THE WITNESS: When I got no response, I did the violation
12 report October 11th, 2013.

13 THE COURT: And what happened with that traffic charge?

14 THE WITNESS: Nothing came about of it.

15 THE COURT: Was there a traffic offense that he was cited
16 with?

17 THE WITNESS: I couldn't figure out -- there was nothing
18 that I could find.

19 THE COURT: And so how did it come to your attention that
20 he had been stopped?

21 THE WITNESS: When a traffic stop is conducted on a
22 probationer, if they call our office, typically an entry is
23 made that the traffic stop was conducted.

24 THE COURT: Uh-huh.

1 THE WITNESS: So that came out -- that came up as a
2 tickler on my case file which prompted me to start making
3 contact with Mr. Geiger.

4 THE COURT: Okay. So let me just look at these items.
5 So -- all right. So it came to your attention there was a
6 traffic stop. And you went to put a hold, but he was already
7 out of custody.

8 THE WITNESS: I couldn't find -- I couldn't determine if
9 he was in custody or not, and that was October 4th. I checked
10 custody October 7th. I could not find Mr. Geiger in custody.

11 THE COURT: Okay. So you went to his place, and you left
12 a --

13 THE WITNESS: On October 10th.

14 THE COURT: -- you left -- on October 10th. You left a
15 card. He -- and you didn't have any evidence that he
16 responded to your contact, right?

17 THE WITNESS: That's correct.

18 THE COURT: Okay. And so then, what else did you do?
19 Like, did you check to see if he had -- was doing his
20 community service every month?

21 THE WITNESS: He was supposed to provide us with proof of
22 community service on a monthly basis.

23 THE COURT: Okay. And -- and so did you look for that
24 proof?

1 THE WITNESS: Yes, I found two times that he reported.
2 He provided us proof of community service --

3 THE COURT: This is before the warrant, right?

4 THE WITNESS: Yes, before the warrant. He provided us
5 proof of community service October 20th of 2011 for 48 hours
6 and then prior to that, March 30th of 2011 for 18 hours.

7 THE COURT: Okay. And so that was the basis for the
8 violation?

9 THE WITNESS: Since we hadn't had contact with him --

10 THE COURT: Uh-huh.

11 THE WITNESS: -- yes, it was part of the basis for --

12 THE COURT: Okay.

13 THE WITNESS: -- the violation.

14 THE COURT: And what about the violation of intoxicant?

15 THE WITNESS: Intoxicants, on September 28th, 2012, Mr.
16 Geiger was arrested by Metro officers and charged with a
17 probation violation.

18 According to the police report -- my apologies, Your
19 Honor. I'm just reading off my violation report. Officers
20 were doing a perimeter check at the Stage Door Bar on 4000
21 Audrey, Las Vegas, Nevada. A record check was conducted on a
22 vehicle that was parked there. Officers observed a male,
23 later identified as Mr. Geiger, enter the bar. A record check
24 revealed the vehicle to be reg -- to be -- revealed him to be

1 on probation with a no alcohol clause.

2 An officer entered the bar and observed Mr. Geiger
3 sitting on the bar with an empty Budweiser bottle in front of
4 him. A second bottle was in his hand as the officer
5 approached. The officer observed the subject take a drink
6 from the beer bottle in his hand. Officers identified
7 themselves to Mr. Geiger. They con -- the probation was
8 contacted and a hold was requested.

9 As a matter of reference, Your Honor, after
10 reviewing the matter, the division decided to release its --
11 its -- our hold and allow Mr. Geiger another chance at
12 probation. So he was not violated on September 28th of 2012
13 for that particular violation.

14 THE COURT: Okay. And what about conduct?

15 THE WITNESS: That would be -- well, you're expected to
16 behave a certain way while you're on probation, Your Honor.

17 THE COURT: Uh-huh.

18 THE WITNESS: With him having the alcohol with him --
19 well, with him having the alcohol, the directive was violated;
20 and his conduct was unbecoming of somebody on probation.

21 THE COURT: Okay. And then the spec -- special condition
22 that was also violated --

23 THE WITNESS: Special condition --

24 THE COURT: -- by the alcohol?

1 THE WITNESS: -- number 3, no use, possession or control
2 of alcohol.

3 THE COURT: Okay. And then the employment?

4 THE WITNESS: The employment, I contacted his last
5 reported employer, Lally Steel. That was done October 11th,
6 2013. They said that he no longer works with them.
7 Unfortunately, it's been so long, they -- they couldn't even
8 tell me, which is why I left that bit of information out.
9 They just said he hasn't worked for them for quite some time.

10 THE COURT: All right. And the plaintiff had not updated
11 you on his employment?

12 THE WITNESS: That's correct.

13 THE COURT: And he --

14 THE WITNESS: Failed to report his change in employment
15 status.

16 THE COURT: -- and he had a duty to do that?

17 THE WITNESS: Yes, Your Honor. As part of his special --
18 as part of his probation agreement, he was -- he is supposed
19 to notify us of any change in employment, contact information,
20 medications received, residence, contact information. There's
21 a detailed report that he has to fill out, what we call a
22 monthly report. That was not received.

23 THE COURT: All right. And did you have anything else
24 under intoxicant to violate him on in October of 2013?

1 THE WITNESS: That would be it, Your Honor, from the
2 prior -- from the prior incident.

3 THE COURT: All right. And so that was the basis for
4 asking for the warrant be issued for his violation of
5 probation?

6 THE WITNESS: That is correct, Your Honor. And also
7 because he has -- he hasn't paid any of his supervision fees
8 or court fees, the financial obligation. He's supposed to pay
9 \$30 every month. At that time, at that date, October 11th, he
10 was 18 months in arrears or \$540 behind. And he also hasn't
11 paid his court fees of \$235.

12 THE COURT: All right. So once the warrant issued, was
13 he notified that the warrant had issued on him?

14 THE WITNESS: Had he contacted me, Your Honor, he -- it
15 -- he would have been notified.

16 THE COURT: Okay. But a notice doesn't go to his home?

17 THE WITNESS: No, Your Honor.

18 THE COURT: And then -- okay. All right. That satisfied
19 the court's questions.

20 MR. ZERNICH: Actually, I have a couple of other
21 questions.

22 Q BY MR. ZERNICH: Is there a -- a condition about
23 probation about using drugs?

24 A Yes.

1 Q What's that -- what's that condition?

2 A That would be condition number 4, controlled
3 substance. You shall not use, purchase, possess any illegal
4 drugs or any prescription medication unless first prescribed
5 by a licensed medical professional. You shall immediately
6 notify the division of parole or probation -- Parole and
7 Probation of any prescription received. You shall submit to
8 drug testing as required by the division or its agents.

9 Q In the -- in the last 12 months has he made any
10 reports in that regard?

11 A No.

12 Q Has he submitted to any of the drug tests in that
13 regard?

14 A If I can't make contact with him, I coul -- can't
15 really do a drug test.

16 Q Very good. The -- and you read it, and you went
17 sort of quick. It included prescription drugs?

18 A Yes.

19 Q Hypothetically, what would the department think
20 about a prescription for THC?

21 MR. BELLON: This question calls for speculation with the
22 department, we think, Your Honor.

23 THE COURT: He -- if the witness can answer it, I'd like
24 to hear the answer.

1 THE WITNESS: We generally don't allow medical marijuana.

2 Q BY MR. ZERNICH: How about a prescription for
3 Methadone?

4 A Methadone, if he has a legal prescription for it --
5 if he has -- if -- if he has a prescription for it, yes, we
6 will accept it. But I have not received any proof of any
7 prescriptions.

8 Q Okay. Those -- those are hypothetical questions by
9 the way. I just wanted to -- let's -- what's the -- what's
10 the restriction on weapons?

11 A Weapons, he's not supposed to have any weapons
12 whatsoever or anything that we can consider a weapon.

13 Q What about be around weapons?

14 A I'm sorry?

15 Q How about if he's just around weapons?

16 A Possession, use, control, if he -- if he has the
17 ability to control the weapon, he would be in violation.

18 Q But if you accompany someone on a hunting trip.

19 A That would be a violation.

20 Q Why? If you're -- if you're walking through the
21 woods and you're carrying your camera and they're -- and
22 they're hunting?

23 A Who's to say they don't have access to the weapon?

24 Q Okay. How about the use of weapons accompanying

1 someone to a hunter's safety course and weapons are being
2 used?

3 A The requirement is pretty -- pretty definite.
4 Probation agreement number 5, weapons, you shall not possess,
5 have access to or have under your control any type of weapon.
6 I have a copy of the probation agreement, both of -- both of
7 -- both of them.

8 Q And you said you also had a out-of-state travel
9 restriction?

10 A Yes.

11 Q Meaning no out-of-state travel at all or just no
12 out-of-state travel without notice and -- and approval?

13 A As far as that particular condition, out-of-state
14 travel, the probationer shall not leave the state without
15 first obtaining written permission from the Division of Parole
16 and Probation.

17 MR. ZERNICH: Your Honor, I don't think I have any
18 further questions in regards of what I think the -- the
19 purpose of this.

20 THE COURT: All right. Thank you, Mr. Zernich.

21 MR. ZERNICH: Thank you.

22 MR. BELLON: May I examine the witness, Your Honor?

23 THE COURT: You may.

24 MR. BELLON: Thank you very much.

CROSS-EXAMINATION

BY MR. BELLON:

Q Officer Laputt, I think I'm more confused than the judge. There were just so many contradictory answers, and I know you're going back a ways. But let me start with this.

Mr. Zernich asked you when you said that my client indicated he no longer had to report on a monthly basis, and you said that was correct. He didn't have to. Correct? Do you remember that testimony?

A Yes.

Q Then he indicated that Mr. Geiger was under the impression that he only had to contact the department if there was a change in his information, his phone number, his address, his employment; and you said that's partly correct.

A Yes.

Q You said then, and I quote you, my requirements are such; and then you went on to say this is what you expect from your --

A Yes, he's --

Q -- client.

A -- to call every other month.

Q Did you ever have an opportunity to tell Mr. Geiger what your requirements were --

A No.

1 Q -- at least to contact? Okay. In fact, you, after
2 you switched and took over his case, had never had contact
3 with Mr. Geiger to tell him anything until he was arrested;
4 correct?

5 A That is correct.

6 Q Okay. So there's no proof that he was aware of
7 these new conditions or your requirements and what was
8 expected of him from you?

9 A Yes.

10 Q There was -- do you have proof that somebody
11 contacted -- that you contacted -- you just said you never
12 contacted him. So how did he know what your requirements
13 were?

14 A Oh, no, I've never contacted. He --

15 Q Okay.

16 A -- I've never talked to him.

17 Q Did -- do you have any proof or evidence that Mr.
18 Geiger was ever aware that you were assigned to his case?

19 A No.

20 Q Okay. Now we started to talk more specifics; and
21 this is where I got confused, too. I'm gonna go over those
22 same conditions that the judge went over in a minute.

23 But when you first started talking about Ms. Gordon,
24 you said that she contacted you on June 24th, 2014 -- June 23rd,

1 I apologize. That was your testimony. And when asked what
2 about, you said with evidence of out-of-state travel.

3 A Yes.

4 Q Okay. But then later you went on to say that you
5 believed, or maybe it was just the text messages that you
6 received on August 18th or August 14th, on or about there;
7 correct?

8 A Yes.

9 Q But you did have a conversation with Ms. Gordon
10 about my client traveling out of state prior to his arrest?

11 A Yes.

12 Q Okay. So when you testified that the out-of-state
13 information that you listed as one of the conditions for his
14 violations came after his arrest, the truth is that Ms. Gordon
15 had provided you with that information before his arrest;
16 correct? He was arrested on July 26th. You indicated June 23rd
17 is when you had a conversation with Ms. Gordon.

18 A Yes.

19 Q So she told you that, and she was giving you
20 information about him traveling out of state; correct?

21 A Yes.

22 Q Now she didn't provide you with any evidence that he
23 actually traveled out of state. Did -- did she?

24 A Until the reinstatement, the August 18th, I think.

1 Q Oh, no, all she provided you is a bunch of text
2 messages that said he was going to travel out of state;
3 correct?

4 A That's correct.

5 Q Okay. But there was no evidence that he actually
6 went on that trip. Is there?

7 A No.

8 Q Okay.

9 A Other than the text messages.

10 Q Saying that he was going to go --

11 A Yes.

12 Q -- the next week. And if evidence -- would it
13 surprise you to find that evidence that his wife went on that
14 trip her own -- alone to the hospital, and he stayed home that
15 weekend?

16 A I would have no evidence to --

17 Q Correct. So technically, we violated him on
18 something that we really have no evidence, other than what Ms.
19 Gordon provided to you; correct?

20 A Yes.

21 Q Okay. You also indicated that there was evidence
22 that Ms. Gordon spoke to a Norma Medina, correct?

23 A Yes.

24 Q And your records reflect that that conversation took

1 place in August?

2 A Yes.

3 Q Okay. Are you aware that under oath Ms. Gordon
4 filed pleadings with this court indicating that she had talked
5 to Ms. Medina as early as June of 2014?

6 A I have notes that says she did contact the division
7 sometime in June.

8 Q And your testimony earlier is that's when you first
9 got evidence from her that my client was traveling or
10 indicating that he was going to travel out of state, correct?

11 A The first time I got a -- got wind of it was when I
12 was -- I was contacted.

13 Q Okay. But the department got wind of it back in
14 June --

15 A Yes.

16 Q -- (indiscernible). Okay. Now it is a little bit
17 confusing because when you gave the list of reasons the
18 warrant was issued, it was all-inclusive. Would it be fair to
19 say that the real reason he was picked up initially or the --
20 excuse me. I'll retract that. I'll withdraw that.

21 The real reason he was -- the bench warrant was
22 issued is because he failed to report?

23 A That's correct.

24 Q Okay. And then all these other things were kind of

1 tacked on afterwards, correct?

2 A Yes.

3 Q Because in essence, you just talked about
4 intoxicants; and you were talking about alcohol. That was an
5 incident from September 28th, 2012, over two years ago;
6 correct?

7 A Yes.

8 Q Okay. And he wasn't violated at that time. Was he?

9 A Yes, he wasn't violated at that time. We gave him
10 the opportunity, but we still have to mention this to the
11 judge whenever we do have to violate him.

12 Q Correct. So it was -- it was something that
13 happened in the past, two years ago; but when he was violated,
14 you brought up stuff from the past.

15 A As we should.

16 Q And are you aware, does your report reflect, on
17 September 28th when that police officer thinks that he saw my
18 client with a beer and ingesting a beer, that they did a
19 breathalyzer and a blood test on him and found absolutely no
20 alcohol in his system?

21 A That still does not alleviate the special condition.

22 Q That he's not to consume alcohol?

23 A No possession, use of con -- or control.

24 Q Okay. And so I guess would the position of the

1 department be that he was in control of alcohol because he was
2 in a bar cashing a check?

3 A From my -- from the police report, the beer was in
4 his hand.

5 Q Didn't he say it was an empty bottle in front of him
6 --

7 A Yes.

8 Q -- and that he ingested? He -- he witnessed him
9 ingest another beer?

10 A Yes.

11 Q Yet the tests, if what my client is saying is
12 accurate, I don't know if it's in your report, came back that
13 he had no alcohol whatsoever in his body.

14 A Okay. And like I said, it still doesn't alleviate
15 the fact that he had possession.

16 Q Okay. It changes -- it changes it a little bit as
17 far -- would you rather have somebody be in a bar with
18 possession or be completely drunk off their -- their bottoms
19 with blowing a .223?

20 A It doesn't matter to me. He would be arrested
21 regardless.

22 Q Okay.

23 A As far as a special condition, it would be -- the
24 special condition reads, special condition number 3, have no

1 use, possession or control of alcohol.

2 Q And I guess it matters how we interpret that,
3 whether he used it, he possessed it or he was in control of
4 it. But I just want -- for your record, does your records
5 indicate anything about him being tested for alcohol?

6 A No.

7 Q Okay. So they didn't put that in there. Okay. I
8 want to talk a little bit about the employment because you
9 indicated that you contacted his employer in October 2013, and
10 he was no longer working there; correct?

11 A Yes.

12 Q Do you know who -- or isn't true that Matthew listed
13 the Iron Workers, 433 Iron Workers --

14 MR. BELLON: Is that correct?

15 MR. GEIGER: Yes.

16 Q BY MR. BELLON: -- as his employer?

17 A As far as union, typically they are sent to an
18 employer. We would consider the employer, not the Iron
19 Workers because he would not be receiving a paycheck from the
20 Iron Workers. He would be receiving a paycheck from the
21 employer.

22 Q Okay. And I know you didn't have any contact with
23 him, but it would be unusual that -- for somebody to do what
24 Matthew did, to list the Iron Workers because he changed his

1 job sites so much that the contact information was through the
2 Iron Workers and that he might have thought that that was
3 sufficient?

4 A Typically when I contact the Iron -- the union, as
5 far as employment, they will typically say they are not
6 employed by them. They are employed by the employer not the
7 union.

8 Q Did you contact the union on this --

9 A No.

10 Q -- case, though? Okay. Going back just a little
11 bit to those conditions. Reporting, we understand. He didn't
12 report. You -- you issued a bench warrant. It said
13 residences was the second one. My understanding is Matthew's
14 lived at the same address.

15 MR. BELLON: For how many years now?

16 MR. GEIGER: Four, I believe.

17 MR. BELLON: Okay.

18 MR. GEIGER: Four to five.

19 Q BY MR. BELLON: And the note that you left on his
20 door was the address that you had for him, and he received
21 that note. He submitted it as evidence to the court. So I'm
22 not sure what I understand. Are you saying he changed
23 residences and didn't report it?

24 A I could not verify his residence because he did not

1 make contact with me.

2 Q Did you make contact with his wife, Debbie, at all?

3 A Eventually, yes. Contact was made with -- contact
4 -- I was called by his ex-wife -- I'm sorry, by his current
5 wife.

6 Q Debbie Tambini (ph)?

7 A From what I remember, I was contacted by his wife
8 when he was incarcerated. She was requesting the hold to be
9 lifted. Let me give you an exact date on that. July 28th,
10 2014.

11 Q So it was after the arrest, correct?

12 A That was after the arrest.

13 Q But you didn't have any contact with her prior to
14 that?

15 A I do not recall any -- give me a second.

16 Q Sure.

17 A I do not recall any contact with his wife prior to
18 the arrest.

19 Q Well, though, you have verified that Mr. Geiger
20 lives at the same address that he's reported for all these
21 years; correct?

22 A After he was arrested, yes.

23 Q Okay. You also entered -- mentioned 16 hours of
24 community service each month, and he violated that. Now I

1 think just based on the conversation that you and I had, we
2 can say that there was quite some confusion about the
3 community service aspect of this probation. Wasn't there?

4 A That's correct.

5 Q And would it be fair to say, and I don't want to put
6 words in your mouth, but I can kind of do that on cross-
7 examination, that you would understand his confusion as to why
8 he wouldn't have been reporting these community service when
9 he was full-time employed? You can say it.

10 A Yes.

11 Q Okay. And -- and what I'm getting at and that you
12 and I had discussed is that the condition is usually that if
13 you're full -- if you're employed full time, you don't have to
14 do the 16 hours; however, his -- and we agree, his report
15 doesn't require that; but that it was kind of shocking even to
16 you when you found that out today; and you had made a mistake
17 calculating a number of less hours, now realizing he owes over
18 600 hours in community service because nobody caught that
19 until today; correct?

20 A That is correct.

21 Q All right. So that's not the most serious of the
22 violations on there, correct?

23 A No.

24 Q And with regards to the monies that my client owed,

1 isn't it true that as of today, he's paid in full?

2 A That is correct. He paid fairly recently here.

3 Q Okay. And Mr. Zernich also asked you about some
4 drugs. I believe it was condition four. And you talked about
5 prescription medications, this -- a number of other things.
6 Do your records reflect that prior to you becoming the officer
7 on Mr. Geiger's case, that he reported his prescriptions to
8 the -- I think it was Officer Wright (ph) that had the case
9 prior to you. Is officer -- do you have any of Officer
10 Wright's notes?

11 A No, unfortun -- un -- I can look through the notes
12 as far as what's done. But it was not in the violation as far
13 as prescription medications. It was -- he was not violated on
14 it.

15 Q Right. So there's no issue of any drug use that he
16 -- that was the basis of this?

17 A No.

18 Q Okay. And as far as weapons are concerned, again,
19 you indicated that weapons was removed because you found out
20 it was a fishing trip and not a hunting trip.

21 A That is correct.

22 Q And you've never -- other than a pocketknife, which
23 he's required for work, you've never had any issue of weapons

24 --

1 A Typically, we would not --

2 Q -- by Mr. Geiger; correct?

3 A -- allow the pocketknife on his person when we would
4 do a visit. But if he is at work, that pocketknife has to
5 remain at work.

6 Q And he was not violated for the --

7 A No.

8 Q -- pocketknife, though?

9 MR. BELLON: Court's indulgence. I have no other
10 questions. Well, I -- I do have one other question. I
11 apologize.

12 Q BY MR. BELLON: You have a pretty bitty -- pretty
13 busy caseload --

14 A Yes.

15 Q -- down at the department? How often -- I'll
16 withdraw that. You're voice mailbox is full on a number of
17 occasions. Isn't it?

18 A Yes.

19 Q If my client or anybody was to call in and get a
20 full voice message -- a full voice message box, they can't
21 leave you a message; correct?

22 A That does not alleviate their obligation to report.

23 Q Thank you. But I'm just asking you, if they called
24 and they tried to make contact with you and they couldn't

1 leave you a message, it's understandable that they'd have to
2 call back. It's his responsibility. But it's understandable
3 that they'd have to call back again and again until they're
4 able to leave you a message, correct?

5 A That is correct.

6 Q And in fact, you're not even in the office that
7 often. Most of your -- would it be fair to say that most of
8 your contact is by messages, and then you'll call back, or
9 they'll call you back because you are out in the field most of
10 the time?

11 A That is correct. I would be out in the field.

12 MR. BELLON: Okay. I have no other questions. Thank you
13 very much. I appreciate it, Officer.

14 THE COURT: Okay. I'm -- I'm still unclear. Starting
15 from the date of June 23rd, 2014, until the date that Matt was
16 picked up on the warrant, could you tell me what your contact
17 was with Jennifer, if any?

18 THE WITNESS: I think it was a few phone calls and
19 eventually an office visit right -- a few phone calls during
20 that period and an office visit when she dropped off copies of
21 the images of the text messages.

22 THE COURT: Okay. Can your notes -- do your notes
23 reflect how many phone calls were -- and what the dates were?

24 THE WITNESS: Unfortunately, no, Your Honor.

1 THE COURT: I see. And do you recall the nature of those
2 phone calls?

3 THE WITNESS: Typically, it's the Mr. Geiger stating that
4 he was going to go to California, like this, and then the --
5 the -- the fishing trip.

6 THE COURT: Did she tell you that it was a fishing trip
7 or a hunting trip?

8 THE WITNESS: Event -- she told me it was a hunting trip,
9 which is why I initially put on the violation report. But as
10 soon as I saw the -- the text message, I withdrew the weapons
11 charge because I came -- come to realize it's a -- it's a
12 fishing trip. So there would be -- I -- I don't think a
13 fishing rod would be a weapon.

14 THE COURT: But she told you it was a hunting trip?

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: All right. And what other statements did she
17 make to you regarding this warrant and her interest in the
18 warrant?

19 THE WITNESS: Pretty much it was just that Mr. Geiger was
20 taking his children to Utah for that hunting trip. That he
21 was helping his -- taking his wife to the Califor -- to the
22 California hospital for her medical treatment.

23 Court's indulgence.

24 That would be it, Your Honor.

1 THE COURT: Okay. And on -- at what point did you -- had
2 -- withdrawn.

3 How did it come to be that the plaintiff here was
4 picked up on the warrant? Tell me what that process was,
5 please.

6 THE WITNESS: I don't really recall this -- I -- I wasn't
7 there when he was arrested, Your Honor. But from what I
8 remember, they -- I think somebody showed up -- they went to
9 his house.

10 THE COURT: Who's the "they"?

11 THE WITNESS: I'm thinking Henderson Police.

12 THE COURT: Okay. And would you have asked Henderson
13 Police to pick him up on the warrant?

14 THE WITNESS: No, Your Honor. The warrant was already
15 outstanding.

16 THE COURT: Okay. But how, after almost a year, would
17 Henderson Police have know to go to his home to pick him up on
18 a warrant?

19 THE WITNESS: Good question, Your Honor.

20 THE COURT: You don't have an answer to that question?

21 THE WITNESS: I have no an -- I don't know, Your Honor.
22 I'm speculating that -- no. I'm thinking they probably have a
23 -- what's called -- what we call an FAU, Fugitive Apprehension
24 Unit, who seek out the people that have absconded.

1 THE COURT: Uh-huh.

2 THE WITNESS: So I'm thinking that they prob -- that
3 they'd have this warrant.

4 MR. BELLON: Your Honor, I'm gonna object.

5 THE COURT: Yeah.

6 MR. BELLON: Excuse me, Officer.

7 THE COURT: It's speculation. It's sustained.

8 MR. BELLON: Correct, Your Honor.

9 THE COURT: Uh-huh.

10 MR. BELLON: And -- and especially 'cause --

11 THE COURT: It's sustained.

12 MR. BELLON: -- it's facts not even in evidence that he
13 wasn't arrested by Henderson Police it was by the probation
14 officer. So, I mean, as an offer -- as an offer of proof,
15 just so we don't go down the wrong the path, Parole and
16 Probation arrested him. Officers from Parole and Probation
17 came, not Henderson Police.

18 Correct?

19 THE COURT: Yeah, your file doesn't reflect who actually
20 took him into custody?

21 THE WITNESS: My apologies. I -- I -- I didn't, Your
22 Honor.

23 THE COURT: Uh-huh.

24 THE WITNESS: And all my concern was, he was arrested.

1 THE COURT: Uh-huh.

2 THE WITNESS: And the violation report was -- well, a
3 revocation hearing was in process. I didn't -- it's not
4 typical of me to figure out who arrested him. All I know is
5 he's in custody.

6 THE COURT: How within your department is it decided who
7 -- who gets picked up on a warrant because obviously this had
8 been outstanding for, what, almost ten months before he was
9 picked up or --

10 THE WITNESS: Unfortunately, Your Honor --

11 THE COURT: -- maybe nine months, maybe?

12 THE WITNESS: -- I don't know. I don't know how they --
13 how they decide who gets picked up and who doesn't.

14 THE COURT: How long have you been with the department?

15 THE WITNESS: 2008, February.

16 THE COURT: And -- and you don't know what the protocol
17 is for deciding who gets picked up on the warrant?

18 THE WITNESS: No, Your Honor. That's specifically
19 handled by our FAU, Fugitive Apprehension Unit.

20 THE COURT: Uh-huh. Did you convey that information to
21 the defendant here, Jennifer?

22 THE WITNESS: I may have mentioned that there was a
23 warrant for his arrest, prior --

24 THE COURT: No, the question was, did you discuss with

1 her what department within probation and parole is responsible
2 for picking a probationer up on a warrant?

3 THE WITNESS: No, Your Honor.

4 THE COURT: Okay.

5 THE WITNESS: That would not be discussed.

6 THE COURT: All right.

7 Anything else, Mr. --

8 MR. ZERNICH: Yes.

9 THE COURT: -- Zernich?

10 **REDIRECT EXAMINATION**

11 **BY MR. ZERNICH:**

12 Q When you're talking about the -- the phone calls you
13 had with Jennifer, do you recall if you personally talked to
14 Jennifer in June?

15 A I re -- I do recall personally talking to Ms.
16 Gordon, yes.

17 Q Do you recall personally talking to her in June?

18 A Yes, I -- June? Yes, I -- I -- yes. Let me -- let
19 me make sure I have an exact date for you. You'll have to for
20 -- forgive me. My notes are not as clear as I'd like them to
21 be right now. But I do recall talking to Ms. Gordon. I just
22 can't pin down the date right now.

23 Q Okay. Well, you did -- you said you recalled
24 talking to her about the -- the trip to Utah.

1 A Yes.

2 Q Okay. And you -- if you could refer back to your
3 Exhibit B, and I want you to go to page 15. (Indiscernible)
4 right (indiscernible). Usually one of the -- this is one of
5 the exhibits that you received from her wherein on page 15 you
6 see right here it says, I was sitting right next to him when
7 he called, you know, that we went fishing in Utah with grandpa
8 and grandma. That was a -- an alleged text from one to the
9 other, right?

10 A Yes.

11 Q Well, the -- can you turn back one page, the start
12 of that line of communication, and tell the judge the date of
13 the communication between the two, alleged two, of them?

14 A There is a text here on July 14th, 2014, from Ms.
15 Gordon and then from Matthew Geiger responding to it.

16 Q Okay. You can stop there. If -- if she didn't have
17 this communication until July 14th, how could she tell it to
18 you by -- on June 23rd -- 24th or whatever day you're
19 referencing?

20 MR. BELLON: Objection, Your Honor, it calls for facts
21 not in evidence. The witness never testified that he -- or
22 actually he did testify that he didn't get these text messages
23 between August 14th and the 18th. He testified the conversation
24 he had in June, she told him about the trip already. So it

1 wasn't a question that it couldn't have been supplied to him.

2 He's -- that was his testimony that he received --

3 THE COURT: He -- no, he did --

4 MR. BELLON: -- these in August.

5 THE COURT: -- testify that -- well, he testified that --

6 MR. BELLON: He talked to her.

7 THE COURT: -- the court's understanding -- let's put it
8 this way 'cause this is what counts. The court's
9 understanding of the testimony is that he had been -- he had
10 understood it was a hunting trip; and -- and then when he saw
11 the text, he understood it to be a fishing trip. And he made
12 a change in his notate -- his violation.

13 MR. BELLON: Which actually verifies my account of the
14 situation, which means when they talked in June, she said it
15 was hunting. When he got these in August, he saw it was
16 fishing.

17 THE COURT: Yeah.

18 MR. BELLON: So he did testify earlier, and the recording
19 will show, that he didn't receive these till August; but the
20 conversation where she talked about the out-of-state travel
21 was in June, June 23rd, my recollection from the testimony.

22 THE COURT: I -- I think my notes align with Mr. Bellon's
23 representation.

24 Q BY MR. ZERNICH: I -- I just -- as you were

1 answering questions, you were flipping through notes at the
2 same time, giving me the perception that you're reading from
3 the certain things. But are you reading your notes that says
4 that she told you about a hunting trip in June, or are you
5 just -- are you just looking for those but can't find them and
6 -- and -- and -- and just telling us a date that you think it
7 happened?

8 A There -- there are notes. I'm reading off the
9 notes. If -- if you can just --

10 Court's indulgence.

11 THE COURT: Sure.

12 MR. ZERNICH: Please.

13 THE COURT: Okay. Just give him a second to take a look.

14 THE WITNESS: Okay. June 23rd. My apologies. She talked
15 to N. Medina.

16 Q BY MR. ZERNICH: Are you reading that or are -- or
17 are you just --

18 A Yes, I am reading that.

19 Q -- all of a sudden remembering it?

20 A I'm reading it.

21 Q Do you -- did you talk to her on June 23rd?

22 A No, I didn't talk -- I did not talk to her on June
23 23rd.

24 Q So she didn't tell you anything about him leaving

1 the state for a hunting trip on June 23rd?

2 A No, it was not me that she talked to. It was Norma
3 Medina, who is another employee of the division.

4 Q Okay. What capacity is Norma Medina of the -- in
5 what capacity is she of the division?

6 A I'm thinking she's part of the FAU unit.

7 Q Uh-huh.

8 A Because this was in their -- in their case file at
9 the -- this was in their case during this period.

10 Q So N. Medina, she talked to (indiscernible). Does
11 it say what the conversation that she had with Norma Medina on
12 June 23rd?

13 A Yes.

14 Q Can you read those notes?

15 A Of course. June 23rd, 2014, telephone call received
16 from subject, ex-wife Jennifer Gordon, seven -- the telephone
17 number, advised she -- that she shared custody with her their
18 two boys and had been picking them up every weekend.

19 She also sta -- stated that her two boys informed
20 her that they had gone hunting during the last two weeks that
21 he had visitation with them and have traveled to Utah. She
22 stated that she is not current -- that he is not currently
23 employed and is scheduled to pick up the kids again on Friday
24 at 6:00 p.m.

1 She was advised that she -- that she would send an
2 ATL, attempt to request -- attempt to locate request to the
3 officer in the P&P office. So I guess that's how it was
4 generated. They were able to get an address.

5 Q Okay. And they got an address from him?

6 A From her, from Ms. Gordon.

7 Q What address, by the way, do you have as his
8 address?

9 A 8659 Horizon Wind Avenue, Apartment 102.

10 Q Does -- did you ever have this address? Could you
11 read what the ad -- the address is?

12 MR. BELLON: We --

13 Q BY MR. ZERNICH: And tell the court -- I'm sorry.

14 MR. BELLON: Yeah, we (indiscernible) --

15 MR. ZERNICH: (Indiscernible) see what we're --

16 Your Honor, we're reading from the order of December
17 14th, 2010. He has his -- an address on there that does not
18 match that address.

19 THE WITNESS: My notes -- Norma Medina -- N. Medina
20 listed 8659 Horizon Wind. This is 8669. The apartment is
21 also different. We have 102. This says 103.

22 Q BY MR. ZERNICH: Okay.

23 THE COURT: Can you just go over the testimony again that
24 in your notes that you just read into the record between

1 Jennifer Gordon and Norma Medina that ended with, she sent a
2 request to locate? What does that mean? Who's -- what she,
3 because we have two females that we're talking about here?

4 THE WITNESS: Norma -- Nor -- Ms. Medina would -- if we
5 get an address -- I'm thinking Norma Medina would send the FAU
6 officer the address for him to go out to see if the sub -- if
7 Mr. Geiger was actually there.

8 THE COURT: So the she is -- so Norma sent a request to
9 locate to the FAU and that's the fugitive unit?

10 THE WITNESS: Fugitive Apprehension Unit.

11 THE COURT: Based on the address that defendant gave her.
12 Is that right?

13 THE WITNESS: Actually, based on the address that Ms.
14 Gordon provided.

15 THE COURT: Yeah, I know. Okay. Okay. Okay.

16 Anything else, Mr. Zernich?

17 Q BY MR. ZERNICH: Do you have an -- did -- did -- can
18 you inform the court or not whether Ms. Gordon specifically
19 asked for him to be picked up on a probation revocation?

20 A No, because we -- I requested the bench warrant back
21 in 2013.

22 Q In -- in -- now we've moved forward to June 2014.

23 A Uh-huh.

24 Q Do you recall is there anything that specifically

1 said that she was asking for him to be picked up and thrown
2 back into jail?

3 A No, I don't see anything of that nature. I don't
4 see any statement -- notes of that nature.

5 MR. ZERNICH: Thank you.

6 I -- I have no further questions, Your Honor.

7 MR. BELLON: And I just have one question, Your Honor.

8 THE COURT: Sure.

9 **RECROSS EXAMINATION**

10 **BY MR. BELLON:**

11 Q It's with regards to that last question you were
12 just asked. You've been on this force for six-and-a-half --
13 or in the department for six-and-a-half years.

14 Drawing off your expertise and your experience, if
15 somebody comes in and provides that type of information to the
16 FAU, telling them that he's on a hunting trip, he's in
17 possession of guns, he's traveling out of the state, what do
18 you think the logical conclusion that the FAU would do? Would
19 they ignore it, or would they go pick him up?

20 A We would go pick him up.

21 MR. BELLON: Thank you.

22 I have no other questions, Your Honor.

23 THE COURT: Okeydoke.

24 MR. BELLON: Thank you very much, Officer.

1 THE COURT: Thank you very much for coming in today.

2 Appreciate your time.

3 MR. ZERNICH: Appreciate it.

4 MR. LAPUTT: Oh, yeah. Thank you.

5 MR. BELLON: Aren't you glad we called you first?

6 THE COURT: All right. Take care.

7 MR. LAPUTT: Is there anything else I can do for Your
8 Honor?

9 THE COURT: No, you're excused. Thank you very much.

10 Okay. Mr. Zernich, do you have any other witnesses
11 that you want to call?

12 MR. ZERNICH: I -- I'm sorry to ask, Your Honor. 'Cause
13 I sort of need it clarified what we're -- what we're doing
14 today because I -- I --

15 THE COURT: Well, this was on --

16 MR. ZERNICH: We were here for the mo --

17 THE COURT: Yeah.

18 MR. ZERNICH: -- on a motion to hold him in contempt for
19 certain violations.

20 THE COURT: Right.

21 MR. ZERNICH: And then there was a subsequent motion
22 filed for a change of custody.

23 THE COURT: Right.

24 MR. ZERNICH: I can't remember if they had a counter --

1 THE COURT: This is --

2 MR. BELLON: We (indiscernible) --

3 MR. ZERNICH: -- I don't know if they had a counter
4 motion or not. The -- the --

5 MR. BELLON: -- child support modification.

6 MR. ZERNICH: Child support modification. And -- and --
7 this I'm not -- this was part of their opposition; although,
8 not so much in the form of a -- of a -- a counter motion. But
9 I know that the court wanted to talk to the probation officer.
10 Jennifer explained to me your feelings or what it is she --
11 she thought you wanted to speak to him about.

12 THE COURT: Right.

13 MR. ZERNICH: Basically, I'd like to call Jennifer. I --
14 I -- I don't want to limit my case here and then have to call
15 her back for something else.

16 THE COURT: All right. Let me --

17 MR. ZERNICH: Just so -- so I'd like to know where to go
18 'cause I don't want to say, okay, I conclude but then realize
19 that I -- I left -- left a whole lot out what I -- that I had
20 planned for today.

21 THE COURT: Okay. The evidentiary hearing was set, my
22 Odyssey register reflects, order to show cause, defendant
23 filed; and then why the warrant was issued for plaintiff; and
24 probation department communication with defendant; child

1 support. The court just thought -- the court believed that it
2 was necessary to clear up that whole issue for a lot of
3 different reasons in this case.

4 And I had -- let me see the motions. I had
5 defendant's motion for change of custody. She was seeking
6 sole legal custody based on defendant's warrant and his
7 conduct, vis-à-vis probation is helped summary -- summy --
8 summarizing that up; and to put him on supervised visitation.

9 And then we had plaintiff's opposition and his
10 counter motion to modify child support, for attorney fees, and
11 related relief.

12 And so if you wish to put her on the stand just to
13 testify as to her -- her interaction with the probation
14 officer, you may do so. I'm not requiring it of course. It's
15 your case.

16 MR. ZERNICH: Okay.

17 THE COURT: But if you want to do some limited testimony
18 on that, you are free to do so.

19 MR. ZERNICH: I -- I -- I do. And I have questions all
20 ready to go in that regard. I just have to find --

21 THE COURT: Okay.

22 MR. ZERNICH: -- a place (indiscernible).

23 THE COURT: That would be the next step on the issue of
24 the probation.

1 MR. ZERNICH: Okay.

2 THE COURT: And then the other thing would -- the other
3 thing -- legal --

4 MR. BELLON: Small little legal issue.

5 THE COURT: -- in the legal sense of the matter here,
6 would be on the issue of contempt on Matt for his failure to
7 pay child support. I know -- I -- I saw that he's on
8 disability. But -- and you're asking to modify. I'd like to
9 know, you know, when he was disabled. And I -- I don't know
10 that I saw a schedule of arrears, but there's a lot of filings
11 here. So just give me a schedule of arrears. I hope that one
12 was filed.

13 THE CLERK: (Indiscernible) an order to show cause here
14 (indiscernible) on my calendar.

15 THE COURT: Right. An order to show cause for his
16 failure to pay child support. So I need to --

17 THE CLERK: (Indiscernible) says violate -- violated by
18 -- violation of those orders (indiscernible).

19 THE COURT: I think it all has to do with child support,
20 Mr. Zernich; but it's your client's motion, order to show
21 cause. So maybe you just need to make sure I understand what
22 you're asking me to hold him in contempt for.

23 MR. ZERNICH: Okay. Well, we're -- I'll start with
24 Officer Laputt, since that's all fresh.

1 THE COURT: Okay.

2 MR. ZERNICH: And then I'll go sort of in reverse, in --

3 THE COURT: You bet.

4 MR. ZERNICH: -- reverse order.

5 So, Jennifer, you can --

6 MS. GORDON: Oh.

7 MR. ZERNICH: -- go up there. You got -- you got the
8 witness book again?

9 MS. GORDON: Yes.

10 THE CLERK: Before you sit down --

11 MS. GORDON: Oh.

12 THE CLERK: -- raise your right hand.

13 You do solemnly swear the testimony you're about to
14 give in this action shall be the truth, the whole truth and
15 nothing but the truth, so help you God?

16 MS. GORDON: Yes.

17 THE CLERK: Thank you.

18 MR. ZERNICH: I'm gonna apologize to the court in advance
19 if I bounce around a little bit because I see he maybe
20 answered a lot of questions that I had set for her, and then I
21 realize that they were -- that it -- that it would be
22 redundant and have to skip through, but -- let -- let's just
23 start.

24 ////

1 JENNIFER GORDON,

2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. ZERNICH:

5 Q For the -- for the record could you state your name?

6 A Jennifer Gordon.

7 Q Okay. Jennifer, did -- did -- did you have anything
8 to do with Matthew's incarceration?

9 A No.

10 Q What role did you have to do otherwise?

11 A I -- I didn't have any role. I spoke -- I spoke
12 with Norma Medina in the absconsion department, or I don't
13 know what they call it, in the state department the tail end
14 of June. But I didn't speak to Officer Laputt till
15 August 14th. But nothing -- nothing I spoke with him about was
16 in regards to his incarceration. It was for the kids. I
17 didn't want the kids to get picked up while they were with --
18 with Matt.

19 Q Let me ask you this. Did -- did you initiate a call
20 to one of those departments?

21 A No.

22 Q Did you initiate a call to parole/probation, to
23 Norma Medina?

24 A No -- I -- I did after I received a phone call

1 looking for Matthew.

2 Q Okay. So you initiated a call to one of the
3 departments.

4 A Ye -- well, yes.

5 Q Okay. Well, tell the court why you initiated that
6 call. How did that all come about?

7 A I -- because I got -- I got a phone call. Somebody
8 was looking for Matthew. I said they had the wrong number. I
9 -- I didn't know if it was Officer Wright in the past had
10 contacted me for -- I didn't know if that was the same person.
11 I told them, we're not married anymore; that, you know, I
12 don't have anything to do with that.

13 So I called -- or I -- well, first I looked up in
14 the register of actions and I saw that it showed that he had a
15 warrant. So I called the probation office to find out what
16 was going on with this warrant because this -- the warrant was
17 from back in -- in October.

18 And he currently had the kids for extended
19 visitations during the summer. And I totally freaked. I
20 totally freaked out. I was worried that if this ac -- this
21 warrant was active, he was gonna get picked up with the kids
22 and then nobody would call me and I wouldn't know where the
23 kids were.

24 Q Okay. Well, was that the first that you had known

1 about this active warrant?

2 A Yes. It was towards the tail end of June.

3 Q When you say the tail end of June, can you be a
4 little more specific?

5 A I would say the date that Officer Laputt gave, the
6 June 23rd, would be the first day that I spoke with Norma
7 Medina.

8 Q Okay.

9 A Or the 24th, what -- whatever date he -- he stated.

10 Q Okay. So you're saying you -- you received a phone
11 call from somebody --

12 A I --

13 Q -- looking for Matt?

14 A Yes.

15 Q That phone call, do you know who that was?

16 A I do not.

17 Q Do you have -- did you -- in your mind, did you have
18 any -- did you have any speculation who it was?

19 A I -- I did. I assumed that it was the probation
20 department.

21 MR. BELLON: Objection, Your Honor.

22 MR. ZERNICH: Well --

23 MR. BELLON: It's speculation. There's not evidence.

24 MR. ZERNICH: Yeah, but it's just --

1 THE COURT: Well, the -- she --

2 MR. ZERNICH: -- a state of mind.

3 THE COURT: -- well, he's -- she -- overruled. She's
4 answering the question that her attorney asked her.

5 Q BY MR. ZERNICH: I'm just looking for your state of
6 mind.

7 A I -- I assumed it's the -- it was the probation
8 department because they had called me before.

9 Q Okay. When you say called you before, how long ago
10 was it that you had received a call before?

11 A It -- it'd been a couple of years.

12 Q Okay.

13 A It'd been a couple of years.

14 Q So you assumed it was the probation department, you
15 didn't -- but you didn't know?

16 A Right, but I didn't know.

17 Q And that prompted you to do something?

18 A Yes.

19 Q Which was what?

20 A I -- to look up on -- on line, on my link that I
21 have for court case lookup that I come to family courts to
22 look up his district court stuff to see if something was going
23 on with his probation.

24 Q And you found out what?

1 A That it said that probation violation and bench
2 warrant issued.

3 Q Okay. And that -- you say that's the first that
4 you knew about a probation violation?

5 A Yes.

6 Q Okay. So what did you do next?

7 A I -- I called the probation department. I looked up
8 the probation and parole number and called them.

9 Q Okay. And what was your -- what was your motive
10 with that phone call?

11 A Because I wanted to let them know that my -- he has
12 custody with my kids now, and I don't want him to get picked
13 up with my kids and then me not know where my kids are.

14 Q Do you need a minute?

15 A No, I'm okay. I just freak out with this stuff.
16 You can continue. I'm fine.

17 Q Well, we're gonna have to be able to understand your
18 answer.

19 A Okay.

20 Q All right. So.

21 A Uh-huh.

22 Q It's okay. Calm down.

23 A No, I'm good. I'm good.

24 Q All right.

1 A Uh-huh.

2 Q So you called the probation department, you're
3 saying, because you were worried?

4 A Yes, uh-huh.

5 Q You were worried that he might get picked up while
6 he had the kids?

7 A Yes.

8 Q Okay. What -- what was your worry there?

9 A I wasn't sure if what I was reading on line was
10 current, if he -- if he -- if the warrant was active, what was
11 going on because it showed October; and here we'd been coming
12 in and out of court for so long, I was -- I didn't know -- I
13 didn't know if that was legitimate or not. I was really
14 confused; and I wanted to know, you know --

15 Q Well, I -- I -- I don't want to be dense or
16 anything; but I asked you a blunt question. What do you care
17 if he gets picked up while the kids are --

18 A Because --

19 Q -- with him?

20 A -- because he won't call me. Nobody will call me.
21 And that's exactly what happened. Nobody called me. I didn't
22 know where the kids were.

23 Q What do you think is going to happen to your kids?

24 A They're gonna get stuck in Child Haven or somewhere.

1 Q Oh, okay. So tell the court specifically why you
2 were worried. Would you please be a little more --

3 A I didn't want --

4 Q -- specific, that I was worried --

5 A -- my kids to get taken by somebody.

6 Q And you were afraid he wouldn't call you?

7 A Yes.

8 Q Okay. So you called the department and you had a
9 conversation with them?

10 A Yes.

11 Q All right. Do you recall who you talked to?

12 A I spoke with somebody first who referred me to Norma
13 Medina.

14 Q Okay. Did you make a second call, or did they just
15 transfer you through?

16 A No, I -- I -- they transferred me. I left a voice
17 mail, and then I had to call back later.

18 Q Okay. Then you talked to Norma Medina?

19 A Yes.

20 Q Okay. He referenced the phone call with Norma
21 Medina. He said around June 23rd, which you -- can you -- do
22 you recall the conversation with Norma Medina?

23 A She confirmed that he had an active warrant. She --
24 she told me -- she explained what an absconsion from probation

1 was because I didn't know what that meant; that he hadn't
2 reported in ten months. She asked if I knew of his
3 whereabouts. I said, no. She asked me if the address they
4 had on file was correct. I --

5 Q Do you recall was it correct or not correct?

6 A It was missing the -- the apartment number.

7 Q Okay.

8 A And then I -- I told her -- I stressed to her that,
9 you know, he has extended custody. We'd just been in court.
10 He was given extended visitations with the kids over the
11 summer, and I was really worried that something was gonna
12 happen. And so she asked for my address. And I told her, no,
13 because I --

14 Q Why wouldn't you give her your address?

15 A Because I didn't want -- she was going off our
16 visitation schedule. I didn't want the kids getting picked up
17 and seeing their dad go to jail from my house.

18 And so I told -- I had told her what -- what had
19 happened over the last year since January since Matthew was
20 granted his -- his visitations. And -- but nothing -- nothing
21 was said in that phone call about going out of state. I
22 didn't know at that point that the kids had left the state. I
23 didn't find out until -- till July till we left for Kansas
24 City.

1 Q You're talking about the -- the out-of-state fishing
2 trip?

3 A Yes, we -- all I had talked to was about what had
4 happened in court and --

5 Q What -- what -- what had hap --

6 A -- and about where his wife lives in California.

7 Q Okay. So there was mention of California?

8 A Yes.

9 Q What had happened in court that you may have talked
10 about?

11 A There -- there's -- there's so much that's got --
12 that's been said in court. May 1st --

13 Q How about specifically anything about hunting?

14 A In -- on -- in the May 1st -- on the May 1st hearing,
15 Matthew got really upset because he asked to take the kids to
16 a hunter gun safety course on -- on -- during the week. And
17 the court's told him, no, that he had to do it on his own time
18 share.

19 Q Okay.

20 A And he's openly spoken about that in -- in court
21 before.

22 Q Okay. So on May 1st, the court -- this court
23 actually told him that he had to do the hunter gun safety
24 course on his own time?

1 A Yes.

2 Q Which was actually in violation of his probation?

3 A Yes.

4 MR. BELLON: Objection --

5 THE WITNESS: I --

6 MR. BELLON: -- objection --

7 THE WITNESS: -- I didn't know.

8 MR. BELLON: -- objection, Your Honor, how does she know
9 if that's a violation of a probation? She's speculating.

10 THE COURT: Well, now we know because the PO just
11 testified to it.

12 MR. BELLON: No, because once facts come into play, there
13 are no guns at a hunter's safety course, Your Honor. There's
14 no evidence been sub --

15 THE COURT: Well, I don't know that.

16 MR. BELLON: Right. There's no --

17 THE COURT: Okay.

18 MR. BELLON: -- evidence been submitted.

19 THE COURT: Sus -- sustained. Okay. Your --

20 MR. BELLON: So --

21 THE COURT: -- objection's sustained.

22 Q BY MR. ZERNICH: Do you know if there's guns at a
23 hunter safety course or not?

24 A No.

1 Q Have you ever taken a hunter safety course?

2 A No.

3 Q What's your opinion about whether there's guns at a
4 hunter saf -- what's your belief? What's your understanding?

5 A I would think if you're --

6 MR. BELLON: Objection as to foundation how she has an
7 understanding if she's never gone and she's never been and --

8 THE COURT: Sustained.

9 MR. BELLON: Thank you.

10 MR. ZERNICH: Well, it's a state of mind of why she might
11 call someone.

12 MR. BELLON: That's not even relevant. This isn't
13 hearsay. It's her own testimony.

14 Q BY MR. ZERNICH: Did you think there was guns in a
15 hunter safety course, or not?

16 A Yes.

17 Q If it turned out that you were actually wrong, that
18 you found out at a later date --

19 THE COURT: What's the rest of the question?

20 MR. ZERNICH: I was formulating, Your Honor; and I
21 couldn't figure out the rest. So I'm gonna strike the first
22 part of it.

23 Q BY MR. ZERNICH: All right. So you -- so you -- you
24 talked to her about -- about a hunter safety course?

1 A Yes, that and -- and there was different questions.
2 There -- we talked about everything that's happened in court.
3 She -- that's -- she told me he's not supposed to be around
4 any firearms.

5 And I said, well, the kids tell me they go shooting
6 all the time. There -- there wasn't -- I never said anything
7 about hunting, but I said shooting because the kids -- the
8 kids tell us all the time they go shooting with him and -- him
9 and -- they say him and grandpa.

10 MR. BELLON: I'm gonna object as to hearsay, Your Honor,
11 the same ought to apply to children.

12 THE COURT: Sustained.

13 MR. BELLON: Thank you.

14 MR. ZERNICH: Your Honor, again, it's -- it's not as for
15 the truth of the -- of the matter, but the state of mind of
16 why she would be calling and talking to this Norma Medina.

17 MR. BELLON: That's an easy answer to everything, Your
18 Honor. If it's not being offered for the truth --

19 MR. ZERNICH: Well, no, because it's -- it -- it -- if
20 you have six objections, all the exact same thing, I'm gonna
21 make it six times. It's not the easy answer. As a matter of
22 fact, in ten years, I don't know that I've ever used it
23 before.

24 THE COURT: State of mind?

1 MR. ZERNICH: Maybe I have, you know, I'm sure at some
2 point; but it's not like everything is a state of mind. I
3 understand hearsay. In this case, we're trying to get the why
4 she talked to Norma -- Norma Medina and why she told Norma
5 Medina what she told her; not whether, you -- you know, what
6 she believes to be true is -- is different from what maybe
7 actually is true. And that's why she would talk, you know, to
8 a person and -- and -- and be so upset and make this report.

9 MR. BELLON: And I'm confused --

10 MR. ZERNICH: So I'm not -- so -- so I'm --

11 THE COURT: Well --

12 MR. ZERNICH: -- I'm just lodging, saying that I'm not
13 offering it for the truth of the matter to say that the kids
14 go shooting with Matthew. I'm just trying to get to why that
15 she called Norma Medina and why she told her that.

16 MR. BELLON: She's -- she's --

17 THE COURT: All right.

18 MR. BELLON: Okay.

19 THE COURT: I -- I'll allow it for state of mind. I --

20 I'll allow the testimony, Mr. Bellon.

21 MR. BELLON: Thank you.

22 Q BY MR. ZERNICH: Okay. So you say you refuse to
23 give her your address because you -- you -- you are afraid at
24 some point if he's violating his probation that he might get

1 picked up?

2 A Yes.

3 Q And you didn't want him to get picked up while he
4 had the kids?

5 A No, yes, exactly, no.

6 Q Okay.

7 THE COURT: Did you give them the correct apartment?

8 THE WITNESS: I did.

9 Q BY MR. ZERNICH: Did you have any further
10 conversations with her?

11 A Just about the visitations and she -- she told me
12 she would make sure that they didn't get picked --

13 Q That's a yes or no question.

14 A Yeah, yes.

15 Q Okay. So the -- I'm gonna just lay a little
16 foundation first.

17 A Okay.

18 Q Do -- do you recall when the next conversation with
19 her was?

20 A It -- it wasn't un -- until sometime after -- after
21 his arrest until I --

22 Q Did you understand what capacity Norma Medina worked
23 in?

24 A No, I thought she was probation.

1 Q You thought she was probation?

2 A I thought she was probation.

3 Q What did you -- did you have -- what did you think
4 she did in probation?

5 A I -- I initially thought she was one of the
6 probation officers or one of their supervisors.

7 Q Okay. So when was your second conversation with
8 her?

9 A I want to say that it -- it was towards -- towards
10 the end of July. It was sometime after Matthew's
11 incarceration.

12 Q Okay.

13 A There was -- there was a couple phone calls that
14 went in back and forth that --

15 MR. BELLON: Objection, Your Honor, there's no question
16 in front of the witness.

17 THE COURT: Yeah.

18 Q BY MR. ZERNICH: You --

19 THE COURT: Sustained.

20 Q BY MR. ZERNICH: You, yourself, left out of the
21 jurisdiction shortly after Matthew returned. Isn't that --
22 isn't that correct, after -- after vacation was ended?

23 A Yes.

24 Q Okay. Do you recall what dates he had his vacation

1 with the kids?

2 A June 13th through the 22nd.

3 Q Okay. And you -- as it turns out, you know that he
4 took the kids out of state.

5 A Yes.

6 Q Okay. But at the time, did you know he was out of
7 the state with the kids?

8 A No.

9 Q Okay. When did you -- when did you find that out?

10 A It wasn't until the beginning of July when we were
11 leaving for Kansas City.

12 Q Okay. And -- and how did you find that out?

13 A Because the kids were complaining they didn't want
14 to go on a long -- another long road trip.

15 Q Okay. Well, tell -- I mean, tell the court your
16 story as can -- you can -- you can be -- you can elaborate
17 your answers a little bit more. You can speak with the judge.

18 A When -- when we were leaving for Kansas City, they
19 were complaining, specifically Chevy, because he didn't want
20 to get sick again. They were complaining about the long road
21 trip. We don't wanna go on another one.

22 MR. BELLON: Objection, I'm going to object as to child
23 hearsay, Your Honor, and it's not state of mind.

24 THE COURT: I'm gonna hear -- you know, I've talked to

1 the kids. So I'm gonna hear a little bit --

2 MR. BELLON: Okay.

3 THE COURT: -- about this.

4 THE WITNESS: I -- I asked them, what -- what do you mean
5 long road trip? We haven't gone on any other road trips.
6 They're like, when we're with dad. I said, what do you mean
7 when you were with dad? Where did you go? They said, we went
8 to Utah when Chevy got sick. And I was -- that was pretty
9 much the gist of it. I didn't -- I was blown away.

10 THE COURT: Yeah, but this is the trip where Matt's
11 saying that he had Weston call you that Chevy got sick in the
12 car --

13 THE WITNESS: Yes.

14 THE COURT: -- correct?

15 THE WITNESS: Uh-huh.

16 THE COURT: Did Weston call you to tell you that Chevy
17 got sick in the car?

18 THE WITNESS: He did.

19 THE COURT: Okay. And you didn't know where they were
20 coming from?

21 THE WITNESS: No, no.

22 THE COURT: You just knew that he got sick in the car?

23 THE WITNESS: I just knew that he got sick. Weston
24 called. I missed his call. I called him back. And he told

1 me he had been worried. He called me because Chevy got sick.

2 THE COURT: Uh-huh.

3 THE WITNESS: But he was fine now. I asked, did you give
4 him any -- did dad give him any Motrin? No, but he's okay
5 now. I was just worried when he -- when I called. So there
6 wasn't -- I said make sure he drinks lots of water. You --
7 the -- the normal stuff I say to Chevy. There wasn't any --
8 any extra questions about -- there was no reason for me to
9 ask, where are you at? What are you doing?

10 THE COURT: Okay.

11 THE WITNESS: You know, are you out of state? I mean,
12 that's -- that -- there was no reason for me to ask that --

13 THE COURT: Okay.

14 THE WITNESS: -- at the time.

15 THE COURT: And this is the trip where Matt told the
16 court that when he went to pick up the kids, his father or
17 grandfather was --

18 THE WITNESS: Yes.

19 THE COURT: -- present. And he told you he was taking
20 the kids on a fishing trip.

21 THE WITNESS: Right. That's what he -- that's what he
22 says.

23 THE COURT: But you deny that that happened?

24 THE WITNESS: That never happened. His -- his father has

1 never been to our house during a visitation pickup, not ever.

2 THE COURT: Or a grandfather?

3 THE WITNESS: No.

4 THE COURT: Nobody?

5 THE WITNESS: No.

6 THE COURT: Okay.

7 Q BY MR. ZERNICH: And as part of his -- as part of
8 Matthew's opposition, they claim that -- that you were
9 notified -- that you were notified immediately upon his being
10 arrested; and that you were there to -- to pick up the boys
11 almost immediately thereafter.

12 A No.

13 Q All right. It was al -- almost -- there's an
14 inference that you orchestrated the whole thing.

15 A That's what they are saying, but that's absolutely
16 not true. That's not even close to the truth.

17 Q Okay.

18 MR. BELLON: And if it helps, Your Honor, I know this
19 isn't an objection; but as an offer of proof, I can tell the
20 court that the -- those statements were made by his wife,
21 Debbie, who realizes that she made a mistake; and I've called
22 her here to testify; and Ms. Jennifer is testifying correctly.
23 She thought it was the same day, but it was the next day that
24 they actually had the conversation. And she told me that, and

1 she's gonna testify to that so (indiscernible).

2 THE COURT: Yeah, I want to hear from her as to what
3 happened there --

4 MR. BELLON: Okay.

5 THE COURT: -- because this is my understanding; and if
6 this is what actually happened, then we can really cut out a
7 lot. My understanding is that Matt got arrested. The kids
8 thought he was at work. Debbie just decided to let the kids
9 sleep at the house; and first thing the next morning, she
10 called Jennifer to come and get the kids.

11 MR. BELLON: Close, up to the point, I think Jennifer
12 actually called -- when she found out, called her --

13 THE COURT: Okay.

14 MR. BELLON: And then Debbie returned her phone calls
15 because Debbie was -- she would testify as an offer of proof
16 that she thought it was still their time. She didn't know if
17 Matt was gonna be out the next day, like it's hap -- happened
18 once before.

19 THE COURT: Uh-huh.

20 MR. BELLON: And so she wanted to see what was gonna
21 happen before. And so they still had a couple of days, I
22 think, left on their visitation.

23 MR. GEIGER: A week.

24 MR. BELLON: That's when Debbie called and was upset and

1 then found out through an officer at the jail. And then they
2 made arrangements to meet and return the children. It was the
3 next day but not the same day.

4 THE COURT: What time the next -- what time did you get
5 the children and what date?

6 THE WITNESS: It was almost 4:00 on June -- July 27th,
7 4:00 in the afternoon. I -- I sent a text at 2:00 that
8 afternoon. I heard back from Debbie, the first time, around,
9 I think, 2:35. I have the phone records.

10 MR. BELLON: That's about our understanding, as well,
11 Your Honor.

12 Q BY MR. ZERNICH: So you --

13 MR. BELLON: Before you continue --

14 Q BY MR. ZERNICH: -- so you -- you had no --

15 MR. BELLON: (Indiscernible) I apologize. Is it possible
16 to take (indiscernible) recess or at least excuse my client?
17 He doesn't have to be present for this testimony.

18 THE COURT: For who?

19 MR. BELLON: My client needs to jump to the men's room
20 very quickly, Your Honor.

21 THE COURT: Yeah, if he wants to --

22 MR. BELLON: Okay.

23 THE COURT: -- be excused, yeah.

24 MR. BELLON: Okay.

1 MR. GEIGER: Thank you.

2 MR. BELLON: Thank you, Your Honor.

3 THE COURT: Okay.

4 All right. I'm sorry. Mr. Zernich.

5 THE COURT: Okay. I guess I'm still --

6 Q BY MR. ZERNICH: So we -- we all --

7 THE COURT: Wait.

8 Q BY MR. ZERNICH: -- we all --

9 THE COURT: Wait.

10 Q BY MR. ZERNICH: It -- it -- it's clear Matthew was
11 arrested --

12 THE COURT: I'm still unclear. How did it come to your
13 attention that Matt was incarcerated?

14 THE WITNESS: I got a --

15 MR. ZERNICH: That was my -- my next question.

16 THE COURT: Somebody called you from the jail to say Matt
17 was in custody?

18 THE WITNESS: That was the second phone call. No, I got
19 a pho -- I got a ph --

20 MR. ZERNICH: You're gonna have to let her explain this
21 one. She --

22 THE COURT: Okay. Go ahead.

23 THE WITNESS: I apologize.

24 THE COURT: Go ahead.

1 THE WITNESS: I have a friend that monitors everything
2 because of the history.

3 Q BY MR. ZERNICH: Who --

4 A She lives in Texas. She called me and said, hey, I
5 notice that Matthew's at Clark County Detention Center. I
6 said, what? She asked me, she goes, are you guys -- are you
7 guys back from Kansas yet? I said, yeah. She goes, where's
8 the boys? I said, they're with Matt. And she said, no, he's
9 in jail. And I freaked out, and I called my friend at CCDC --

10 Q BY MR. ZERNICH: Hold -- hold on. Can we stop right
11 there?

12 A Okay.

13 Q Because we'll get -- all right. 'Cause --

14 MR. BELLON: Or we can just stop because it's all based
15 on hearsay, Your Honor. I don't know how much I have to
16 object to. She's talking about a conversation she had with a
17 girl in Texas that hasn't even been identified. I mean, and
18 never even been identified through the course of this entire
19 action. I haven't even got a chance to even look into that,
20 but it's hearsay nonetheless.

21 MR. ZERNICH: But it's not hearsay. It's just a basis of
22 how she's saying that she came to learn the information.

23 MR. BELLON: Well, then that's what she can say as long
24 as she doesn't say what the person told her on the phone.

1 Based on a phone call I received from my friend in Texas, I
2 learned that he was in jail. Okay.

3 THE COURT: Okay. So what did -- what did you do after
4 you learned that he was in jail?

5 THE WITNESS: I -- I started calling -- I called all his
6 family first. I called Debbie. She didn't answer. I called
7 his mom and dad. They didn't answer. I called the house
8 phone. I called their cell phones. I left voice mails.

9 His -- Matthew's father called me back right away.
10 He said he didn't know anything about Matt being in jail, but
11 that the kids were with Debbie. So I -- I tried calling
12 Debbie again, voice mail again. I didn't leave a voice mail.
13 But I got -- I kept getting her voice mail.

14 So I called a friend of ours, who works at CCDC, and
15 to see if he would check and see if Matthew was there --

16 THE COURT: Uh-huh.

17 THE WITNESS: -- and if he knew where the boys were; and
18 he said he would call me back. He got back to me. He said,
19 yes, he is there; and he told him that he was with family.

20 THE COURT: Uh-huh. Okay.

21 THE WITNESS: And then --

22 Q BY MR. ZERNICH: All right. No --

23 A -- I -- I got --

24 Q Can you -- can you reference Exhibit F?

1 MR. ZERNICH: Peter, that starts on thirty -- number 35.

2 MR. BELLON: Thanks.

3 THE WITNESS: Yes.

4 Q BY MR. ZERNICH: What -- what is Exhibit F?

5 A The phone records, text messages and phone logs.

6 Q Okay. Looking at the first page there, number --
7 number 35, Bates number 35 --

8 MR. ZERNICH: Move to enter these into evidence, Your
9 Honor.

10 MR. BELLON: I have no objection, Your Honor.

11 THE COURT: F is admitted.

12 (Whereupon Defendant's Exhibit F was admitted.)

13 Q BY MR. ZERNICH: Okay. On Bates number 35, I see
14 that there is one phone call -- or text message made on July
15 26th.

16 A Uh-huh. I don't know who -- I don't know who July
17 26th is.

18 Q Okay. Does that --

19 A There -- there was no conversation. There was no
20 communication on July 26th with any other family or Matthew or
21 Debbie.

22 Q Okay. Who is telephone number 449-3506?

23 A That -- that's Debbie. That's Matthew's wife.

24 Q July 27th, 2:04 p.m.

1 A Yes.

2 Q Okay. So that's the first -- so that's the first
3 attempt to try to find out where he was and where the kids
4 were?

5 A Where -- where the kids were, yes.

6 MR. BELLON: Can you show me 2:04? I don't see 2:04
7 here. I'm sorry.

8 MR. ZERNICH: Okay. (Indiscernible.)

9 MR. BELLON: July 27th, 2:04?

10 MR. ZERNICH: Numbers --

11 THE COURT: 2:04 p.m.

12 MR. ZERNICH: Oh, you're on the wrong page.

13 MR. BELLON: Oh, I (indiscernible).

14 MR. ZERNICH: Right there. See this was the July 26th,
15 but there was some text (indiscernible) some (indiscernible).
16 All right. So that's the first July 27th.

17 MR. BELLON: (Indiscernible.)

18 MR. ZERNICH: That's going in a reverse order.

19 MR. BELLON: Going back to -- I'm a little confused
20 because the first page goes from August 1st to July 25th, but
21 then the second page starts on July 31st again.

22 THE WITNESS: It -- the first page -- the first page is
23 the text messages.

24 MR. BELLON: Okay.

1 THE WITNESS: And so I only needed to copy the date --

2 MR. BELLON: Okay.

3 THE WITNESS: -- what pertained. And then the second
4 page, if you see at the top it says, details for talk usage,
5 that's when I print out --

6 MR. BELLON: Phone calls.

7 THE WITNESS: -- the phone bill --

8 Q BY MR. ZERNICH: Okay.

9 A -- that's what I print out.

10 Q Well, then let's turn to the last page. So the
11 first -- so the first page was the text messages. I'm sorry.
12 Go to page thirty -- Bates number 37.

13 A Yes.

14 Q All right. And we have more phone call -- that's a
15 slew of phone calls on the 26th?

16 A On the -- on the 27th.

17 Q Well, we got 26th on the bottom. They start from the
18 26th going up.

19 A Yeah.

20 Q And then where's the first one made to -- in regards
21 to this on the 27th?

22 A The 2:10 phone call.

23 Q 2:10, what -- who's that, 328-1910?

24 A That's my friend that works at CCDC.

1 Q Oh, okay. So that's when you were notified.
2 A No, the friend in Texas didn't --
3 Q No, from CCDC?
4 A C -- from CCDC, yes.
5 Q Right. I'm sorry, from D --
6 A I'm sorry.
7 Q All right. And you said Debbie's phone number's
8 449-3506?
9 A Yes.
10 Q Okay. And I see, is the first one there made at
11 2:30 p.m.?
12 A That -- yeah, that's the phone call, yes.
13 Q Do you have an idea of when Debbie called you back?
14 A At 2:35 p.m.
15 Q Okay. And that's just four or five of 'em. So you
16 heard from Debbie 2:35 p.m. What transpired after that?
17 A I left to go pick up the boys.
18 Q Okay. I'd just like to clear up a little bit this
19 -- the -- the -- this friend you have in Texas. You say she
20 monitors stuff?
21 A Yes.
22 Q All right. I'm just guessing the judge is thinking
23 --
24 A She --

1 Q -- what -- what's that all about? What --

2 A -- she is a friend I met through Matt. When we
3 started 13, 14 years ago, she was Matt's best friend. His
4 whole life she grew up with him. And then through our
5 marriage and all the stuff that happened, she's -- she's the
6 one that stuck to my -- by my side. And she continues to
7 check up on us and make sure that we're okay.

8 THE COURT: How does she monitor him?

9 THE WITNESS: On line, just checking, kind of like I do
10 with checking my family court stuff.

11 THE COURT: She just happenstance went on line to see
12 that he was incarcerated at CCDC on the particular day he got
13 --

14 THE WITNESS: No, she -- we had -- we had talked before
15 when I -- when I had found out that he had an active warrant.

16 THE COURT: Uh-huh.

17 THE WITNESS: And so she had kind of been checking up on
18 -- on that, I guess. I don't -- I don't know. It was a fluke
19 phone call when she called me, and she let me know. But I
20 know she checks. She checks up on that stuff all the time.

21 THE COURT: Okay. So you found out at what time on what
22 day that he was incarcerated?

23 THE WITNESS: It was around -- it was around 2:00 on the
24 27th of July.

1 THE COURT: And you had your kids back at what time?

2 THE WITNESS: By about 4:30, 5:00.

3 THE COURT: Okay.

4 Q BY MR. ZERNICH: Did anybody -- did anybody try -- I
5 guess you wouldn't know. Never mind. Strike the question.

6 What -- what -- what is the first date that you
7 recall talking to Officer Laputt?

8 A August 14th. It was a Thursday.

9 Q Okay. Why'd you contact him?

10 A For a report for family courts.

11 Q And did he respond?

12 A Yes.

13 Q Can you tell the court about that conversation?

14 A He basically just -- just told me that I was welcome
15 to come to the hearing on August 18th, and we had the same
16 discussion that I had with Norma regarding the -- the issues
17 that had happened this last year and my concerns for the kids'
18 involvement in everything and -- and being with him.

19 And then he asked me if I had any evidence to show
20 that Matthew had been leaving the state. And I said, yes.
21 And he asked me what that was. I told him it was text
22 messages. And he asked me if I would provide him with copies
23 of that. And I said, yes. But I wasn't able to make it there
24 to him till Monday the 18th.

1 Q Okay. So what's the first time that you met him?

2 A Met him personally?

3 Q Uh-huh.

4 A Monday, August eight -- August 18th.

5 Q And you met him where?

6 A At the probation office.

7 Q Okay. Did you provide him with anything?

8 A Yes.

9 Q What did you provide him?

10 A All the -- the text conversations that are -- I'm
11 thinking, ex -- Exhibit B.

12 Q Can you look over Exhibit B?

13 A Pardon me?

14 Q Can you look over Exhibit B?

15 A Uh-huh.

16 Q Can you identify Exhibit B?

17 A Yes, these are the -- this is exactly what I gave
18 Officer Laputt.

19 Q Okay. Now, Matthew alleges in his -- in his
20 opposition that you had provided dozens -- that you gave
21 dozens of e-mails and texts to the probation officer. Did you
22 give -- did you give the probation officer any e-mails?

23 A No.

24 Q Okay. And so did you give Laputt -- Officer Laputt

1 anything other than what's contained in -- in Exhibit B?

2 A No.

3 MR. ZERNICH: Your Honor, re -- regarding this issue of
4 our hearing today, I -- I have no further questions regarding
5 this particular issue. I don't know if we wanna take it
6 piecemeal and let Mr. Bellon cross-examine on this or move
7 straight into something else. I --

8 THE COURT: No, let Mr. Bellon just cross-examine. It's
9 4:00. We need to finish everything we have up today.

10 MR. ZERNICH: Okay. Great.

11 **CROSS-EXAMINATION**

12 **BY MR. BELLON:**

13 Q Jennifer, a lot of what I say is going to be
14 recapping; but I'm gonna re-ask the questions with regards to
15 what Gary just talked to you about so I have a better
16 understanding and I can understand -- look at 'em from my
17 perspective.

18 You initiated the call to Norma Medina on June 23rd,
19 correct?

20 A Yes.

21 Q Okay. Officer Laputt, you were here for his
22 testimony; correct?

23 A Uh-huh.

24 Q Officer Laputt sat here and testified, and according

1 to his notes, that you spoke to Medina on the 23rd regarding a
2 hunting trip, as well as out-of-state travel to California.
3 Do you recall him saying that?

4 A That --

5 Q Okay.

6 A -- yes, I do.

7 Q So wasn't it your testimony now that contradicted
8 that, and you indicated that you did not talk to Ms. Medina
9 about the out-of-state Utah trip because you didn't know about
10 it on --

11 A Yeah, I didn't --

12 Q -- June 23rd?

13 A -- talk about the out-of-state --

14 Q So --

15 A -- Utah trip.

16 Q -- Officer Laputt would either be lying or mistaken
17 with his testimony, correct?

18 A Correct.

19 Q Okay.

20 A You talked about the out-of-state travel to
21 California, similar to the ones that are in Exhibit B --

22 A Yes.

23 Q -- correct? Okay. And you discovered all of this
24 in June, sometime before June 23rd, I would imagine; correct?

1 A What?

2 Q You discovered the warrant. I apologize. You
3 discovered there was a bench warrant for his arrest?

4 A It was towards the end of June, yes.

5 Q Towards the end of June. Well, it had to be before
6 June 23rd --

7 A Well --

8 Q -- correct?

9 A Correct.

10 Q Okay. Now you discovered there was a warrant, and
11 you took it upon yourself to call the probation department;
12 correct?

13 A Correct.

14 Q And you did that because you were concerned for your
15 children?

16 A Yes.

17 Q You wanted to protect them?

18 A Yes.

19 Q And you wanted to make sure that they weren't with
20 Matt when he was arrested?

21 A Yes.

22 Q Okay. I'm a little confused about why you wouldn't
23 give them your address because you testified you didn't want
24 to give them the address because you didn't want the children

1 to be at your house when Matt was arrested, correct?

2 A Because she said that they would only come if I
3 okayed them to come to my address on the exchanges. And I
4 said it can't be during any exchanges if -- if -- that's why
5 I'm not going to give my address. There's no other time that
6 he's at my house except for the exchanges with the boys. And
7 the boys do not need to be involved in that for any reason.

8 Q But you realize, though, that they would have to
9 pick him up at his house; and there was a chance the boys
10 could be with him and --

11 A But they -- but -- but she assured me that because I
12 gave her the visitation schedule that that wouldn't happen.
13 That's why I reached out and called them.

14 Q Okay. So you learn about the bench warrant. You
15 called the probation department. You called your friend in
16 Texas, correct?

17 A Yes.

18 Q You know who you didn't call? You didn't bother to
19 call Matt, did you?

20 A No.

21 Q No, of course it's not your responsibility. But if
22 you're so worried about your children and Matt being picked
23 up, don't you think it would have been a good idea to call him
24 and let him know that there's a warrant; and he can take care

1 of it, so your boys wouldn't be with him when he was picked
2 up?

3 A No.

4 Q Never dawned on you to call him and tell him there
5 was --

6 A No.

7 Q -- a bench warrant? And to your knowledge, you had
8 no reason to believe that Matt knew there was a bench warrant.
9 Did you?

10 A No.

11 Q Okay. Now when you spoke to -- I'm gonna call her
12 Officer Medina. I -- I -- I think that's correct. You gave
13 her information with regards to Matt going on -- according to
14 Officer Laputt, going on a hunting trip, having weapons,
15 traveling out of state. Did you think this was information
16 that was going to help Matt?

17 A I didn't say anything about having weapons. I was
18 talking about what happened here in court and my concerns for
19 the children.

20 Q Okay.

21 A And if he --

22 Q Okay.

23 A -- wasn't following --

24 Q Sorry.

1 A -- his stuff and my children were involved, that was
2 my --

3 Q Okay.

4 A -- concern.

5 Q And a hunting trip, you don't think they would think
6 would have weapons?

7 A I didn't know that he wasn't supposed to have
8 weapons.

9 Q Okay. So when you told them about the hunting trip,
10 you figured, okay. Well, it wasn't really about weapons. It
11 was --

12 A I was talking --

13 Q -- just telling them?

14 A -- in general about what has gone on in this
15 courtroom.

16 Q Okay.

17 A And she informed me that he's not supposed to have
18 any firearms.

19 Q Which is convenient -- confusing because you just
20 testified that you didn't tell her anything about the hunting
21 trip because you didn't know it when you talked to her on June
22 23rd.

23 A There wasn't a hunting trip. It was about the
24 shooting, about going shooting with the boys, about their

1 conversations and about the hunter gun safety course that he
2 discussed on the May 1st hearing.

3 Q Which we've now determined that you have no idea if
4 there's any actual guns present.

5 A No, I --

6 Q Okay.

7 A -- I do not.

8 Q They asked you if you knew about his whereabouts;
9 and you said, no, you don't know where to find him; correct?

10 A Correct.

11 Q Okay. Did you not know where he lived at the time?

12 A Well, yes; but they had asked me about his address.

13 Q Okay. And you gave them the correct address?

14 A No, they had the correct address.

15 Q Okay. So they had it. So you confirmed it or they

16 --

17 A I -- I confirmed it. They were -- they had 102/103.
18 I said, no, it's 102. Because they said they left multiple
19 notes.

20 Q Okay.

21 A I did tell them that his wife has a house in Fulsom,
22 California. That's the only other place that I know that he
23 goes to.

24 Q And again, by giving them the address where he can

1 be picked up while talking to the -- I can't remember that
2 abbreviation, FAU, the fugitive absconsion unit, you -- it
3 didn't occur to you that they were going to go pick up Matthew
4 on this warrant?

5 A No, because they said they'd been looking for him
6 for months.

7 Q And do -- so you think it's just a coincidence that
8 the bench warrant was issued in October of 2013. He wasn't
9 picked up. You speak to them in June. Within a month they
10 pick him up. Coincidence?

11 A Yeah.

12 Q Okay.

13 A They'd been looking for him for --

14 Q Okay. You answered my question. Thank you.

15 A -- ten months, yeah.

16 Q Now, I find this very ironic.

17 MR. BELLON: And, Your Honor, if I overstep my boundaries
18 here, let me know. And we -- because I don't know if we're
19 going into this area right now.

20 Q BY MR. BELLON: But I find it very ironic that
21 you're breaking down in tears and you're telling the court
22 that you're pry -- trying to protect your children because you
23 didn't know where they would go if Matt was picked up but you
24 don't find the need to protect your children from your

1 boyfriend?

2 A No. There's nothing to protect from my boyfriend.

3 Q So according to you, there's nothing wrong with the
4 way your boyfriend treats these two boys?

5 A No.

6 Q Okay.

7 A Absolutely not.

8 Q Are you aware of a CPS investigation that's --

9 A Yeah, there's --

10 Q -- ongoing?

11 A -- a lot going on with that.

12 Q Okay.

13 A Uh-huh.

14 Q And you're basically saying that that's all false?

15 A I -- I don't -- I don't know what's come of that
16 except that it's unsubstantiated, which is the fourth -- like
17 the third or fourth time --

18 Q Okay.

19 A -- due to false allegations. There's -- there's
20 criminal reports that have been brought up and charges in the
21 state of Indiana where this orient -- oriented from.

22 Q Okay.

23 A There's a lot --

24 Q So to your knowledge --

1 A -- going on.

2 Q -- your boys aren't being physically abused by your
3 boyfriend?

4 A No, absolutely not.

5 Q He's -- they're not -- he's not disciplining them?

6 A No.

7 Q He's not punching them?

8 A No.

9 Q He's not hitting them with any foreign object?

10 A No.

11 Q Okay. And if this was going on inside your house
12 without your knowledge, do you think that would make you a
13 very neglectful parent?

14 A Yes.

15 Q Okay. Thank you.

16 A Probably. If -- if --

17 Q Thank you very much.

18 A Yeah.

19 Q (Indiscernible.) All right. Again, coincidence
20 that your friend in Texas just happened to monitor the
21 situation the day when Matthew got arrested -- or the day
22 after Matthew got arrested; correct?

23 A No, she monitors it all the time. It wasn't just
24 the day that he got arrested. She calls me a lot with

1 different things.

2 Q And then Deb -- when you called Debbie, according to
3 your log, she called you back within five minutes; correct?

4 A No, I started with text messages. I -- I tried
5 calling. The --

6 Q No, it's 2:04.

7 A -- the log doesn't show if you don't get -- if you
8 don't leave a voice mail. It doesn't show -- it doesn't show
9 that.

10 Q The text messages, I think where you start, that
11 was my confusion, at 2:04.

12 A 2:04, uh-huh.

13 Q And then you got through to her at 2:30, and she
14 called you back at 2:35?

15 A 2:35, once I threatened to involve the police is
16 when she called me back.

17 Q And you had your children within about two hours,
18 right?

19 A Yes.

20 Q And there was no -- there's no -- to my knowledge
21 there's no court order that require them to return the
22 children early because Matt had been arrested, correct?

23 A No.

24 Q It was still their visitation schedule, and the

1 boys were well-provided for?

2 A Not with her.

3 Q Well, it's Matt's visitation; and they're with their
4 stepmother; correct?

5 A They're --

6 Q Is there any provision that requires Matt to be
7 physically present at the time the boys are in his --

8 A No.

9 Q -- visitation? Okay. So he didn't violate any
10 court order by doing that --

11 A That --

12 Q -- to your knowledge?

13 A -- somebody should've communicated with me.

14 Q Okay.

15 A He violated that --

16 Q But my question was, he didn't --

17 A -- court order.

18 Q -- violate a court order? Well, of course, he
19 couldn't communicate with you because he was in jail; correct?

20 A Well, somebody should've --

21 Q Okay.

22 A -- communicated with me.

23 MR. BELLON: With regards to this limited issue, Your
24 Honor, I don't think I have any other questions. Can I,

1 before I stop, just check my notes? No more, Your Honor.

2 THE COURT: Anything else, Mr. Zernich?

3 MR. ZERNICH: Just -- just argument, you know, closing.

4 THE COURT: Yeah.

5 MR. ZERNICH: Closing argument, nothing that I'm going to
6 ask.

7 THE COURT: All right.

8 Did you file a schedule of arrears on child support,
9 or is there one filed --

10 THE WITNESS: I -- I did.

11 THE COURT: -- in the D.A.'s office?

12 THE WITNESS: It's in the -- it's in the exhibits; but
13 it's only current as of August 26th, two days before our last
14 hearing.

15 MR. BELLON: I think it's just the D.A.'s form. I don't
16 think it's one of our court ordered.

17 THE WITNESS: I didn't -- I didn't file one through the
18 family courts, no.

19 THE COURT: Okay.

20 MR. ZERNICH: It's Exhibit C.

21 THE COURT: C.

22 MR. BELLON: It's just an accounting, I think, through
23 the D.A., which unfortunately is not a certified or custodian
24 of records copy.

1 THE COURT: All right. And do you have any personal
2 knowledge as to where Matt last worked?

3 THE WITNESS: No, except for what he's presented the
4 courts, no.

5 THE COURT: Okay. All right. You can go sit with Mr.
6 Zernich.

7 MR. ZERNICH: Should we move on to the other -- other
8 issue?

9 THE COURT: The other issue -- well --

10 You can go sit with Mr. Zernich.

11 And --

12 MR. ZERNICH: Oh, oh, I (indiscernible) --

13 THE COURT: Yeah.

14 MR. ZERNICH: -- thought that you said I can proceed. I
15 thought you said, you can proceed --

16 THE COURT: No, no.

17 MR. ZERNICH: -- Mr. Zernich.

18 THE COURT: Mr. Bellon, do you -- did you want to put
19 Matt on the stand at all about the probation violation?

20 MR. BELLON: Well, it -- it depends if the court feels if
21 it's serious enough, if there's anything there. I know the
22 court's concern was whether or not the violations or the
23 confusion around this whole situation rose to the level that
24 you would have problems giving him any time with the children

1 or modifying that time. If the court is willing -- is the
2 court -- if the court's able to proceed without that for the
3 purposes of time --

4 THE COURT: Yeah, I don't think I need to hear from Matt
5 on it.

6 MR. BELLON: Okay. I didn't think so, Your Honor, no.

7 THE COURT: Okay. Now on the issue of child support,
8 though, I do want to hear from Matt on that because I want to
9 know if he has any payments beyond -- I'm admitting C.

10 (Whereupon Defendant's Exhibit C was admitted.)

11 MR. BELLON: Okay.

12 THE COURT: Certification or not.

13 MR. BELLON: I'll make an offer of proof to the court,
14 Your Honor; and then if you want direct testimony, no problem.

15 THE COURT: C's admitted.

16 MR. BELLON: The offer of proof is that there are arrears
17 from previous orders. The new arrears would have started in
18 May of this year, 2014. My client was -- was hurt on the job
19 in January of 2014, collected workmen's compensation where
20 they took out the full 1,346 through April. In April, his
21 benefits stopped. He did not make a payment, and this offer
22 of proof --

23 Stop me if I'm wrong.

24 -- there was no payment in May 2014, no payment in

1 June 2014. There was a \$1,300 payment in July that they made
2 on their own to the -- to the department.

3 THE COURT: Uh-huh.

4 MR. BELLON: And then there's been no payments in August,
5 September or October. And my client still remains unemployed
6 with a workmen's compensation legal case, represented by Kemp
7 & Kemp, and under doctor's care at the time.

8 What our motion had been was basically -- then our
9 -- and there was some confusion, as there has been in this
10 case about every issue. My client has never filed with the
11 D.A.'s office to modify. As a matter of fact, there's an
12 exhibit presented by the defendant. The D.A.'s office filed
13 in the D.A.'s case.

14 THE COURT: Yeah.

15 MR. BELLON: He knows he has to file here. He just did
16 what they told him to do.

17 THE COURT: I --

18 MR. BELLON: If there's a change of job --

19 THE COURT: And -- and I'm pretty sure I --

20 MR. BELLON: -- report it to us.

21 THE COURT: -- took jurisdiction over the R case because
22 this is such a high-conflict case that I don't want anyone
23 else --

24 MR. BELLON: Correct. Your order is clear.

1 THE COURT: -- going into this case. I don't know what's
2 gonna happen after December; but up until December, I'm
3 hearing this case.

4 MR. BELLON: And we don't dispute that. Your order is
5 very clear that if there was going to be any modification to
6 child support, it would come through this office.

7 THE COURT: Right.

8 MR. BELLON: He did what was required. The D.A.'s office
9 said, if there's any change of income, you have to report to
10 us. If you lose your job, change. He reported to them. They
11 took it upon themselves to file that motion, you can see as
12 her exhibit; and I think it was attached to the pleadings.
13 They filed a motion to modify child support in the UIFSA case

14 --

15 THE COURT: Okay.

16 MR. BELLON: -- not in your court. He didn't know they
17 were gonna do that. Then when they saw that, they took it off
18 calendar and instead filed an order to show cause because he
19 hadn't paid. That's when we had to come through your court
20 and file our motion to modify.

21 So we'll defer to the court if the court's gonna
22 grant a modification based on his inability to work, whether
23 it should start in May, June, July, August, September, when it
24 should start because he's been unemployed without benefits

1 since May of this year.

2 THE COURT: And why is he without benefits? Why is he
3 without worker's comp?

4 MR. BELLON: I think I'll -- I'll defer to him.
5 (Indiscernible) these last three months --

6 MR. GEIGER: They were trying to say it's -- when they
7 were asking me about my previous accidents, I've had several,
8 they're trying to blame it on a preexisting injury; but it --
9 that -- today I actually went to a -- to the doctor; and I
10 have an appeals hearing on the 13th that's gonna --

11 THE COURT: Uh-huh.

12 MR. GEIGER: -- prove that it's -- it's a completely
13 different part of my body than -- than injured before.

14 THE COURT: When's it --

15 MR. GEIGER: And then I'll probably get back pay and then
16 she'll --

17 THE COURT: Okay. When's the date of this injury?

18 MR. GEIGER: January 17th, and I was paid through --

19 MR. BELLON: This year.

20 MR. GEIGER: -- 4/22.

21 THE COURT: Okay. So it's May that --

22 MR. BELLON: Was the first month without.

23 THE COURT: Without.

24 MR. BELLON: May, June --

1 MR. ZERNICH: May, June --

2 MR. BELLON: -- August, September, October.

3 MR. ZERNICH: Yeah.

4 MR. BELLON: Five -- five months.

5 THE COURT: When did -- when did -- when was any action
6 taken to modify his support?

7 MR. BELLON: Well, it depends, he notified the D.A.'s
8 office in May about his loss of job, hoping that they would
9 handle it through you.

10 THE COURT: Okay.

11 MR. BELLON: When that didn't happen, the D.A.s filed
12 that motion. It had to be withdrawn. It was set to heard in
13 -- in --

14 MR. GEIGER: August --

15 MR. BELLON: -- August.

16 MR. GEIGER: -- 26th, I think.

17 MR. BELLON: And then that's when he came to me and said,
18 we have to file through you because --

19 THE COURT: Uh-huh.

20 MR. BELLON: -- the D.A.'s office didn't do it right.

21 (Indiscernible) --

22 MR. GEIGER: (Indiscernible) --

23 MR. BELLON: And so it's either May, or it's either
24 August. Well, it's confusing, Your Honor; but --

1 THE COURT: Okay.

2 MR. BELLON: -- but he did immediately upon --

3 THE COURT: All right.

4 MR. BELLON: -- the benefits stopping, notify the D.A.'s
5 office that he's out of work.

6 THE COURT: All right. Anything you want to be heard on
7 about the child support, Mr. Zernich?

8 MR. ZERNICH: Yes, Your Honor.

9 THE COURT: Go ahead.

10 MR. ZERNICH: We don't contest what he said as far as the
11 payments that weren't -- that weren't made.

12 Two issues, this court ordered at the last hearing
13 that he was to present his medical records; and we don't have
14 'em.

15 MR. BELLON: The last hearing --

16 MR. ZERNICH: Yeah.

17 MR. BELLON: -- that I was here?

18 MR. ZERNICH: Right here it says prior to return hearing,
19 plaintiff shall file an af -- updated af -- financial
20 disclosure form; and he will provide the court with his
21 medical records with regard to his disability. All right.
22 But -- but we don't have anything to look at today. But once
23 again, he's saying, today. I'm doing it today. And I'm gonna
24 -- it is going to happen tomorrow. All right.

1 Second --

2 MR. BELLON: It's in our exhibits, Your Honor.

3 MR. ZERNICH: -- second, Your Honor, he's already been
4 held in contempt and sentenced to ten days in jail if he
5 missed a payment. Any requests for another contempt is for a
6 second contempt not the past contempt because the past
7 contempt was already a ten-day sentence. That's been violated
8 by missed payment in May and missed payment in June; the May
9 missed payment; in June, missed payment; the three other
10 missed payments. They -- they are issue for perhaps a second
11 contempt; but they are also a basis for throwing him in jail
12 for ten days, which Your Honor already ordered.

13 THE COURT: Uh-huh.

14 MR. ZERNICH: If he -- if he was undergoing worker's comp
15 issues, like he said, and didn't think he could go back to
16 work, he should have made sure to come back to court, this
17 court, to say, here's my problem, before we're all stuck here
18 paying attorneys' fees, trying to figure it all out; but --
19 but compounded by the fact that here we are today and he did
20 not comply with this court's order, which is, from what I
21 could tell, maybe about the -- I'm not gonna put a number on
22 it, so many times, that it may be hard to put a number to the
23 last 18 hearings; and here we are today, incurring fees.

24 THE COURT: Uh-huh.

1 MR. ZERNICH: So in regards to that, that's the basis
2 that we wanted to talk about -- about a new contempt; plus, we
3 want Your Honor to enforce your past order that has already
4 been made. Any noncompliance, he's going to go in jail for
5 ten days. That's why I would like to be heard.

6 And -- and I'd certainly like you to consider that
7 he did not provide any medical records to show that he can't
8 work. He's claimed on his financial disclosure form that he
9 filed, that he's disabled. Well, you know what? If you're
10 disabled, that means a doctor said you're disabled. They are
11 medical records.

12 THE COURT: Uh-huh, uh-huh.

13 MR. ZERNICH: You know what? You don't want to go to
14 jail? You don't want to have another contempt? That's a
15 pretty simple thing to resolve.

16 THE COURT: Uh-huh.

17 MR. ZERNICH: Go to the doctor. Get the medical records.
18 Provide them. Voila, you're off the hook.

19 THE COURT: Okay. Mr. --

20 MR. ZERNICH: That's all I'm saying.

21 THE COURT: -- Mr. Bellon, he's -- Matt's on the bubble
22 here because I did order medical records because we have a
23 little problem with credibility in this case.

24 MR. BELLON: Correct, Your Honor. And -- and I can tell

1 the court two things. First of all, I don't think there's
2 been any willful contempt. And it's not a question of whether
3 or not he didn't pay.

4 THE COURT: Uh-huh.

5 MR. BELLON: The court has to find that he's willfully in
6 contempt, that he had the money and he has no source of
7 income. The rest of it, Your Honor, and I -- I may have to
8 fall into sort, I don't think -- I don't know if I was
9 supposed to provide things prior; but these are part of our
10 exhibits, Your Honor, that we presented to in court as far as
11 his workmen's compensation claim and his medical records. And
12 I provided them to the defendant prior to the hearing, too.
13 So I don't know if I was supposed to, but we only had about
14 four weeks to provide this. And so I do know we --

15 THE COURT: Have worker's comp records --

16 MR. BELLON: -- how much we could get together.

17 THE COURT: -- been provided?

18 MR. BELLON: They're part of the exhibits, Your Honor,
19 today.

20 MR. ZERNICH: Well --

21 MR. BELLON: It's -- you can see the --

22 MR. ZERNICH: -- the workman's comp records, one, are not
23 the medical records. They're just his attempt to get
24 workman's comp.

1 THE COURT: Right.

2 MR. ZERNICH: Which a lot of people do, you know,
3 fraudulently also.

4 THE COURT: Uh-huh.

5 MR. ZERNICH: They're the records that show that he's
6 been denied, other than his initial collection, on a couple of
7 occasions and he's into at least his third appeal. You know,
8 so those aren't the medical records.

9 MR. BELLON: This is his first appeal, Your Honor.
10 That's it. But, Your Honor, I don't know exactly what Kemp
11 and Kemp gave us. The quickest way to do that was to get the
12 documents with -- through them, but --

13 THE COURT: Yeah --

14 MR. BELLON: -- so I can provide any of that post hearing
15 to counsel or to the court. There's a stack of medical
16 records. We just weren't able to get 'em all. If there's
17 some way, we can get them tomorrow for the court. But --

18 MR. ZERNICH: I don't want 'em post hearing. I don't
19 want them tomorrow. We're here today.

20 MR. BELLON: Well, I guess --

21 MR. ZERNICH: I mean, how many times we have to come
22 back? How many times we have to hear, I can do this tomorrow,
23 from Mr. Geiger? And not only that, when Mr. Bellon's saying
24 that, you know, when he's talking about the contempt, there's

1 been no contempt order, he -- he might be -- I think maybe
2 he's confusing the fact that I said that you issued a contempt
3 at the last hearing. Today is the order to show cause of
4 whether he should be held in contempt --

5 THE COURT: Uh-huh.

6 MR. ZERNICH: -- again because you've already held him in
7 contempt at a prior hearing that Mr. Bellon was not present
8 at.

9 MR. BELLON: Right. I --

10 MR. ZERNICH: And I -- I'm --

11 MR. BELLON: -- understand all that.

12 MR. ZERNICH: -- I'm -- I'm -- I'm looking --

13 MR. BELLON: But the question is --

14 MR. ZERNICH: -- I'm looking --

15 MR. BELLON: -- whether or not he made it willful.

16 MR. ZERNICH: -- through that.

17 MR. BELLON: Whether he had the money and he said, I'm
18 not paying anymore. He -- the person -- this is not debtor
19 prison anymore. He has no job. He has no source of income.
20 He paid more than his share -- his workman's comp from January
21 to April was not the same as his pay; but he still paid the
22 entire -- it was almost 50 percent of his income during those
23 months that went to her completely, the 1,346. He has no
24 income coming in. He's -- he's selling assets. He's doing

1 whatever he can.

2 THE COURT: Okay. Get up on the witness stand, Matt.

3 THE CLERK: You do solemnly swear the testimony you're
4 about to give in this action shall be the truth, the whole
5 truth and nothing but the truth, so help you God?

6 MR. GEIGER: Yes, ma'am.

7 MR. BELLON: I have no problem with the court inquiring,
8 specifically, if that's what you want to do to narrow it down

9 --

10 THE COURT: Okay.

11 MR. BELLON: -- to suit what you want.

12 **MATTHEW GEIGER,**

13 having been duly sworn, testified as follows:

14 THE COURT: All right.

15 All right. So, Matt, your attorney made offers of
16 proof, is what we call it, that you were injured in January of
17 2014. Is that correct?

18 THE WITNESS: January of 17 -- the 17th of January of this
19 year.

20 THE COURT: Of this year.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Okay. And that was an on-the-job injur --

23 THE WITNESS: Yes.

24 THE COURT: -- injury?

1 THE WITNESS: Yes.

2 THE COURT: What happened?

3 THE WITNESS: A herniated disc, a bulged disc, an annular
4 tear; and I think a cyst is startin' to form where the annular
5 tear was.

6 THE COURT: What were you doing when it happened?

7 THE WITNESS: Breaking decking, metal decking. Each --
8 there's bundles of deck, and each sheet is 290 pounds, and I
9 was shaking it out on the building --

10 THE COURT: Uh-huh.

11 THE WITNESS: -- at the South Point bowling alley.

12 THE COURT: Were you brought to the hospital immediately?

13 THE WITNESS: Yeah, we -- I went to Concentra; and after
14 a few visits there, they sent me to a so-called specialist.

15 THE COURT: Were you out of work immediately?

16 THE WITNESS: Yes.

17 THE COURT: Okay. So they put you on disability right
18 away?

19 THE WITNESS: Yes.

20 THE COURT: And you received payments January, February,
21 March and April?

22 THE WITNESS: Yeah, up to the last date of payment was
23 4/22.

24 THE COURT: All right. And your full amount of child

1 support was taken out of each payment?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: All right. And then -- so you didn't make
4 any payments at all May or June?

5 THE WITNESS: Not until July 30th, of \$1,300.

6 THE COURT: And was that an IRS intercept, the 1,300?

7 THE WITNESS: I don't understand --

8 THE COURT: Was that your IRS --

9 THE WITNESS: -- what that means.

10 THE COURT: -- refund?

11 THE WITNESS: No.

12 THE COURT: You just made a payment of 1,300?

13 THE WITNESS: Well, they were gonna suspend my license.
14 So I borrowed some money to just make sure I had a license and
15 --

16 THE COURT: I see. And -- okay. You put in your papers
17 that you've been selling your personal property?

18 THE WITNESS: Yeah, I've sold two trucks and a quad, a
19 bunch of different stuff really, a welder, a lot of -- a lot
20 of things.

21 THE COURT: All right. Have you had any employment at
22 all?

23 THE WITNESS: None. None since -- I'm actually itching
24 to go back to work. I just need this litigation thing to

1 finish.

2 THE COURT: This litigation here?

3 THE WITNESS: No, for my workman's comp. Kemp and Kemp
4 is representing me.

5 THE COURT: Okay.

6 All right, Mr. Zernich?

7 **DIRECT EXAMINATION**

8 **BY MR. ZERNICH:**

9 Q Yeah, Matthew, you -- you make reference to medical
10 records.

11 A Yeah.

12 Q Yes? You say you --

13 A Yes.

14 Q -- say you went immediately. You -- you -- you had
15 an injury?

16 A Yes.

17 Q You went immediately to the hospital. Did you --
18 was that an injury -- was that a preexisting injury?

19 A No.

20 Q No. Do you recall where you went to the doctor?

21 A Concentra.

22 Q Do -- do you -- do -- have they moved?

23 A I don't think so.

24 Q Are you under disability that you can't re -- you

1 know, get your own medical records? Do you need -- do you
2 need somebody else --

3 A I -- I --

4 Q -- to sign the form for you?

5 A -- I made a mistake. Yeah. I -- I didn't realize I
6 was supposed to bring all the medical records. I thought I
7 was just supposed to provide proof that I was on workman's
8 comp, and I -- I made a mistake. It's my fault.

9 Q Okay. Is work -- worker's comp -- a worker's comp
10 claim, do you -- you -- you're trying to tell us that in your
11 opinion that's the same thing as medical records?

12 A Yes, I -- I -- I made a mistake, yes. I do have a
13 whole folder at home of the medical records, every paper they
14 give me; but I didn't supply it.

15 Q Okay. So --

16 A I made a mistake.

17 Q -- so they were -- it was even easier to provide
18 those than going to the doctor's office and picking them up
19 because you have them at home?

20 A Yes, or Kemp and --

21 Q You just chose to --

22 A -- Kemp, my lawyer has --

23 Q -- not provide them today?

24 A Yes, I -- I messed up, yeah.

1 Q Is this whole -- is this hearing a joke to you?

2 A Not at all.

3 Q That -- that you think that --

4 MR. BELLON: Objection, Your Honor, argumentative.

5 Q BY MR. ZERNICH: I mean -- all right. Well --

6 THE COURT: Sustained.

7 MR. ZERNICH: I've got no further questions. You know
8 what my argument is.

9 THE COURT: Yeah. All right.

10 All right, Matt, you can go back to the table.

11 MR. BELLON: And forthwith on that one issue, Your Honor.
12 I -- I wouldn't do this unless it was completely honest. My
13 candor with the court, I think, is unquestionable. I actually
14 remember reading that order because my secretary came to me
15 and said, the court order requires us to file a new affidavit
16 of financial conditions. And I said, I filed one. I even
17 remember this, without even looking at the file. I want to
18 say August 25th. I think we were in court on August 28th. I
19 said, they must not have gotten it.

20 THE COURT: Uh-huh.

21 MR. BELLON: There was no conversation in my office about
22 the medical records. And I did not know that we were supposed
23 to provide a full -- a full accounting of that.

24 THE COURT: All right.

1 MR. BELLON: Absolutely my fault. I know Matthew's
2 saying he made a mistake --

3 THE COURT: Uh-huh.

4 MR. BELLON: -- and he could have brought them into me.
5 But I never instructed him that he was to bring those into me.

6 THE COURT: All right.

7 MR. BELLON: My apologies.

8 THE COURT: You have fallen on your sword.

9 Okay. As to Exhibit C, which is -- I've admitted.
10 It looks like there -- the arrears through August of 2014 are
11 \$28,879.69. Those are reduced to judgment.

12 MR. BELLON: Your Honor, before -- before you enter an
13 order, can I just be clear? I think everything has been
14 reduced to judgment prior to May, and that's what the D.A. is
15 already collecting. That's why they have this schedule. I
16 think --

17 THE COURT: I know. I'm just -- I'm just bringing it up
18 to a current judgment.

19 MR. BELLON: Okay. So it's not another \$28,000? It's --

20 THE COURT: No, no.

21 MR. BELLON: Okay.

22 THE COURT: This is through to now.

23 MR. BELLON: Just through. Okay.

24 THE COURT: Through to now.

1 MR. BELLON: Thank you, Your Honor.

2 MR. ZERNICH: The -- that was the number on the front
3 28,879?

4 THE COURT: Right.

5 MR. ZERNICH: You -- you said 28,000; but I didn't hear
6 the rest. But I'm assuming that it was --

7 THE COURT: 28,879.69.

8 MR. ZERNICH: Yeah.

9 THE COURT: And then it appears that we have to add in
10 the interest and the penalty.

11 MR. ZERNICH: Well, if you're just reducing that number
12 to judgment through that date, that number already includes
13 the interest and penalty.

14 THE COURT: Okay. Right.

15 MR. BELLON: They got to do it backwards.

16 THE COURT: When I add -- when I go back and add in those
17 other numbers.

18 MR. BELLON: They do it backwards.

19 MR. ZERNICH: Right.

20 THE COURT: Okay. So that includes the interest and
21 penalty through August. This is for the D.A.'s records as
22 they col -- continue to collect. As of October 2014, Matt is
23 out of work. His child support is temporarily reduced to \$200
24 per month. I'm not -- he can't work. I'm not going to hold

1 him in contempt at this time for not paying if he's not
2 working.

3 MR. ZERNICH: Your Honor, may -- may I request a finding,
4 on what basis you're finding he can't work because we don't
5 have any medical records.

6 MR. BELLON: You have testimony, Your Honor. You also
7 have exhibits. Obviously we have legal actions and the fact
8 that the government agency paid him workman's compensation for
9 four -- for three months. Obviously they recognize the
10 injury; and he didn't work. They wouldn't have paid him if he
11 was working.

12 MR. ZERNICH: I don't --

13 MR. BELLON: So obviously they felt he couldn't work and
14 so --

15 MR. ZERNICH: -- I don't arg -- I don't dispute that, but
16 they stopped paying him. And they -- and -- and everything
17 that I've seen, he's made multiple appeals.

18 MR. BELLON: He's made one appeal. There's one appeal
19 that hasn't been heard yet.

20 It's gonna be heard when, this week, next week, is
21 your first appeal?

22 MR. GEIGER: October 13th, I believe.

23 THE COURT: Do you get an immediate decision when it's
24 appealed or they do -- do they send you a letter?

1 MR. GEIGER: I -- I -- I really don't know.

2 MR. BELLON: I don't either.

3 MR. GEIGER: I'm gonna actually go in to talk to Kemp and
4 Kemp tomorrow. I have an appointment with them tomorrow at
5 3:00.

6 THE COURT: All right. So, Mr. Zernich, as to the
7 findings, plaintiff testified that he was injured in January.
8 He immediately sought medical attention, was not able to work
9 after that time. That's the basis for finding that he can't
10 work.

11 He received disability benefits through April of
12 2014. Mr. Bellon made offers of proof and what Mr. Bellon
13 said was correct, that your -- and what you told me before you
14 were sworn, but that was the truth, that your injury has been
15 challenged that it was a prior existing injury?

16 MR. GEIGER: Yeah, that's what they're trying to say.

17 THE COURT: Okay. And that's the basis of them stopping
18 your disability?

19 MR. GEIGER: Yes, yes.

20 THE COURT: And you are challenging that in court?

21 MR. GEIGER: Yes.

22 THE COURT: Okay.

23 So, you know, I -- I -- I'm doing the best I can
24 here, Mr. Zernich. I -- I'm --

1 MR. ZERNICH: I -- I -- I -- I understand. I was just
2 trying to create a record.

3 THE COURT: It's -- this case continues to have moving
4 parts every time I pick it up.

5 So that's my finding for today. And it's 200 a
6 month.

7 Matt, you are under an affirmative duty, as soon as
8 you are cleared for work and you're working, you are to notify
9 Jennifer so that your child support can be recalculated. If
10 you fail to do so, this is a self-affecting order, you are in
11 contempt.

12 MR. GEIGER: I contact her or you via this courtroom?

13 THE COURT: You contact Jennifer --

14 MR. GEIGER: Okay.

15 MR. BELLON: In -- in writing so there's a paper trail.

16 THE COURT: -- with a copy of your first pay stub so that
17 child support can be recalculated.

18 MR. GEIGER: Okay.

19 THE COURT: Failure to do so is a contempt, period,
20 punishable by five days in jail.

21 MR. GEIGER: Understood.

22 THE COURT: When you receive your disability, your child
23 support is twenty -- if it goes back into effect, your child
24 support is 25 percent of your disability pay per month.

1 MR. GEIGER: Yes, ma'am.

2 THE COURT: When it goes back into effect, you are under
3 an affirmative duty to immediately notify Jennifer and to make
4 a payment to her.

5 MR. GEIGER: Yes, ma'am.

6 THE COURT: See some of these orders are difficult for
7 the D.A.'s office to put into place. So I have to rely on the
8 litigants to monitor them themselves. All right. I think
9 that takes care of child support.

10 Try to make -- Matt -- Mr. Zernich, try to make as
11 clear an order as possible on these different triggers here.

12 All right. As to Jennifer's motion to modify
13 custody to get sole legal custody, the court finds that based
14 on the testimony of this probation officer, there's no --
15 there's no evidence that Matt was on notice that a warrant
16 ever issued. There's no evidence that he was on notice that
17 he was not complying with the terms of his probation.

18 MR. ZERNICH: Your Honor, may I make a -- a short
19 argument in that regard?

20 MR. BELLON: Your Honor, the time for argument --

21 MR. ZERNICH: Just like -- I mean a closing -- it's just
22 a closing --

23 MR. BELLON: -- time for argument is done.

24 MR. ZERNICH: -- argument. It's just a --

1 THE COURT: You want to make a closing argument. All
2 right.

3 MR. BELLON: Well, it's --

4 THE COURT: Mr. Zernich first and then Mr. Bellon.

5 MR. BELLON: -- kind of unfair to make a closing argument
6 after you hear the decision, Your Honor.

7 THE COURT: Yeah. All right.

8 MR. BELLON: You -- (indiscernible) submitted this to the
9 court on these issues, and you're making your ruling. Let him
10 appeal it or let him file a reconsideration. I'd ask the
11 court to just continue with your order.

12 THE COURT: I'll hear from Mr. Zernich. Maybe he has
13 something to offer --

14 MR. BELLON: Thank you, Your Honor.

15 THE COURT: -- that I missed.

16 MR. ZERNICH: Thank you, Your Honor. The -- when you say
17 he had no understanding that he was in violation of the
18 probation, according to the probation officer, the -- the --
19 those probation terms, they -- they were -- they were set
20 years prior. They weren't -- they weren't set on the date
21 that he violated the probation, whatever it was, October of
22 2013. That was just -- that was just the date that they said,
23 okay. Now we're issuing the bench warrant.

24 He was issued a new probation officer, which this

1 officer said he never had a chance to talk to him; but why
2 would he have to talk to him, explaining the terms that were
3 explained to him years prior? He already knew those terms.
4 That's like -- that's like saying it's not a -- it's not a
5 basis to say he violated probation when he went out of -- when
6 he went out of state with the -- with the -- with the kids
7 because he didn't know about it; but, you know, it's like
8 saying when -- when at that time you didn't know about it in
9 February, in January when you --

10 THE COURT: Okay. Instead of arguing --

11 MR. ZERNICH: -- when you issued orders (indiscernible)
12 --

13 THE COURT: -- instead of arguing with what I might be
14 about to order, how about you just make your closing
15 statement.

16 MR. ZERNICH: Okay. I -- I'm trying to wrap it around.
17 I'm sorry I frustrated you.

18 THE COURT: You're not frustrating me. I just want you
19 to make your closing argument.

20 MR. ZERNICH: Okay. The issue of the probation officer
21 being called, I think, was all about my client in that regard.
22 She filed motions for -- to hold him in contempt in other
23 regards.

24 And the probation officer was called, I believe, in

1 direct -- directly as a result of the opposition that was
2 filed that said that my client intentionally was -- had
3 something to do with lying to the court and lying to the
4 probation department to have Matthew arrested.

5 And I think there's no testimony in that regard
6 today that shows that she should be held responsible in that
7 regard. She made a call, yes, to the probation department
8 when she found out that he was still on probation, something
9 that the court did not know either, back in January, when they
10 reinstated his non-supervised visitation.

11 For -- for him to say that he didn't know that he
12 violated his probation, is something entirely different than
13 him to say, I didn't know that I was still on probation
14 because his probation term was a four- or five-year term that
15 had not yet ended. It was all represented to this court and
16 my understanding that everything was going fine. When the
17 fact is, he had stopped communication with his probation
18 officer.

19 The probation officer said, well, when I took over,
20 he didn't have to call me every month. It only had to be
21 every other month. Well, that just lessens the restriction.
22 It doesn't remove the restriction. So if he was under the
23 same terms, then he would have violated it every other month
24 instead of every other month.

1 I think in that regard, Matthew was clearly in
2 violation of his probation on a number of -- on a number of
3 issues of which perhaps Jennifer ultimately did bring to the
4 attention of the department because she was afraid that if he
5 got picked up while on probation, what's going to happen to my
6 children. Right?

7 They're obviously going to take the children and try
8 to call Jennifer. If they can't reach her, they're going to
9 perhaps take the children down to Child Haven. One of them,
10 who has recently had a very traumatic brain injury and
11 surgery, that somebody down there may be totally unqualified
12 to monitor his care, even the amount of time it takes to
13 return him to mother and or to someone else who could do so.

14 I think she had a legitimate worry in that regard
15 about him being -- have a bench warrant, continue to be on
16 probation and was in violation of the probation, to say, you
17 know what, even if I did want him to be picked up, it's
18 because I want this resolved.

19 And when you say, why didn't she call him? Well, I
20 think the court knows through the 18 different hearings,
21 that's because he never returns the phone call. All right.
22 He's very difficult to get ahold of or he just -- or he just
23 ignores her phone call. And not only that, she doesn't have
24 an obligation to call him. All right. But if you say, why?

1 That's probably the reason why.

2 You know, the sooner he gets picked up, the safer
3 her children are so that he can get that big monkey off his
4 back so that we don't have to worry about it anymore.

5 Sorry, Mr. Geiger, you violated the probation; not
6 Jennifer. All right. Sorry, Mr. Geiger, that you have to
7 spend 23 days in jail or whatever it turned out to be; but
8 that's not because of Jennifer. Jennifer was just looking out
9 for the kids, who happen to be your kids, as well, his kids.
10 I'm not talk -- talking to -- directly to him.

11 So -- so when all these allegations about her making
12 false allegations, providing dozens of false e-mails, there's
13 not a single e-mail or text message that was shown to be
14 false. They were all accurate.

15 Now maybe there was some confusion about whether she
16 talked to Officer Laputt, you know, in June or Norma Medina in
17 June. Obviously, his notes weren't exactly perfect in that
18 regard from the standpoint that he himself corrected himself
19 that he did -- his notes weren't very good in that regard.

20 And for him to say, well, she told him about some
21 out of trip -- state trip and some, you know, she informed on
22 some hunting trip. Well, she cleared that up. There was no
23 hunting trip. It was a hunter's safety course, which I -- I
24 know Mr. Bellon said they don't use guns at hunter safety

1 courses. I don't know whether they do or not either.

2 I have a hunting license from the state of
3 Pennsylvania, 20 years ago; but I don't know what they're
4 doing now. All right? But for somebody that's never hunted
5 in her life, it would be safe and logical to assume that she
6 might think that guns are used in a hunter safety course. And
7 if the kids are telling her that she's going shooting with
8 him, regardless of whether they had or not, she would be under
9 the belief that perhaps they have.

10 And you know what? And when they ask her questions,
11 I don't think that it would be prudent for us to tell her that
12 she should lie to the probation department to protect Matthew.
13 She calls them. They ask questions. She answered. He got
14 arrested. It's not her fault. It's only his fault. That's
15 trying to pass the buck.

16 So in that regard, she -- well, I know that we're on
17 sole legal custody. We didn't -- we didn't have much -- we --
18 you just said based upon the testimony of officer -- of the
19 probation officer that -- that -- I didn't even know we got
20 into the legal custody issue. But I don't want her to be held
21 a --

22 THE COURT: It was just about legal custody and she
23 wanted him on -- on supervised visits.

24 MR. ZERNICH: Right. I can tell you, that request came

1 at a time when he was in jail, at a time she had no idea how
2 long she was going to be there. He's obviously out now.

3 THE COURT: Uh-huh.

4 MR. ZERNICH: Right? But she still thinks if we -- and
5 if we had more time, the -- the legal custody request at this
6 point would be more about the medical care of Chevy; but we
7 didn't have -- we didn't put that before the court today. If
8 we want to come back another day in that regard, I would be
9 happy to because I had lots of information to present to the
10 court. The court, we -- we did present the medical records of
11 Chevy that the court asked for. I think the court is well
12 aware of the severity --

13 THE COURT: Uh-huh.

14 MR. ZERNICH: -- of the condition, or what it was; but
15 it's also a condition that can reoccur. And her request in --
16 in this regard, he was arrested. She just felt that he's --
17 that he's acting -- it was -- you know, she didn't -- she
18 didn't know when he was coming out of jail.

19 But it also has to do with her -- with her fear of
20 the -- of the issues of -- of Chevy and things that went on in
21 the hospital after the surgery. And I just don't think it's
22 appropriate for me to start giving the testimony. I could --
23 I can give an offer of proof if the -- if Your Honor would
24 like in that regard. Some simple examples.

1 THE COURT: That was two years ago, right?

2 MR. BELLON: Yes.

3 THE COURT: That was two years ago?

4 MS. GORDON: Last year.

5 MR. ZERNICH: It was last -- it was -- it was last year.

6 MR. BELLON: 18 -- 16 months ago, and there's been two
7 hearings since.

8 THE COURT: Uh-huh.

9 MR. ZERNICH: Right. And there has been two hearings --

10 MR. BELLON: And you extended his visitation.

11 MR. ZERNICH: -- since but never -- but never an
12 evidentiary hearing at a time to present evidence. And -- and
13 -- and we certainly -- it comes full-scale circle when we
14 start talking about this log, you know, that the -- that the
15 doctor wants to be kept. We're talking about a brain injury.
16 You know, one that's not going away.

17 MR. BELLON: Your Honor, this is far -- can I object?
18 This is far exceeding the testimony that we were
19 (indiscernible).

20 THE COURT: No, it -- it goes -- no, it goes to her
21 motion asking for --

22 MR. BELLON: Okay.

23 THE COURT: -- sole legal custody.

24 MR. BELLON: I thought we were just talking about the

1 testimony today.

2 THE COURT: She -- I have the pa -- I have her motion in
3 front of me where --

4 MR. BELLON: Okay.

5 THE COURT: -- she -- she argues where he does not
6 properly treat her son's brain condition.

7 MR. BELLON: Correct.

8 THE COURT: And we talked a lil -- a little bit about
9 this at the last hearing, as well.

10 All right. Anything else, Mr. Zernich?

11 MR. ZERNICH: No, Your Honor, except for perhaps I would
12 -- I would ask for a second day we could come in for testimony
13 regarding his actions in the hospital and his inability to
14 properly care for the son to a -- to a degree that jeopardizes
15 the -- the boy's life.

16 THE COURT: What other --

17 MR. BELLON: Objection, objection, Your Honor.

18 THE COURT: -- what other -- what's your offer of proof
19 on that other than his ridiculous behavior at the hospital?
20 What is your -- what is your -- what is your offer of proof
21 that he doesn't properly care for the child?

22 MR. ZERNICH: Well, the offer -- our offer of proof is
23 that he just -- that he just doesn't properly understand the
24 seriousness of the brain injury. When I say he didn't pro --

1 when -- when -- when I talk about the hospital, I'm not just
2 talking about they got into arguments.

3 I'm talking about when the boy had a brain tube in,
4 he wasn't supposed to be moved except by staff because if they
5 move him too far back, all the brain fluid would drain out;
6 and he -- and he could die. If they move him too far forward,
7 you know, all the brain fluid swell up and swell the brain;
8 right? The boy was in pain. The boy moved around a lot. But
9 he would constantly move the boy --

10 THE COURT: Uh-huh.

11 MR. ZERNICH: -- until she -- and then she would call the
12 staff.

13 THE COURT: Uh-huh.

14 MR. ZERNICH: And then the staff would come in, and they
15 reposition him to -- it was called a level, to the machine;
16 right? But he would -- he would do it. And she would say,
17 look, how many times you have to do this? And this is -- goes
18 to sole legal custody. Can't you just ask him to leave?
19 Well, we don't have any court orders in that regard to allow
20 that. Okay. Eventually by the third day, they escorted him
21 out of the hospital. All right? He went back --

22 THE COURT: Okay. So fast-forward --

23 MR. ZERNICH: -- in with a MRSA infection. He went back
24 in with a MRSA infection on his brain stem and they were put

1 into quarantine. When he would show up in his -- in his
2 stuff, gown, mask, he'd take it off when he got in there
3 because he would mad -- be mad because she didn't have hers
4 on; but she was part of the quarantine.

5 So he was subjecting a -- a child that has MRSA
6 infection right next to his brain. And he gave the child the
7 phone, his phone, to play with, without any understanding of
8 the risks. All right. So now we take that one step forward.
9 Now the child is out of that condition but -- out of that
10 present danger of the surgery but not out of danger all
11 together.

12 And we have this log that the doctor says should be
13 kept, and he refuses to do it. All right. So of course at
14 some point we could come in and we could give him another
15 chance and another chance and another chance; but we're just
16 hoping that one more chance isn't going to be, you know, too
17 late.

18 THE COURT: Uh-huh.

19 MR. ZERNICH: She's asking for sole legal custody, even
20 if it's just in a limited capacity, to say, I want to be
21 responsible for the medical care and treatment; and I'm happy
22 to give him notice. All right.

23 We had a -- we had an issue of some school stuff
24 going on, too; but that's expanding everything. But as you

1 know this case is not small.

2 THE COURT: I'm not hearing about school. It's not
3 before me.

4 MR. BELLON: Your Honor --

5 MR. ZERNICH: It's about traveling requirements of the --
6 of the one child that's in the specialty band on the -- the --
7 the -- the state's top band for the middle school, that you
8 have to try out, that he's made --

9 MR. BELLON: Thought we weren't hearing anything about
10 school?

11 MR. ZERNICH: -- but to do it you have to be able to
12 travel. And he refuses to give any compliance and or even a
13 yes or no about whether the kid can leave the state with the
14 band, which is an honor to be in. And it's just gonna force
15 her to come back to court over and over and over, this time to
16 say, well, you know --

17 THE COURT: All right. That's enough, Mr. Zernich.

18 MR. ZERNICH: All right. Thank you.

19 THE COURT: Mr. Bellon.

20 MR. BELLON: I don't even know where to start, Your
21 Honor, because that was all over the place. It -- it went
22 into things that my client denies 99 percent of; but let's
23 look at the big picture. I'm gonna try to narrow this down.

24 She's filed one motion, one step under a termination

1 of parental rights.

2 THE COURT: Uh-huh.

3 MR. BELLON: Sole legal custody, sole physical custody,
4 no visitation, no holidays; but keep paying me child support.

5 She has the burden of proof. The only testimony you
6 heard here today was scattered, at best. They even just said
7 that the officer's testimony was not very accurate and that
8 his notes may not have been correct. Why? Because her
9 testimony contradicts it.

10 She took the stand and basically said that Officer
11 Laputt either lied or he's confused.

12 THE COURT: Uh-huh.

13 MR. BELLON: So that's the confusion that I'm talking
14 about with regards to my client's lack of notice.

15 Officer Laputt stood -- stood there and he said that
16 -- that it was correct. The statement was correct that Mr.
17 Zernich asked, that he was no longer having to report monthly.
18 He then asked about the only having to give the house and the
19 change of jobs, et cetera; and he said that was partly true.
20 Then he talked about his requirements and what he would
21 require Matt to do, but testified he never told Matt of those
22 requirements --

23 THE COURT: Uh-huh.

24 MR. BELLON: -- because he never had contact with him.

1 THE COURT: Uh-huh.

2 MR. BELLON: So my client was under the impression from
3 his last pro -- probation officer this is what he has to do.
4 He never denied - I don't know where this came up - that he
5 was off probation. He knew probation hadn't stopped yet. He
6 just thought the requirements were different, that they
7 weren't the same that they were on day one because they
8 changed. They changed to the point where he can even be
9 released from probation, but that's another whole story.

10 So we heard testimony from Officer Laputt; and you
11 know what, it's not a big issue whether or not the defendant
12 motivated them to go pick him up. He had a warrant. He
13 accepts responsibility. It's his job to do that. The
14 question is whether anything here rises to a level that he
15 shouldn't have any contact with his children or he shouldn't
16 make any decisions.

17 The reality of the situation is, you can believe it
18 was a coincidence -- or she could - I apologize, Your Honor -
19 that this warrant was in effect for almost ten months and then
20 he gets picked up on it within 30 days or approximately 30
21 days after she makes her first contact with the -- the FAU,
22 the fugitive absconsion unit; but she didn't know that's what
23 they did.

24 She notifies them. She tells them, according to

1 Officer Laputt, that he's -- has weapons; and he's on hunting
2 trips. He's going out of state. And then all of a sudden
3 they pick him up.

4 Now she may not have meant it. Maybe she didn't go
5 down there and say arrest him; but I think it's -- it's
6 disingenuous at best to say, I don't understand what my
7 actions would have resulted in.

8 And does she have an obligation to call him up and
9 say that? No. But if you're worried about your children
10 being picked up and where they're gonna go and what's gonna
11 happen to them, then you let him know. Take care of this
12 bench warrant. Go down to your officer, you know; and report;
13 and get it taken care of. We wouldn't have been here, Your
14 Honor.

15 But she did what she did. She made two phone calls,
16 to the department and to her friend in Texas. She didn't --
17 that's all she cared about. And all she was thinking about
18 is, he's gonna get picked up. I'll protect my kids.

19 Then I thought it was very disingenuous when she
20 talks about, and breaks down in tears, about how she wants to
21 protect his -- his kids from exactly what happened because of
22 her actions. They got picked up while they were in his
23 custody; and exactly what she feared, happened, because of her
24 own actions.

1 But then she doesn't do anything to stop it, or she
2 doesn't do anything to stop it in her own home, and she
3 doesn't even know what's going on in her own home based on the
4 information that we have from the CPS interviews.

5 She -- you heard her testify herself, and I'll defer
6 this to the court, that if anything was going on, if any
7 discipline -- she denied the boyfriend disciplines these two
8 boys. She's so worried and protective of 'em that she doesn't
9 know what's going on in her own house, and she wants you to
10 take the rights away from my client based on the fact that he
11 failed to report. Because all the rest of it is just smoke
12 and mirrors.

13 Intoxicants, two years ago he supposedly had a beer
14 in his hand; but he had no beer in his body (indiscernible).
15 They didn't even violate him on it. They just put him back on
16 probation. Even this, they put -- reinstated him back on
17 probation.

18 The pu -- punishment has to fit the crime, Your
19 Honor. There is nothing that we heard here today that even
20 remotely rises to the level of taking any time away from my
21 client. Contrary to that, Your Honor, what we have been made
22 aware of is there are serious concerns in the defendant's
23 home. She wants to point fingers, and she wants to throw
24 stones. But I think this court has to entertain the most

1 serious issue.

2 So I'm going to cut my statement very short and not
3 go into all the details about the testimony and my client
4 itching to tell me that none of what they say happened at the
5 hospital happened. There's been no evidence, no third party,
6 no testimony. He understands that.

7 But I'll leave the court with this, a little
8 Shakespearian quote; and this is the proper quote, even though
9 it's been kind of messed over the years. The proof of the
10 pudding is in the eating, Your Honor.

11 THE COURT: Uh-huh.

12 MR. BELLON: It's not, the proof is in the pudding. The
13 proof of the pudding is in the eating.

14 What problems have we had? Has Chevy had any
15 problems? Has he had to been re-hospitalized? He's had
16 visitation now for months and months, with this little few
17 months -- or few weeks in between. What is happening?

18 Could she come to court and say, oh, he doesn't know
19 how to care for his son; every time he comes back, he's
20 malnourished; or he's sick; or he's got brain injuries,; et
21 cetera, so forth? There's been nothing wrong.

22 The only thing that prompted this was his arrest on
23 a warrant that she spoke to the department 30 days before he
24 was arrested. I think the -- I think it's clear. I think I'm

1 gonna sit down and shut up and let the court continue with the
2 ruling.

3 THE COURT: Is your client maintaining the log when Chevy
4 now gets sick?

5 MR. BELLON: He is, Your Honor. And to that extent, you
6 remember even in court, the defendant testified, she never
7 provided him with that and never told him about it.

8 She sent me actually a great e-mail, a very nice e-
9 mail, saying, thank you for requesting. Here it is. Here's
10 how it works. I gave it to my client immediately. Not only
11 is it as an exhibit, Your Honor, on our -- before all the
12 visitations he's had since that court, he also took it upon
13 himself to text her, the one time that he did vomit or have
14 headaches. And -- and they had a nice conversation about,
15 well, this is what I do. I give him Motrin or something like
16 that, and they went back and forth.

17 He also has contacted a doctor. He has an
18 appointment with the doctor on October 26th, if I'm correct.

19 THE COURT: Okay.

20 MR. GEIGER: The 29th at 10:00 a.m.

21 MR. BELLON: The 29th. I apologize. And so he's
22 following up now that he understands, you know, the more --
23 the severity of this --

24 THE COURT: All right.

1 MR. BELLON: -- situation. Thank you.

2 THE COURT: Does Weston want to be in the marching band
3 or whatever that is?

4 MR. GEIGER: Oh, yeah, I have no problems with him doing
5 any band stuff.

6 THE COURT: Well, why is she saying that you do?

7 MR. GEIGER: I -- I have no idea. He actually practiced
8 -- he brings his instrument over to my house; and every Sunday
9 afternoon, he does his exercises; and I e-mail her his
10 recordings. I have no problem with him being in band, none,
11 none at all. I never have.

12 THE COURT: Has he told you he couldn't have permission
13 to travel?

14 MS. GORDON: No, he just doesn't reply. He doesn't
15 communicate.

16 MR. GEIGER: That's not true.

17 MS. GORDON: I don't -- I don't have any communication
18 with him. That's what -- that's what stinks is I --

19 THE COURT: Okay. All right. I -- I'm gonna make a --

20 MR. BELLON: Family Wizard, Your Honor.

21 MR. ZERNICH: So she -- so she -- she's forced to --

22 THE COURT: -- I'm gonna make a finding. So now you'll
23 have the court order that he has permission to be in the
24 marching band.

1 MR. ZERNICH: Okay. She -- she's forced to make
2 decisions without his input, which forces her to subject
3 herself to a -- a complaint that she's violating joint legal
4 custody because she asks; and he doesn't respond --

5 MR. BELLON: He never complained about that.

6 MR. ZERNICH: -- and she doesn't respond. Then she signs
7 him up for the band. He goes, you know --

8 MR. BELLON: We haven't filed --

9 THE COURT: Well, I can -- I can fix that, too.

10 Matt, if you're not gonna cooperate -- if you're not
11 gonna not cooperate, if you're not gonna communicate in a
12 timely fashion, I have a solution for that.

13 MR. GEIGER: We always group message between my phone, my
14 wife's phone and her phone.

15 THE COURT: Right.

16 MR. GEIGER: My wife responds immediately to her. I
17 don't ever respond. I let my wife handle it because she
18 doesn't talk to my wife like she talks to me.

19 THE COURT: Uh-huh.

20 MR. GEIGER: There's no, you know, they play nice guy,
21 nice guy to each other.

22 THE COURT: But you're the dad. So you at least need to
23 say --

24 MR. GEIGER: I get --

1 THE COURT: -- okay with what Debbie says.

2 MR. BELLON: Can we do Family Wizard, Your Honor? The --
3 is the court a fan of that or not?

4 THE COURT: I -- I think they're -- they're starting to
5 communicate.

6 MR. BELLON: Well, they are.

7 THE COURT: I mean, I understand that Jennifer talks to
8 Debbie at least.

9 MS. GORDON: I -- I try.

10 THE COURT: Uh-huh.

11 MS. GORDON: But when I -- my main problem is, is I try
12 things; but if I -- if I -- if it comes from me, it's a no.
13 It's -- it's a constant no or a no reply; or thank you. We
14 got your response; or I'm like --

15 THE COURT: Okay.

16 MS. GORDON: -- and then I'm left trying to figure stuff
17 out. It's --

18 THE COURT: All right. Let me -- let me address some of
19 that and maybe save you a trip in here in the next few months.

20 All right. Jennifer, as to your motion for sole
21 legal custody, that's denied. I -- I understand he had a
22 warrant out for him and -- you know, I'm torn as to the
23 findings I want to make today.

24 You know, it's clear this Probation Officer Laputt

1 never told Matt what his requirements were when he took over
2 the caseload. Of course, it's clear in -- in the record that
3 Matt had certain probation requirements. But it's clear from
4 his te -- from -- from the PO's testimony, he never had
5 conversation with Matt as to new requirements. It was a two-
6 year-old --

7 MR. ZERNICH: We'll -- Your Honor, we'll -- we'll waive
8 findings of fact in that regard to your denial of the sole
9 legal custody if it's -- if it pleases the court.

10 MR. BELLON: I don't think anybody's gonna be appealing
11 any of that.

12 THE COURT: You -- you're okay with that?

13 MR. ZERNICH: Yeah, we value -- I understand you're
14 making your ruling and -- and -- and -- and I know you -- I
15 know that you have your findings and we --

16 THE COURT: Yeah.

17 MR. ZERNICH: -- and that's --

18 THE COURT: All right.

19 MR. ZERNICH: -- it -- it's -- it -- it's so complicated
20 and confu -- and confusing. I mean --

21 THE COURT: It is complicated. And, you know --

22 MR. ZERNICH: -- we're fine with that.

23 THE COURT: -- part of why I wanted this today was so
24 that each of them -- each of these parents, Matt and Jennifer,

1 would know exactly what happened. So it would be out.

2 So Matt would know what happened, and Jennifer would
3 know what happened. And there would be a record of this, you
4 know, as costly as it may have been for each of them. And so
5 there wouldn't be any mystery or misunderstanding as to what
6 happened. And so the court would know, as well.

7 So that aspersions weren't being cast on Jennifer
8 that she, you know, turned over 100 e-mails that weren't true
9 or whatever was going on there.

10 It is -- you know, I won't make the finding. But,
11 Jennifer, just talking to you at this point, it certainly
12 would have avoided a lot if you'd simply called Matt and said,
13 you know, dude, you got a warrant out for you. It's not your
14 job to clean up his act. But as the father of your children
15 and your concern to negotiate something, how about I keep the
16 kids until you get the warrant cleared up, would have gone
17 very far toward continuing to heal what's been going on around
18 here.

19 All right. I'm gonna make this ruling based on
20 parties' continuing failures to communicate effectively. If
21 -- Jennifer has primary custody.

22 Matt, if she communicates a request to you having to
23 do with a medical issue or an educational issue and you,
24 yourself, don't personally respond to her in writing by text

1 or e-mail, in a fashion that she will get, like responding to
2 however she communicated to you, within 48 hours, then she has
3 permission to go ahead with what she asked you. Okay?

4 And this means that if Debbie says to Jennifer,
5 yeah, that sounds okay. Let me check with Matt. You need to
6 say, yeah, it's okay. And not just be relying on your wife's
7 dis -- communication. Okay? You're the dad. And I
8 understand that Debbie's a good cushion for you. But you're
9 still the dad. So you need to say, it's okay, Jennifer; or,
10 I'm okay with that; or, I'm not okay with that. Let's talk
11 about this some more. It has to be some sort of statement,
12 responding to Jennifer's e-mail.

13 If there's no communication at all, Jennifer, within
14 48 hours of your request, you have permission to go forward
15 with what you've requested. If there is a communication, if
16 Matt says, I'm not okay with that. We need to talk about it.
17 Then you don't have permission to go forward with it. Is that
18 clear?

19 I'm trying to --

20 MS. GORDON: (Indiscernible) yes.

21 THE COURT: -- move you forward in some --

22 MS. GORDON: I know.

23 THE COURT: -- fashion.

24 MS. GORDON: I understand.

1 THE COURT: Okay?

2 MR. ZERNICH: What -- what if he just says no?

3 THE COURT: If he says no, then --

4 MR. ZERNICH: Just, no. No, why? No.

5 MR. BELLON: Then they consult and cooperate.

6 MR. ZERNICH: I -- I dealt with one once. It was a
7 similar issue.

8 THE COURT: Yeah.

9 MR. ZERNICH: The kid was -- the kid had Down's syndrome.

10 THE COURT: Matt, you have to have --

11 MR. ZERNICH: (Indiscernible) --

12 THE COURT: -- a reasonable basis for saying no. If it's
13 -- Weston has an out-of-state traveling trip with the band on
14 your weekend and you're, like, no; you can't say no. The
15 kid's enrolled in traveling. He has to go.

16 MR. GEIGER: Understood. Completely understood.

17 THE COURT: I'm making that a rule -- a -- a finding.
18 Weston is now involved with the traveling band. If the band
19 is traveling on dad's time, the boy goes. Period. Sorry.

20 MR. GEIGER: Understood, yeah.

21 THE COURT: It's a great experience for them.

22 MR. GEIGER: Yeah, of course.

23 THE COURT: Okay. That takes care of one big issue,
24 right? Okay.

1 Same thing with medical. You make the doctors
2 appointment. You put Matt on notice as to when it is.

3 Matt, you're not allowed to change -- I'm making
4 this rule -- finding an order.

5 Dad is not allowed to change medical appointments
6 that mom makes for Chevy.

7 But you give him the information in a reasonable --
8 when you make the appointment, that's when you notice him as
9 to when the appointment is. You don't wait till that morning.
10 Understand?

11 MS. GORDON: Yes.

12 THE COURT: Okay. All right.

13 All right. Matt, the next time you take these kids
14 out of town without notifying Jennifer of your itinerary,
15 there will be a court order that you are not allowed to ever
16 take them out of town again.

17 MR. GEIGER: That's understood.

18 THE COURT: It's really easy.

19 MR. GEIGER: It's understood.

20 THE COURT: That is really easy. And as long as you're
21 on probation, you need to give Jennifer proof that you have
22 permission from your PO to leave town.

23 MR. GEIGER: Understood.

24 THE COURT: By town, I mean, whatever your restriction

1 is, the state of Nevada --

2 MR. GEIGER: Can I have -- I have just quick question
3 about that. Is, like, Laughlin out of town? Is -- is
4 Caliente out of town? Or do you mean out of state? Like, can
5 I take them to Eagle Valley fishing, which is in Nevada not
6 far from here?

7 THE COURT: You know what? You'll have to get legal
8 counsel. I'm not gonna give you --

9 MR. GEIGER: Oh, okay.

10 THE COURT: -- judicial counsel on that. I don't know.

11 MR. BELLON: And I would just make a record. It's
12 whether or not it's legal. We're just talking about notice,
13 not permission. So why don't you guys just start giving each
14 other notice of everything. You don't need permission. But
15 if you're going fishing, what does it matter if you just say,
16 we're going fishing in Laughlin? If you're going up to the
17 Mount Charleston, you can do it. It just -- you guys will
18 stop feeding off each other if you start doing it.

19 THE COURT: It's not permission. It's notice.

20 MR. BELLON: Right.

21 THE COURT: It's notice.

22 MR. GEIGER: So, okay.

23 MR. BELLON: Always err on the safe side and you'll feel
24 good about it. And then the next time she's going out of

1 town, she'll tell you. And who knows? Maybe we can make this
2 snowball move in a forward position or forward path for a
3 change.

4 THE COURT: Yeah, all right. I'm gonna go over the kids'
5 interview. I interviewed these children, Weston and Chevy, on
6 9/3/14. They didn't have too much to say. They were very
7 polite of course.

8 I asked what, you know, Chevy, what does he do at
9 home? He plays on the iPad, watches movies, goes to
10 Wet'n'Wild, went to Kansas to see the maternal side of the
11 family during the summer. I said, what did you do with dad?
12 He could only say he went on a fishing trip. He didn't really
13 have much to say. He's a really quiet and reserved child.

14 Weston was a little bit more forthcoming. He's in
15 middle school. So we sort of shared that my daughter's in
16 middle school. So I kind of understand middle school.

17 And then I guess I had -- I -- I -- I knew about it
18 after I remembered -- I thought about it a little bit, but he
19 had made a comment. And then I was like, what do you mean?
20 And he was like, well, there's four other kids in the house.

21 Matzi's children, your boyfriend's children.
22 There's 16, 18, 10 and 5; and then there's your baby. So you
23 have a very busy household there.

24 And he said at dad's, they go swimming. It's not as

1 busy at dad's house because there's just the two boys, and
2 there's less kids there. They stay with paternal grandparents
3 if dad has to take Debbie to California, which makes the court
4 infer that dad does not take the children out of town on the
5 weekends to California because they were very clear. We stay
6 with the grandparents if dad has to take Debbie to California.

7 Debbie told -- and he volunteered -- I didn't ask
8 this question. He just volunteered that Debbie had told him
9 dad was in jail a couple of hours after he woke up; that he
10 wasn't home when he went to bed the night before.

11 He said the hunting -- I did ask about hunting. Do
12 you go hunting with your dad? He said, no, it stopped about
13 three or four years ago, which is consistent with probation
14 officer -- or consistent with what Matt has told this court.

15 He did tell that -- Weston did tell the court that
16 -- even though I ordered no wrestling in 2011, that he is
17 wrestling; and he said he's okay with wrestling.

18 He likes the schedule just the way it is at this
19 time. Weston is not stressed or -- my finding is that Weston
20 is not stressed or de -- distressed by the current schedule.
21 He likes it just the way it is. Chevy had nothing to offer.

22 Hunting has stopped when plaintiff couldn't have
23 guns anymore. That's a finding.

24 Weston informed me that Matzi punches him in the

1 stomach and in the arm when he disobeys. The court is
2 extremely distressed by that, Jennifer, because in 2011 I made
3 an order, amongst many orders.

4 I made two specifically, that Weston is not to be
5 engaged in any wrestling activities any longer because the kid
6 fell apart when I was talking to him. I interviewed him. And
7 he just fell apart. He didn't want to wrestle. So I made
8 that order.

9 MS. GORDON: Right.

10 THE COURT: And he's in wrestling anyway.

11 I also made an order that Matzi, aka Baron, is not
12 to physically discipline Weston and Chevy in any way.

13 MS. GORDON: Right.

14 THE COURT: So your children tell me, and the reason I
15 believe Weston, is this, I said -- because I always have to
16 look for coaching. And I said, well, when's the last time
17 that happened? And he's like, last week. He's like, I dissed
18 my mother in the kitchen; and he punched me in the stomach;
19 and then he punched me in the arm; but it's okay. I deserved
20 it. What child deserves to be punched in the stomach?

21 MS. GORDON: Nobody gets punched at the house.

22 THE COURT: I believed your son because the next question
23 I asked him was, how did that make you feel? He's like, it
24 makes me feel sad when that happens. He's like, but it

1 doesn't happen to the little kids. He doesn't do that to the
2 little kids. There's enough little details there, Jennifer
3 for me to believe your son. If nobody else in the whole world
4 believes him, this judge believes him.

5 And then because CPS was mentioned, I got the CPS
6 records; and because there are other children mentioned in
7 these records because you've got a passel full of them in that
8 house there, I didn't allow -- allow both parties to look at
9 them. I just let counsel look at them; and they were allowed
10 to take notes if they wanted to. That's why we were back
11 there for a little bit.

12 And the children were consistent with physical
13 punishment in the house.

14 MS. GORDON: Yes.

15 THE COURT: They were consistent that -- Weston would not
16 -- not elaborate -- and -- and this is on September 3rd, 2014.
17 Weston would not elaborate but did state that "blank" does
18 punch him and his older brother in the stomach, arms and legs
19 when they get in trouble. He also stated that the younger
20 children in the home get stank -- spankings by his stepdad,
21 your boyfriend, with only an open hand. Again, consistent
22 with what the children told me when I interviewed them.

23 And then when the kids were interviewed at school,
24 the CPS worker and the detective believed that the ch -- this

1 was a different child, but they -- they believe that all the
2 children had been coached in their interviewing in some
3 respects because they were reserved in their discussions.

4 I'm gonna tell you something. I was ready to take
5 those boys away from you today. I was gonna take custody away
6 from you because you do not follow my court orders. I told
7 Mr. Zernich, I was ready to change custody up today because
8 not only do I have a child interview, which I was weighing,
9 well, how much -- how much weight do I give the child
10 interview when it's just me interviewing them?

11 And then I have a CPS report where the kids give the
12 same information to a CPS investigator, who I do rely upon,
13 let me tell you, where you're living with a man you're not
14 even married to who is physically abu -- don't tell me no.

15 MS. GORDON: There -- there's so much more to this.

16 THE COURT: Don't tell me no.

17 MS. GORDON: It's --

18 THE COURT: He's punching them, and he's disciplining
19 them --

20 MS. GORDON: This all --

21 THE COURT: -- physically.

22 MS. GORDON: -- this all came from Indiana when the
23 children --

24 THE COURT: No.

1 MS. GORDON: -- the two children --

2 THE COURT: This --

3 MS. GORDON: -- were kidnapped.

4 THE COURT: -- this all --

5 MS. GORDON: It -- it was moved out here.

6 THE COURT: Jennifer, don't even argue with me 'cause
7 this is a losing battle on your part. CPS investigators are
8 talking to your children, and your children are verifying that
9 your boyfriend is punching them in the stomach and the arms
10 and legs. They are verifying that. And it has the ring of
11 truth because they told them that he doesn't do it to the
12 little kids. He just hits them with an open hand. It has the
13 ring of truth because not only did they tell me, they told
14 CPS.

15 MS. GORDON: I understand that.

16 THE COURT: You -- you cannot go through life not
17 believing your children when they're telling you that they're
18 being abused or when your -- when a third party's telling you
19 they're being abused. You can't disregard that. And
20 honestly, I don't know what to do at this point because I'm --
21 I'm bound to protect your children if you can't protect them.

22 Don't tell me that there's an investigation there;
23 and so and so is doing this; and maybe it's Matt's fault
24 today, too. Maybe this is Matt's fault that your boyfriend is

1 punching your children. And you're sitting here telling me,
2 I'm so concerned about Chevy and his brain injury. And your
3 boyfriend is punching your children or at least one child.

4 What happens the day when he hauls back and gives
5 Chevy a punch and Chevy hits a piece of furniture on the way
6 down? What happens on that day? And Judge Nathan did nothing
7 about it. What happens on that day? What is my
8 responsibility, even if it happens on a day after I leave the
9 bench?

10 This is what I've been thinkin' about -- thinkin'
11 about since September 3rd. I've been thinkin' about this since
12 September 3rd. What's my responsibility today? What am I
13 supposed to do today? And instead of telling me, no, my boys
14 lied not just to you Judge Nathan but to CPS investigators and
15 a detective. Other than your children lying to three
16 different people --

17 MS. GORDON: It's --

18 THE COURT: -- what else do you have to say? And you're
19 under oath still.

20 MS. GORDON: I -- that's -- there's so much that's been
21 going on. When we came into court on the 28th, I'd been on the
22 phone with the police departments, four to be exact, in
23 Indiana. If you'll just hear me --

24 THE COURT: No, the --

1 MS. GORDON: -- for two seconds.

2 THE COURT: -- only -- the only --

3 MS. GORDON: This came from --

4 THE COURT: -- thing --

5 MS. GORDON: -- Baron's --

6 THE COURT: Jennifer --

7 MS. GORDON: -- ex. She filed two false --

8 THE COURT: -- Jennifer --

9 MS. GORDON: -- police reports. She's under --

10 THE COURT: -- the only thing I am laser focused on is
11 your boyfriend's conduct with your two boys.

12 MS. GORDON: And that's not true. I'm in those reports,
13 too. I -- they're saying that I punch the kids in the face,
14 and I make their nose bleed, and I hit them with sticks. This
15 is the fourth time that this has come up with CPS.

16 I gave them Matthew's number. I gave them his ex's
17 phone number. I've given them the court's phone number. I
18 gave them everybody's number so they could get as much
19 information on this. This isn't the first time this has been
20 investigated.

21 You have to understand what Matthew and what Baron's
22 ex puts us through in regards --

23 MR. BELLON: Matthew?

24 MS. GORDON: -- to the children. They pull the --

1 THE COURT: And so what?

2 MS. GORDON: -- kids out of school.

3 THE COURT: Did Baron's ex tell your children to tell
4 Judge Nathan, a detective and a CPS investigator that Matzi
5 punches us in the stomach?

6 MS. GORDON: They've all been sitting -- all the kids
7 have been sitting, telling stories since the girls were
8 kidnapped this summer. They were kidnapped on August 22nd. We
9 didn't get them back until September 4th.

10 All the conversations that went on were with the two
11 oldest daughters in the house. And they have been kicked out
12 of the house because of the things they were saying. The 18-
13 year-old, you're -- you've talked about in the report, has
14 been removed from the home because she was a -- a
15 (indiscernible) issue with all this, with Matzi's -- Baron's
16 ex-wife.

17 There is so much to this that we have gone through.
18 And I've been under great stress to protect the kids from all
19 this crap that we have -- we have Baron's youngest girls that
20 are at -- at the foot of this CPS investigation that was
21 unsubstantiated in -- in Indiana. It was transferred out
22 here. Henderson Police and CPS out here immediately got in
23 contact with us, interviewed all the kids, pulled them out of
24 school, intermu -- interviewed the girls when we got them

1 back.

2 THE COURT: Yeah, I know what happened. I read the
3 report.

4 MS. GORDON: It's the same thing. There's so many things
5 said. There's so many things said. And all this stuff
6 happened right around my court hearing.

7 THE COURT: So you expect me to believe --

8 MS. GORDON: I got in a fight with --

9 THE COURT: -- that because you have --

10 MS. GORDON: -- Weston that day.

11 THE COURT: -- other things going on, your children are
12 gonna lie to me about your boyfriend punching them in the
13 stomach?

14 MR. BELLON: I'm concerned about her ability to protect
15 these children, Your Honor, if you don't make an order
16 removing them from the home.

17 If -- if she would stand up and say, we've had
18 problems. I'm talking to him about it. We're getting
19 counseling. She's basically sitting there saying, you -- my
20 boys are lying to you. My boys are just fine.

21 THE COURT: Yeah.

22 MR. BELLON: I know what's going on in my house, and you
23 don't.

24 And the boys, it's even worse now because they're

1 going to go back to the house; and they're going to have deal
2 with these boys who just talked to CPS; and now they know what
3 they said.

4 What's Matzi's response going to be to this when he
5 finds out what happened here today in court? I'm concerned.
6 It wasn't our plan. We -- we never petitioned this court for
7 custody, not even for joint custody at this time. My client
8 has a road to climb -- to walk and a mountain to climb. But I
9 don't know what you can do to protect these children. I think
10 they're in more danger today than they were yesterday.

11 MS. GORDON: I -- I hear --

12 MR. BELLON: And she refuses to acknowledge it.

13 MS. GORDON: -- what you're saying. I'm sorry all this
14 is going on. I -- I hear what you're saying. I hear your
15 concerns.

16 THE COURT: Chevy said -- Chevy said on September 3rd,
17 Chevy was -- I don't know why these kids were interviewed by
18 CPS on the same day I talked to them.

19 Did you know that?

20 MS. GORDON: I'm sorry. Could you repeat what you said?

21 THE COURT: That they were talked to by CPS at school --

22 MS. GORDON: Yes.

23 THE COURT: -- on the same day I interviewed them?

24 MS. GORDON: Yes, they were -- they were spoken to -- the

1 whole week prior to that, they were spoken to twice. They
2 were pulled out of school for several hours.

3 THE COURT: Chevy didn't tell me this. He stated that
4 everyone in the home gets spankings when they get in trouble.
5 Mainly it's just with the hand. It used to be with the belt.
6 But that hasn't happened in a long time.

7 MS. GORDON: Yes, and that was prior to your orders.

8 THE COURT: So you deny that you admitted that you'll use
9 a belt with the children?

10 MS. GORDON: I do not -- yeah -- yeah, it -- I deny that.
11 I don't --

12 THE COURT: You didn't tell the CPS investigator that you
13 -- I'm sorry. That --

14 MS. GORDON: No.

15 THE COURT: -- I guess your boyfriend said that you
16 stated that your -- Matzi will use a belt with the children;
17 and it's generally for more serious misbehaving, like when
18 they've been suspended from school for fighting or stealing.

19 MS. GORDON: Not -- not with -- not with Weston and
20 Chevy, no.

21 MR. BELLON: He only hits some of the kids, the younger
22 ones. This -- nothing happens with Weston and Chevy. They're
23 just immune to all of this, Your Honor. This -- how much more
24 can she deny? Who else is going to lie? Now her boyfriend's

1 lying, too, according to her.

2 THE COURT: Then you have another child in the house who
3 talked about being spanked by the father and stepmom, you,
4 with a flip-flop, belt or a hand. And sometimes there have
5 been marks, but that was a long time ago. And Matt basically
6 -- Matt and Debbie basically had nice things to say about you,
7 except she thought there was -- they thought it was a little
8 too strict over there.

9 The paragraph the court's most concerned about was
10 from --

11 I'm keeping my staff here. I apologize.

12 Was from September 8th, 2014, this worker along with
13 Detective Melcher from Henderson P.D. made contact with
14 "blank's" daughter and Jennifer's stepdaughter at her school.
15 She was appropriately dressed, appeared to be of average
16 height and weight for her age, was open and friendly. Wait a
17 second. This is -- okay.

18 Well, going on, she reports similar inc -- incidents
19 as the other children who have been interviewed, that the
20 children were spanked as a form of discipline with a belt and
21 that at times marks have been left on them. She reported the
22 last time a mark was left on her was over a year ago and that
23 Weston and another child were punched in the stomach, but that
24 was also over a year ago. She feels safe at her mother's home

1 and only feels safe at her father's when he's not -- not
2 grouchy or mean.

3 What I would like is a brief-focused evaluation on
4 Jennifer's protective capacity because I seriously have
5 serious questions as to her ability to protect these children.

6 MR. BELLON: I ask the court to consider if you're not
7 going to change custody at this time, Your Honor, to issue
8 some kind of order with regards to protecting them from the
9 boyfriend, either he not be present or that he not be left
10 unsuper --

11 THE COURT: He lives in the house.

12 MR. BELLON: Correct, Your Honor; but he's an adult; and
13 he can take care of himself. These children can't take care
14 of themselves. And he (indiscernible) --

15 THE COURT: His four children live in that house, five
16 with -- and one with her.

17 MR. BELLON: And does Jennifer have a place --

18 THE COURT: All the children live in the house.

19 MR. BELLON: -- does Jennifer have a place that she can
20 go with her three children or -- or can, at least, he never be
21 left unsupervised with these children, even though I'm
22 concerned that Jennifer won't protect them?

23 MR. ZERNICH: There's -- there's --

24 THE COURT: I'll make that order.

1 MR. ZERNICH: I don't know that we have -- that there's
2 any money for a bri -- even a -- for a brief-focused
3 evaluation.

4 MR. BELLON: Well, if there's no money --

5 MR. ZERNICH: I mean, the one thing --

6 MR. BELLON: -- then we'll --

7 MR. ZERNICH: -- Chevy --

8 MR. BELLON: -- then we'll take custody --

9 MR. ZERNICH: -- did confirm to you is --

10 MR. BELLON: -- of the kids.

11 MR. ZERNICH: -- that he was happy where he was. I mean,
12 we could take care of it just the same way we take care of
13 other stuff with the orders. The -- the -- I mean, that last
14 order was from 2011, with three years later, where we can re-
15 issue the order, same way that we re-issued orders to him that
16 he's no longer to continue to do stuff you've already ordered
17 him not to do; and tell her that she understands the severity
18 of this. And you have -- we have some conversation --

19 THE COURT: Why don't we --

20 MR. ZERNICH: -- now some legal talk with -- with the
21 boyfriend. He can get --

22 MR. BELLON: How --

23 MR. ZERNICH: -- that advice --

24 MR. BELLON: -- how dare --

1 MR. ZERNICH: -- (indiscernible).
2 MR. BELLON: -- they, Your Honor --
3 THE COURT: Not when --
4 MR. BELLON: -- apples and oranges.
5 THE COURT: -- children are in danger, Mr. Zernich.
6 MR. BELLON: We forgot to report to our parole officer --
7 or probation officer. She's allowing her children to be beat
8 in her house, Your Honor. This is apples and oranges.
9 THE COURT: Oh, and he got punished.
10 MR. ZERNICH: Oh, you're --
11 THE COURT: He got put in jail --
12 MR. ZERNICH: -- you're -- you --
13 THE COURT: -- for 23 days.
14 MR. ZERNICH: -- I'm -- I'm not trying to --
15 MR. BELLON: Correct. So how about it's --
16 MR. ZERNICH: -- downplay it, but you're --
17 MR. BELLON: -- it's her turn.
18 MR. ZERNICH: -- exaggerating it.
19 MR. BELLON: What --
20 MR. ZERNICH: I mean, there's a --
21 MR. BELLON: -- what am I exaggerating?
22 MR. ZERNICH: -- there's a --
23 MR. BELLON: Did you read --
24 MR. ZERNICH: -- there's a difference.

1 MR. BELLON: -- those reports?

2 MR. ZERNICH: There's a same as downplaying the
3 exaggeration.

4 MR. BELLON: I'm not going to sleep tonight very well if
5 they go in and get hurt and I sat there and argued for
6 Jennifer --

7 THE COURT: Mr. Zernich --

8 MR. BELLON: -- to go ahead and --

9 THE COURT: -- I've thought --

10 MR. BELLON: -- (indiscernible).

11 THE COURT: -- of this case every day for a month. I
12 mean, I'm not kidding. I have wondered what to do. And I'm
13 not the one who reported this by the way. I don't know who
14 the reporter was. It doesn't -- and it wasn't Matt either.

15 MS. GORDON: No, it was --

16 THE COURT: It wasn't Matt or Debbie.

17 MS. GORDON: -- Baron's ex-wife, who kidnapped the
18 children --

19 THE COURT: I -- I don't believe that it --

20 MS. GORDON: -- on August 22nd.

21 THE COURT: -- was because it says in --

22 MR. BELLON: It said it was a mandatory.

23 THE COURT: -- here, it was a mandatory reporter. I
24 don't believe it was --

1 MR. BELLON: Teacher or --

2 THE COURT: -- anybody in Indiana.

3 MS. GORDON: It was. Her name is Libby from CPS in
4 Indiana.

5 MR. ZERNICH: It was a mandatory --

6 THE COURT: Mr. Zernich --

7 MR. ZERNICH: -- order.

8 THE COURT: -- you know, my -- my vision is of this
9 boyfriend taking a punch at Chevy and Chevy hittin' a piece of
10 furniture on the way down. I mean, that's what I'm
11 visualizing; and that could easily happen.

12 MR. BELLON: He's outside, Your Honor.

13 THE COURT: Or just hittin' the ground and hittin' that
14 fragile little head of his.

15 MR. BELLON: He's outside --

16 MR. ZERNICH: Not --

17 MR. BELLON: -- Your Honor.

18 MR. ZERNICH: Not so --

19 MR. BELLON: He's here.

20 MR. ZERNICH: -- well, not so easy, when she understands
21 the situation of the judge's standpoint of view and what
22 appropriate discipline is versus not appropriate discipline.
23 And you're punching the arm. Do you really punch or are you
24 just hittin' the arm and the kids say they get punched in the

1 arm? You know, but she said -- you said, look, don't touch

2 'em. No punching. No touching. No --

3 THE COURT: Punching in the stomach. A man punching a --

4 MR. BELLON: Flip-flops, belts --

5 THE COURT: -- little boy --

6 MR. BELLON: -- candlesticks.

7 THE COURT: -- in the stomach. He's a man.

8 MR. ZERNICH: The -- the candlestick comes from Indiana.

9 THE COURT: Okay.

10 MR. ZERNICH: That --

11 THE COURT: I'm not even talking about --

12 MR. ZERNICH: -- that's a --

13 THE COURT: -- I'm not --

14 MR. ZERNICH: -- that's a complete--

15 THE COURT: -- the candlestick is not an issue --

16 MR. ZERNICH: -- false allegation --

17 THE COURT: -- for this court.

18 MR. ZERNICH: -- a lie.

19 THE COURT: It's punching a little boy --

20 MS. GORDON: I -- I --

21 THE COURT: -- in the stomach.

22 MS. GORDON: -- understand that. I hear --

23 THE COURT: And I believe --

24 MS. GORDON: -- everything you're saying.

1 THE COURT: -- I believe your children. I believe
2 Weston. I don't believe you that it doesn't happen. I
3 believe Weston. And if nobody in his whole world believes
4 him, I want him to know that Judge Nathan believes him.

5 MR. ZERNICH: She has the capacity to protect him. The
6 -- the --

7 MR. BELLON: She doesn't --

8 MR. ZERNICH: Weston -- Weston --

9 MR. BELLON: -- believe it's happening.

10 MR. ZERNICH: -- in his own interview to you said that
11 he's satisfied and happy. And with your -- with your orders
12 and some strict orders, you know, I think that -- that -- that
13 this could all be resolved.

14 THE COURT: Okay. What are you suggesting as the strict
15 --

16 MR. ZERNICH: And you could set it for a status check.

17 THE COURT: -- orders, Mr. Zernich? What orders are you
18 suggesting?

19 MR. ZERNICH: I'm suggesting that -- that there's to be
20 no physical discipline in the house.

21 THE COURT: I already did that, and she ignored it.

22 MR. ZERNICH: But -- but that was 2011.

23 THE COURT: When they were littler, too. They were really
24 little then, and Chevy's brain condition was even more serious

1 then. And she ignored that order.

2 MR. ZERNICH: Well, all -- if we're gonna talk about --
3 if we're gonna look at the brain condition and her
4 extraordinary effort to not leave his side for a month at a
5 time in -- in the hospital -- I mean, obviously she has -- she
6 has --

7 THE COURT: No, we're talking about --

8 MR. ZERNICH: -- she has a --

9 THE COURT: -- the boyfriend --

10 MR. ZERNICH: -- desire to protect the -- the children.

11 THE COURT: -- we're talking about the boyfriend laying
12 hands on her children when I ordered her to make sure that
13 doesn't happen, and she ignored it.

14 MR. ZERNICH: Well, and she's gonna need to address that
15 with the boyfriend; and I think that she can with this court's
16 order.

17 THE COURT: I hope you understand how serious --

18 MS. GORDON: I --

19 THE COURT: -- this is.

20 MS. GORDON: -- you -- (indiscernible) --

21 THE COURT: Did I make it clear?

22 MS. GORDON: Yeah, it's very clear. I -- you're very
23 clear. I understand it. Like, my boys are my world.

24 MR. BELLON: But she still doesn't think it's happened.

1 THE COURT: They're his world, too.

2 MR. BELLON: She doesn't think it's happening. It's
3 clear, but she -- if you asked her right now whether she
4 believes the boys are being punched -- how do you convince
5 somebody not to abuse them if you're gonna go back and say, I
6 know you're not abusing them; but don't do it?

7 THE COURT: You don't believe this is happening. That's
8 what concerns the court. You're in total denial, or you're
9 just lying to me. I don't know which is which.

10 MR. BELLON: My client can testify to the violent
11 capacity that he's witnessed Matzi in other situations.

12 MR. GEIGER: I've worked with Matzi for years. He -- I've
13 seen him fight carpenters on the job. I've know he's been
14 violent. And I cannot --

15 MR. ZERNICH: This is coming --

16 MR. GEIGER: -- I cannot believe that --

17 THE COURT: You know what, Matt, the --

18 MR. ZERNICH: -- this is coming from the same guy --

19 THE COURT: -- C --

20 MR. ZERNICH: -- that doused a car --

21 THE COURT: -- the CP --

22 MR. ZERNICH: -- with gasoline --

23 MR. GEIGER: That's --

24 MR. ZERNICH: -- and tried to burn it.

1 MR. GEIGER: -- yeah, whatever.

2 MR. ZERNICH: Mean -- I mean --

3 THE COURT: The --

4 MR. ZERNICH: -- the -- the -- the options are not that
5 great here.

6 MR. BELLON: Sure, sure --

7 THE COURT: -- the C -- the CPS --

8 MR. BELLON: -- that's a good way to deflect.

9 THE COURT: -- report also said that you didn't really
10 see the kids coming over with anything that raised concerns.
11 I mean, bruises were attributable to wrestling. So I --

12 UNIDENTIFIABLE SPEAKER: Hopefully.

13 THE COURT: All right. So I'm finding that the court has
14 serious concerns based on the CPS report and the court's own
15 report about the kids. I think the -- the court's interview
16 with the children, the court believes Weston when he tells the
17 court that mom's boyfriend, Matzi, is -- M-A-T-Z-I, is
18 punching him in the stomach and the arm as a form of
19 discipline.

20 The court is ordering mom not to leave her two
21 children, these two boys, alone in the care of her boyfriend,
22 Matzi. If there's credible evidence that she has left these
23 two boys alone with Matzi, that could be the basis for change
24 in custody.

1 Do you understand that, Jennifer?

2 MS. GORDON: Yes.

3 THE COURT: And again, I'm ordering he is not to
4 discipline your children. Do you understand that?

5 MS. GORDON: I do.

6 THE COURT: You are not to use any object on your
7 children, do you understand that, as a form of discipline?

8 MS. GORDON: Yes, I do.

9 THE COURT: Does the ABCs of Parenting. I want both
10 these parents --

11 Have you taken that class yet, Matt, the ABCs of
12 Parenting?

13 MR. GEIGER: Yes.

14 THE COURT: You took it?

15 MR. BELLON: Was that the UNLV one?

16 MR. GEIGER: No, that was -- I'll take it again.

17 THE COURT: You took -- you took COPE.

18 MR. GEIGER: It -- it's okay.

19 THE COURT: Both parents are to take -- take - it's a
20 discipline class - ABCs of Parenting to learn how to better
21 discipline your children.

22 I don't have jurisdiction over your boyfriend, but
23 it would be a good idea if he went to the class also.

24 MR. BELLON: Your Honor, is there a way that the boys can

1 be told? I -- we know we don't usually discuss these types of
2 things with them, but at least that they be aware that they're
3 not to be in their stepfather's -- well, they're -- not
4 stepfather, the boyfriend's control. There's no way for us to
5 really find this out. We don't want to interrogate them every
6 time they come back.

7 But they could be -- and it would give them a sense
8 of peace, too, knowing, hey, hey, obviously what I said got
9 through to the judge; and we don't have to worry being --
10 about being alone with Matzi again and him punishing us. I
11 mean, I'm still concerned. He --

12 THE COURT: I'm -- I'm gonna give Matt permission to have
13 a discussion, an unemotional discussion with his boys that if
14 they ever feel that they are being abused that they're to tell
15 somebody at school.

16 Because I don't want you, Matt, to get caught up in
17 this cycle and then not being believed.

18 MR. GEIGER: Right.

19 THE COURT: So if your children think they're being hurt
20 -- and don't -- don't just say at mom's house. Just have a
21 general conversation, boys, you're old enough to know, if you
22 ever think you're being hurt by anybody, physically hurt, then
23 tell somebody at school; and something will get done about it.
24 Don't point to mom. Don't point to the boyfriend --

1 MR. GEIGER: I won't.

2 THE COURT: -- 'cause it could be anywhere. It could be
3 at your grandparents' house. Maybe somebody comes in and --
4 and does some -- it could be anyplace. Okay?

5 MR. GEIGER: Yes, ma'am.

6 THE COURT: I want you to really hear what I'm saying.

7 MR. GEIGER: I hear you.

8 THE COURT: Make it neutral. Do you under -- you got
9 that?

10 MR. GEIGER: I -- I understand --

11 THE COURT: Neutral.

12 MR. GEIGER: -- what you're saying.

13 THE COURT: So that if something does happen at anybody's
14 house, even a friend's house, and somebody touches them,
15 somebody hurts them, they know to go to somebody at school.
16 It would be fair, I think, for you to have a safety word for
17 the kids, that if you're having a phone conversation and
18 something bad is happening at the house and they use the
19 safety word --

20 MR. GEIGER: Yeah.

21 THE COURT: -- you can decide what to do.

22 MR. GEIGER: I understand.

23 THE COURT: I'm not really satisfied.

24 I hope I can sleep at night, quite frankly, Mr.

1 Zernich.

2 But I hope that these orders will protect the
3 children.

4 MR. ZERNICH: Thank you, Your Honor.

5 MR. BELLON: Your Honor, would the court --

6 MR. ZERNICH: Understand --

7 MR. BELLON: -- at least consider a little bit expansion
8 of the time. I mean, we -- we were on the verge of giving him
9 primary. He only has three weekends a month, 48 hours at a
10 time. They're gonna be over there 24 hours -- or excuse me,
11 24 days a month with the five other children and with this
12 thing exploding. He punches them for dissing his mother.
13 What's gonna happen when he finds out what happened here in
14 court and then he's got to be talked to and Weston said this
15 to the court? I'm concerned.

16 THE COURT: I've been -- I mean --

17 MR. BELLON: Even if we just expand his visitation to --
18 he's out of work now, too.

19 THE COURT: What does he have, every other weekend?

20 MR. BELLON: No, first, second and fourth weekends --

21 MR. GEIGER: I have the first --

22 MR. BELLON: -- Friday to Sunday.

23 MR. GEIGER: -- third -- three weekends.

24 MR. BELLON: First three weekends.

1 MR. GEIGER: Friday --

2 THE COURT: Friday to Sunday.

3 MR. GEIGER: -- at 6:00 to Sunday at 6:00.

4 MR. BELLON: And he's out of work. So he's available all
5 the time. So even if we balance out -- we're not even asking
6 for a change in custody. We never came in -- but even a
7 temporary, just a time share change, until they go to these
8 classes, until we do a focus eval, until we find out if these
9 boys are safe --

10 MR. ZERNICH: (Indiscernible.)

11 MR. BELLON: -- the least we can do is we move them out
12 of the home a little bit more.

13 THE COURT: No, I'll give him -- I'll give him the four
14 weekends a month; and Jennifer can have every fifth weekend,
15 when there's a fifth weekend.

16 MR. GEIGER: When there's five weekends?

17 THE COURT: When there's five weekends. There's like
18 five weekends five times a year.

19 MR. ZERNICH: So you're gonna take -- you're gonna take
20 away -- she's gonna have only four weekends a year?

21 THE COURT: Five weekends, right.

22 MR. ZERNICH: The fifth weekend comes four times a year.

23 THE COURT: I thought it came five times a year.

24 MR. ZERNICH: Once a quarter.

1 THE COURT: I'm sorry?

2 MR. ZERNICH: Once a quarter. Once every thirteen weeks.

3 THE COURT: Well, you know what, my understanding right
4 now is that neither her or her boyfriend are working. They
5 have no money. I don't -- I don't know what they're doing on
6 weekends if there's no money to do anything with. They can't
7 even have every kid shower every day is what the CPS report
8 says because there's so many people in the house. So, you
9 know --

10 MS. GORDON: What?

11 THE COURT: Okay. It will be fair that, Jennifer, if you
12 want to plan a trip with the kids, that you're allowed to give
13 Matt two-weeks notice that you'd like to have a weekend. And
14 you can do that four times a year. So that will give you
15 seven weekends out of the year.

16 Did I just do that math right?

17 MR. ZERNICH: There -- there's four fifth weekends of the
18 -- of the year. And --

19 THE COURT: Four.

20 MR. BELLON: Four fifth, and she can do it how many times
21 a year?

22 MS. GORDON: Three times.

23 MR. BELLON: Three times, so that's seven.

24 THE COURT: I said three? Okay. Wait a second.

1 MR. ZERNICH: Your Honor, would you consider that -- they
2 don't do much over at his house eith -- either on the
3 weekends. They're -- they're -- they're just -- they're over
4 there. Mr. Bellon is just now trying to wrestle what little
5 extra time away --

6 THE COURT: No.

7 MR. ZERNICH: -- based upon the circumstances.

8 MR. BELLON: Yeah, that's what I'm trying to do.

9 MR. ZERNICH: Without being here --

10 THE COURT: Okay. Mom can --

11 MR. ZERNICH: -- for the last 17 hearings --

12 THE COURT: -- mom can have an additional four weekends
13 with notice to dad, if she's doing something, okay, there's an
14 activity that she's engaged in, you know, she's gonna go out
15 of town or there's something going on. So she has to give dad
16 two-weeks notice of the activity and that she's gonna have the
17 kids for the weekend. So that's eight weekends out of the
18 year. The rest of the time is dad's.

19 MR. ZERNICH: You stated that was a temporary order or
20 that's --

21 THE COURT: No, this is a permanent order.

22 MR. ZERNICH: And we're not going forward with the brief-
23 focus evaluation based upon (indiscernible)?

24 THE COURT: No, I won't do that; but if they come back

1 here, that's probably what they're looking at.

2 MR. BELLON: So it's just basically Jennifer's word that
3 she's gonna protect her kids?

4 THE COURT: I expect both parents --

5 MR. ZERNICH: Well, we've -- we've took him on his word
6 --

7 THE COURT: -- to protect their children.

8 MR. ZERNICH: -- a lot through -- throughout most of this
9 -- through --

10 MR. BELLON: Your Honor, I have to say --

11 MR. ZERNICH: -- through the years --

12 MR. BELLON: -- I have to say something.

13 MR. ZERNICH: -- when the kids were a lot younger --

14 MR. BELLON: Please. I -- I don't even know how to say
15 this without being disingenuous.

16 Please stop deflecting this back on us. We -- we
17 paid our prices, and we've done -- and we defended our case in
18 court. And you denied her motion.

19 This is about what goes on in her house. And all
20 their responses, well, he did this; and he did that; and now
21 he's starting to get more time. No. This is about protecting
22 the children. I -- we never asked this court for anything but
23 to keep what we have so we can build a relationship. This is
24 all new --

1 THE COURT: This -- this --

2 MR. BELLON: -- new information --

3 THE COURT: -- this --

4 MR. BELLON: -- that we were just given hours ago.

5 THE COURT: -- this -- this order was sua sponte from the
6 court based on the children's interview, which was supported
7 by the CPS record, as far as the court's concerned, an
8 investigation with the detective and a CPS investigator. And
9 the court, quite frankly, doesn't care if it's unsubstantiated
10 because CPS has its own guidelines; and the court looks at
11 that investigation from a different light.

12 So -- because once -- once CPS, you know,
13 substantiates something, they have to take other steps. And
14 if they know it's before a district court judge, then they
15 sort of leave it in the judge's hands to take further action.
16 So I -- I have taken the action I think is appropriate. I
17 want that -- those ABCs of Parenting done within the next 60
18 days. That's all I have for today.

19 Who's preparing the order?

20 MR. BELLON: I'll prepare. I know Mr. Zernich is
21 unbundled. I don't know if he's gonna stay on at least maybe
22 to sign the order or if he's gonna stay on after that.

23 Just let me know.

24 THE COURT: You want to sign the order, Mr. Zernich?

1 MR. BELLON: I -- I'll be glad to deal with it.

2 MR. ZERNICH: I'm gonna have to. I'm not -- I'm not
3 unbundled. I -- I'm pro bono.

4 MR. BELLON: Oh, I apologize. I thought --

5 THE COURT: You're pro bono?

6 MR. ZERNICH: Yeah.

7 THE COURT: Okay.

8 MR. BELLON: The notice -- did the notice we get say
9 unbundled?

10 THE COURT: I appreciate your service.

11 MR. ZERNICH: What's that?

12 MR. BELLON: Did the notice we get say unbundled?

13 MR. ZERNICH: I don't --

14 MR. BELLON: (Indiscernible.)

15 MR. ZERNICH: I don't know. Did it?

16 MR. BELLON: Yeah, it does say unbundled, notice of
17 unbundled appearance.

18 MR. ZERNICH: I -- probably 'cause I thought --

19 MR. BELLON: (Indiscernible.)

20 MR. ZERNICH: -- 'cause I thought that this was going to
21 be the only hearing. But e -- even then, I'm -- I'm happy to
22 sign off on.

23 MR. BELLON: Okay. Cool.

24 MR. ZERNICH: And -- and --

1 THE COURT: Okay.
2 MR. BELLON: And just let me know.
3 THE COURT: This case is closed --
4 MR. ZERNICH: And I'm --
5 THE COURT: -- upon filing of the order.

6 All right. Thank you very much.

7 (THE PROCEEDING ENDED AT 17:27:28.)


8

9 * * * * *

10 ATTEST: I do hereby certify that I have truly and
11 correctly transcribed the digital proceedings in the above-
entitled case to the best of my ability.

12

13


SHERRY JUSTICE,
Transcriber II

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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

MATTHEW ROBERT GEIGER,

Plaintiff,

vs.

JENNIFER ELISE GORDON,

Defendant.

CASE NO. D-10-430639-D

DEPT. T

APPEAL NO. 67955

BEFORE THE HONORABLE LISA M. BROWN
TRANSCRIPT RE: ALL PENDING MOTIONS
TUESDAY, MARCH 24, 2015

APPEARANCES:

The Plaintiff: MATTHEW ROBERT GEIGER
For the Plaintiff: PETER J. BELLON, ESQ.
Bellon & Maningo, Ltd.
732 S. Sixth St., #102
Las Vegas, Nevada 89101
(702) 452-6299

The Defendant: JENNIFER ELISE GORDON
For the Defendant: Pro se

1 LAS VEGAS, NEVADA

TUESDAY, MARCH 24, 2015

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 09:13:57.)

4 THE CLERK: We're on the record.

5 THE COURT: Good morning. All right. We're on the
6 record, if you could please state your appearances.

7 MR. BELLON: Thank you very much. Good morning, Your
8 Honor. Attorney Pete Bellon, Bar Number 4528, present with
9 the plaintiff in this matter, Matthew Geiger.

10 THE COURT: Okay. Good morning.

11 MR. GEIGER: Good morning.

12 MS. GORDON: I'm Jennifer Gordon. I'm self-represented.

13 THE COURT: Okay. Good morning to you. All right. It's
14 your motion, I believe, ma'am. I've read everything.
15 Although, we did just get a reply and opposition that was just
16 filed recently.

17 MS. GORDON: Yes, on Friday.

18 THE COURT: It just showed up on Friday.

19 Did you get that Mr. --

20 MR. BELLON: I did.

21 THE COURT: -- Bellon?

22 MR. BELLON: I think I got it yesterday, Your Honor.

23 THE COURT: Okay.

24 All right. Ma'am, what would you like to say?

1 MS. GORDON: That was my first question, if you had a
2 chance to read the reply.

3 THE COURT: I haven't had a chance. My law clerk just
4 handed it to me this morning.

5 MS. GORDON: Okay. It's -- that was kind --

6 THE COURT: But you can -- you can tell me --

7 MS. GORDON: Yeah, that --

8 THE COURT: -- what you need to tell me.

9 MS. GORDON: -- that was kind of a -- a big portion of,
10 you know, the opposition and counter motion. I -- I do
11 believe that my motion was very clear in the case law that was
12 laid out as to why it should be reconsidered and a new trial
13 be granted. Relief from judgment, I -- I don't know how much
14 more clear I could get with -- it's basically just torn our
15 family apart with the orders that were made against myself and
16 -- and my -- my fiancé.

17 It -- I -- I don't know where to start. In my
18 reply, I referred to the Wallace versus Wallace case where Mr.
19 Bellon went off of the fact that we -- you know, we're talking
20 about custodial rights; but parental rights falls under
21 custodial rights.

22 And in the Wallace versus Wallace case that I laid
23 out in my reply, the parental rights were sorely violated, as
24 in the other cases that I laid out in my motion, where

1 visitations were changed that were detrimental to the
2 childrens without proper evidence being heard and -- and due
3 process.

4 That's basically what happened in our trial. When
5 we showed up, the attorneys met shortly off record. My
6 attorney at the time told me that the CPS files were over an
7 inch thick. The CPS records and the interviews were -- were
8 nothing that was presented to us prior to October 9th. There
9 was no time for review, were completely misinterpreted.

10 The person that filed this specific set, it has been
11 brought up on criminal charges in the state of Indiana; and
12 she lost full custody of her children to Matzi. Matzi has
13 100-percent sole legal and primary physical custody of the
14 children here in Nevada now because of this.

15 So it's -- it's crazy that that happened, and she
16 lost complete custody, and then the -- the case is transferred
17 out here, and it's so sorely misread. I -- I don't know where
18 to continue to go but try to stay on why we're here today, the
19 motions and -- I don't know.

20 THE COURT: Okay. Do you want to let counsel argue, and
21 then you can respond?

22 MS. GORDON: Sure.

23 THE COURT: Okay.

24 MR. BELLON: Thank you, Your Honor. And I'll be brief

1 because I -- I think we did lay it out pretty well in our
2 opposition and our counter motion.

3 First, I will point out to the court that the reason
4 you probably didn't get an opportunity to read that reply is
5 because I believe it's untimely. It's supposed to be filed
6 and served five days before the motion.

7 Our opposition and counter motion was filed right on
8 the exact date. If I remember correctly, the certificate of
9 mailing was February 24th. We received it, and we're counting
10 down from February 27th. Our opposition and counter motion was
11 due on March 13th. It was filed on March 13th.

12 The defendant had until five days prior to file and
13 serve. As you indicated, she filed on Friday and -- which
14 wasn't five days before; and it wasn't served on us until
15 yesterday. Certificate of mailing, I said, I think put it in
16 the mail on March 20th, which would have served it on us March
17 23rd, which Monday was the day we got it.

18 So the -- the court doesn't even need to really
19 consider that or feel at a loss because you haven't had the
20 opportunity. That's defendant's own doing. But it doesn't
21 really matter because it doesn't change much, Your Honor.

22 This isn't about -- you know, the defendant said
23 something. It's torn our family apart. Well, first of all,
24 this is the family, Your Honor. This is the father. That is

1 the mother. And they have two boys. She has a boyfriend.
2 He's not part of the family. He has children. Now that's an
3 extended family. I'll give you that. But that's what this is
4 about.

5 It's not about due process or justice or about the
6 words of her own sons talking about how they're being beaten
7 by her boyfriend on two occasions, that Judge Nathan
8 personally entered CPS in -- investigators.

9 And for her to sit there -- or she did. I wish you
10 had an opportunity to watch the videotape. But to sit there
11 and watch her deny every allegation, as she's done in her
12 motions and every pleading that I can remember reading,
13 everything is this man's fault. She wants to rehash the past.
14 And she wants to tell the court what an awful human being this
15 man is.

16 He has done everything this court has asked of him.
17 Yes, he was in a position where he wasn't father of the year.
18 He wasn't taking care of his responsibilities as a parent.
19 And he's moved in the right direction to the point where he
20 kept getting more and more and more. And that just makes her
21 madder and madder and madder.

22 This is about her convenience. This isn't about --
23 and I'll quote out of her own motion, about a change of
24 custody, about a significant change in parental rights. It's

1 not a paren -- loss of parental rights. It's not a relocation
2 case as the Wallace case that she cites. She hasn't lost any
3 significant parental rights, Your Honor.

4 The judge made a decision based on the evidence
5 presented to her from a stipulation for her to interview the
6 children. Under Nevada Rules of Civil Procedure 15(b), that's
7 implied consent that whatever comes out of that in --
8 interview, gives the judge the right to act on that evidence,
9 regardless of whether or not it conforms with the pleadings.
10 15(b) allows the pleadings to conform.

11 So basically, in her own motion, it basically asks
12 for a change of legal custody, physical custody and my
13 client's visitation. So she was on notice that those issues
14 were before the court.

15 It's not like we came in here for a child support
16 modification and all of a sudden we have these orders entered.
17 Orders were entered for the protections of this -- of these
18 children, that they sat there and Judge Nathan looked at 'em
19 and the boys said the same thing to her and she believed them
20 that they had said to CPS investigators about her boyfriend
21 beating them.

22 And so that's why -- the judge didn't change
23 custody. He -- he didn't -- she didn't even do any
24 substantial modification of visitation. I think my client got

1 a couple extra hours. She put protections in place.

2 Mat -- Matzi, the boyfriend, is not to be alone with
3 these children. He's not to discipline these children.
4 Chevy, the one with the brain injury that she argued about,
5 isn't to wrestle.

6 And she's just ignoring your orders and basically
7 moving forward and doing what she wants because now it's
8 inconvenient because Matzi's not able to watch the children
9 when she's unavailable. So and I understand now that -- I
10 mean, Matzi is working out of state; but, you know, that's
11 just something new and -- and recent. I'm not sure. We'll
12 have to investigate that.

13 But it comes down to the law in this case, Your
14 Honor. We came here for an evidentiary hearing. The evidence
15 was put on in front of the court. We did an interview.

16 The CPS records -- and that's why NRCP 16.25 that
17 she cites in her motion is irrelevant and moot, Your Honor.
18 That's between the exchange of information between the parties
19 prior to trial. This was basically the court's own record by
20 stipulation that allowed for the interview. And the CPS
21 records are confidentials. So my client had no access to them
22 either. They were revealed because of what the judge found
23 out in that interview.

24 So this is nothing more than a second bite of the

1 apple. It's just a bad taste in her mouth. It's not a
2 violation of due process. She had the right to be here. The
3 evidence came up. And, like I said, there's no effect on,
4 substantially, on her parental rights. She still has legal
5 cus -- joint legal custody. She still has primary physical
6 custody. There's been nothing changed.

7 If you look at the history of this case, I had to
8 print out the register of actions. I came new to the case
9 last year, Your Honor. But this is a long history. She
10 denies filing motion after motion. But I have at least six
11 order to show causes and motions filed since 2013, less than
12 two years, Your Honor. This has just been going on and on and
13 on.

14 And every time my client does anything that she
15 dislikes, then she just finds a way to drag him back into
16 court and do exactly what she did. What was the relevance,
17 Your Honor, of her going into her background? And you didn't
18 read it. This was her reply. Her reply spent three pages on,
19 I think, on telling you what an awful human being he is and
20 how he had no custodial rights and he violated this and he was
21 in contempt of that. And that's the past.

22 We moved forward on October 9th, and we moved forward
23 to where dad's gonna be a substantial part. But you know what
24 the problem is? That tear -- tears her family apart because

1 her family is her Matzi and these two children. She has to
2 accept that he is the father. He has rights. I'm gonna ask
3 the court to deny the motion in the entirety, address the
4 issue of enforcing the order in our counterclaim.

5 And then we have a sub -- tangential issue that we
6 may or may not be able to address, technically not before the
7 court; but I'll leave it to the court's discretion and maybe
8 even by stipulation.

9 I believe this week the defendant is exercising her
10 spring break right. And every year, almost without fail,
11 sometimes there were issues, my client and his father and the
12 two boys go to Monster Jam. I don't know what that is; but
13 it's something with trucks, I imagine; but -- and it falls
14 this weekend on Friday and Saturday on her spring break time.

15 She actually got mad at my client because the boys
16 are so disappointed because mom won't let them go; and she's
17 blaming my client for disappointing the boys, when this is
18 something they do every year; and they didn't realize it was
19 on her spring break.

20 I've cited in my op -- in my opposition and counter
21 motion a number of times where she's basically denied him his
22 visitation because she's taking them to wrestling or otherwise
23 wasn't available. I would ask the court to consider
24 compensatory time for this weekend, for Friday and Saturday.

1 Which is your normal weekend, right?

2 He has his weekend time. Just to allow that -- him
3 to take 'em for those two nights or for the 24- or 36-hour
4 period to allow them to attend Monster Jam together.

5 And then I'll defer to the court on attorney fees,
6 depending on your decision, Your Honor.

7 THE COURT: Are you still asking for a child interview?

8 MR. BELLON: Well, Your Honor, it -- it depends with the
9 court. If the court's gonna move forward, if the case is --
10 her motion is denied and the court's not going to move
11 forward, then, no, because we really want this to end. And we
12 want -- we want to just go to the task of raising the boys.

13 If -- if you think that for some reason she's
14 entitled to anything, Your Honor, then I think it's -- it's
15 crucial because the evidence that came out was the -- you
16 know, the -- the domestic abuse in the house; and she had made
17 allegations of coaching and things of that nature.

18 I'll let you know that I don't think -- she keeps
19 raising this issue with CPS and Indiana and that's between
20 Matzi. This CPS report, although it -- it referenced some
21 other issues, talking about domestic violence, this is about
22 these children. It's not about Matzi and his girlfriend or
23 ex-wife in Indiana. This is about these boys saying they've
24 been beaten, so. Thank you.

1 THE COURT: Okay.

2 Do you have something?

3 MS. GORDON: As far as his opposition and counter motion
4 is concerned, it was filed four days late after the date. So
5 if you're going to consider his opposition and counter motion,
6 then I believe my reply should be -- should be considered, as
7 well. I received it on Tuesday, although I know that he had
8 filed it on Friday of last week. And I filed it -- within a
9 couple of days of that, I filed it on Friday, as well. He was
10 also, him and his secretary, Dawn, were e-served, as well as
11 me putting it in the mailbox for him. So they were both
12 served on Friday.

13 As far as everything that I put in my reply, if you
14 look at the history of this case, I've only been to court a
15 couple times on my motions.

16 The rest of the time has been status checks on dad
17 because he was under supervised visitation for years, working
18 on getting -- getting his rights back slowly but surely. And
19 only last year did he start to gain his rights back. So when
20 he refers to Monster Jam being a family tradition, he just
21 barely started getting visitations back 2014.

22 There -- there was -- there -- there's been several
23 issues. I'm not gonna go back and forth because there's
24 plenty of things to show in the court orders; and I'd be happy

1 to refer to any of them that you would like, to show that the
2 majority of the orders in this court have been made against
3 Matthew.

4 In his opposition and counter motion, they keep
5 complaining about Chevy wrestling. Chevy is the one in my
6 original motion that I filed on August 4th that I brought to
7 this court's attention that has a -- a medical condition, it's
8 called Chiari malformation type 1.

9 It's where his -- the cerebellum in the back of your
10 head right here, protrudes into his -- into his spinal column.
11 He had decompression surgery in July of 2013, and it went
12 really bad so they had to remove the cerebral tonsils and part
13 of his skull and part of his -- his neck bone.

14 He hasn't wrestled in years; however, they'd like to
15 be -- you believe that -- that he was ordered to not wrestle.
16 Chevy has never been ordered by this court not to wrestle.
17 Weston, the older son, was ordered back in 2011 not to
18 participate in any wrestling activities. And I can tell you
19 where that's at. March 29th, 2011, is where the order's at for
20 that. And that's Weston only.

21 Since then, the boys -- because Matthew and his
22 mother filed CPS reports back in 2011, those were the ones
23 where they were deemed parental alienation and coaching on
24 Matthew's part. They -- since then, Judge Nathan had the --

1 the children go to Dr. Stinsler (ph), a child psychologist.

2 That was again back in 2011, prior to Matth -- Matthew having
3 any unsupervised visitations.

4 Since -- since then, she had changed her orders
5 because everything that was -- was deemed unsubstantiated when
6 the reports came back and that the children had been coached,
7 if the children felt that they wanted to wrestle, at the time
8 specifically Weston, that they could con -- continue to do so
9 with the psychologist's recommendation.

10 So when we were having problems and we came back on
11 a status check after Matthew filed a motion to enforce his
12 child visitation when he hadn't seen the children in two years
13 and didn't -- never exercised the supervised visitation, we
14 came back on November 7th; and the minutes were filed.

15 And Judge Nathan ordered if there are any scheduled
16 wrestling tournaments for the children while they are in
17 father's custody, father is to make sure they get there. And
18 that's because whenever Matthew does have any time, he doesn't
19 take them. He doesn't want to follow any of that.

20 Then she -- she made another order on February 11th,
21 2014, just this last year, if the children have wrestling
22 clinics on dad's time, dad shall pick up the children after
23 the clinics are done. This has been an ongoing problem. And
24 this really doesn't have anything to do with my motions today,

1 but that was in the opposition and counter motion, and there's
2 several things.

3 Mr. Bellon continuously files these misleading
4 papers with nothing but falsities in -- in the entirety where
5 I can document everything that they say and then they come in
6 here to the courtroom and say, well, we didn't know about this
7 and we -- and they make apologies.

8 Like -- like Matzi being out of town, he's been out
9 of state for almost four months now. And in his opposition
10 and counter motion, he claims that he's still beating the
11 children. This is how far this has gone. This is -- this is
12 horrible what they're putting us through and that it
13 continues.

14 And these are being filed, I believe, with malicious
15 intent from both parties, from him and my spouse's ex. All
16 we're trying to be is the stable parents here. That's all
17 we've ever tried to be. We built structure; and then since
18 both of them came back into the children's lives, it's been
19 nothing but spite.

20 THE COURT: Okay.

21 MR. BELLON: The only thing I'll --

22 THE COURT: Yeah.

23 MR. BELLON: -- I'll mention, Your Honor, is that we're
24 not filing motions. We're filing responses. She's filing

1 motions to put us in this court. And of course everything we
2 say is a lie, and we're the awful human beings, and she's the
3 great parent, and she doesn't -- I think it speaks for itself,
4 Your Honor. I don't even want to go into it. I'll defer to
5 the court.

6 THE COURT: Okay. Well, really what's in front of me is
7 mo -- mom's request to reconsider and for a new trial and to
8 have relief from what the prior judge --

9 MS. GORDON: Yes.

10 THE COURT: -- did.

11 I've looked at the record, and I don't think that
12 there was anything inappropriate. So I'm denying your motion.
13 And I think -- and as far as this weekend and Monster Truck,
14 that's something you're gonna have to work out between
15 yourselves because that's not properly in front of me today.
16 So I'm denying the motion.

17 MR. BELLON: And I'll just ask the court with regards for
18 attorney fees. (Indiscernible) here, my clients been 25 or 35
19 --

20 THE COURT: I think -- I think that there -- that mom had
21 a good faith belief that there was a problem. So I'm not
22 gonna grant attorney's fees.

23 But, legally, I -- I can't grant your -- your
24 request.

So, Mr. Bellon, could you prepare the order?

MR. BELLON: I will, Your Honor, for your court's signature.

THE COURT: All right. We're adjourned.

MR. BELLON: Thank you very much.

(THE PROCEEDING ENDED AT 09:30:33.)

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the digital proceedings in the above-entitled case to the best of my ability.

Sherry Justice
SHERRY JUSTICE
Transcriber II