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5 EIGHTH JUDICIAL DISTRICT COURT

Sharon L. Shuman
CLERK OF THE COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 In the Matter of the) CASE NO. D-11-446967-R
10 Parental Rights as to:)
11 AAMIYAH DE'NASIA LAMB,)
12 CHRISTOPHER LAMONT BYNUM, JR.,)
13 Minors.)
14
15

16 BEFORE THE HONORABLE ROBERT W. TEUTON, DISTRICT COURT JUDGE

17 TRANSCRIPT RE: NON-JURY TRIAL VOL. IV

18
19 FRIDAY, MARCH 15, 2013

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9 The Natural Mother: KEAUNDRA LOUISE DeBERRY
10 (Appearing Telephonically)
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23 Also Present: MICHELLE DOUGLAS
24 Department of Family Services

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

VOIR
DIRE

DIRECT CROSS REDIRECT RECROSS

FRIDAY, NOVEMBER 2, 2012

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1 LAS VEGAS, NEVADA

FRIDAY, MARCH 15, 2013

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

3 (THE PROCEEDING BEGAN AT 09:26:57.)

4 (THE MARSHAL IS DISCUSSING THE CONFERENCE CALLING SYSTEM TO
5 THE ATTORNEYS.)

6 THE COURT: Why don't we get her on the phone first and
7 then I'll --

8 (PHONE RINGS OUT AND GOES TO VOICEMAIL.)

9 I hope it's a long mailbox.

10 (CLERK AND MARSHAL HAVE A BRIEF DISCUSSION REGARDING ANOTHER
11 ATTEMPT FOR THE PHONE CALL.)

12 (PHONE RINGS OUT AGAIN AND VOICEMAIL PICKS UP.)

13 THE MARSHAL: Okay. What do you want to do?

14 MS. SIMPKINS: Borrow your gun.

15 MS. MOLINAR: (Chuckle.)

16 THE MARSHAL: With or without bullets.

17 MR. CORDES: Take your client first before you make any
18 decisions about yourself (chuckle).

19 MS. SIMPKINS: (Laughing.)

20 (WHEREUPON, THE MATTER WAS TRAILED AT 09:28:55 AND RECALLED AT
21 09:42:37.)

22 (ANOTHER ATTEMPT AT PHONE CALL.)

23 (PHONE RINGS OUT AND NO ANSWER.)

24 THE MARSHAL: Okay. Are you ready to go on the record,

1 Judge?

2 THE COURT: Yeah, just a minute.

3 THE MARSHAL: Okay.

4 (WHEREUPON THE MATTER WAS TRAILED AT 09:43:28 AND RECALLED AT
5 09:43:57.)

6 THE COURT: Okay, we are on the record in Case Number
7 446967.

8 Appearances, please.

9 MR. CORDES: Good morning, Your Honor. Ron Cordes, Clark
10 County District Attorney's Office, Bar Number 4955. With me
11 is Michelle Douglas from the Clark County Department of Family
12 Services.

13 MS. SIMPKINS: Melinda Simpkins, Deputy Special Public
14 Defender, Bar Number 7911, appearing on behalf of natural
15 mother, Keaundra DeBerry.

16 MS. MOLINAR: Deanna Molinar, Deputy Special Public
17 Defender, Bar Number 12045, also present on behalf of the
18 natural mother, Keaundra DeBerry.

19 THE COURT: Alright. The record should reflect that Ms.
20 Berry (sic) was authorized to appear telephonically since her
21 testimony had previously been taken, and she was subject to
22 examination and cross examination. That this morning we've
23 spent considerable time calling two different numbers,
24 receiving voice mailbox messages. She's not answered the

1 phone.

2 Pursuant to the Court rules, it's incumbent upon the
3 party, or the person who is going to be appearing
4 telephonically, to make arrangements to be available at the
5 specified time. We will proceed in her absence.

6 MR. CORDES: Thank you.

7 MS. SIMPKINS: And, Your Honor, just for the record,
8 ethically, I have a duty to my client, so if I could just -- I
9 would be requesting a continuance. She has been in almost
10 constant contact with my office for the past two weeks. We've
11 gotten this telephone number from her. She -- my
12 understanding is made arrangements with her employer so that
13 she could be present today. And I'm sorry, I don't know why
14 we can't reach her. I hate to think something had happened to
15 her, but I know that she did make special arrangements. And
16 like I say, she has been, repeatedly, calling me. So I would
17 ask for the continuance, and I have no other choice.

18 THE COURT: Alright.

19 MR. CORDES: Judge, State's opposed. Obviously she knew
20 about today's date, based upon those representations. She was
21 supposed to be available. I ask to proceed. This matter has
22 been now cont --

23 THE COURT: Alright. I appreciate the necessity of you
24 making a record. The motion to continue is denied.

1 MS. SIMPKINS: Thank you, Your Honor.

2 THE COURT: Alright. So where are we? Has the State
3 actually rested? I think -- because I know we took the
4 testimony of the counselor/therapist --

5 MS. SIMPKINS: Out of order for me.

6 THE COURT: -- Ms. Fortune. And I don't remember if we
7 took that out of order or as your first witness.

8 MS. SIMPKINS: We did take that out of order. She was
9 the first witness called. She was taken out of order, Your
10 Honor.

11 THE COURT: Alright.

12 MS. SIMPKINS: And --

13 MR. CORDES: I do believe the State rested and this --

14 THE COURT: Okay. Fine.

15 MR. CORDES: -- we were on the Respondent's case.

16 THE COURT: Ms. Simpkins?

17 MS. SIMPKINS: Very briefly. We would call Michelle
18 Douglas to the stand.

19 THE COURT: Alright.

20 (MS. DOUGLAS TAKES THE STAND.)

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

24 MS. DOUGLAS: Yes. I do.

1 THE CLERK: Please state your name for the record.

2 MS. DOUGLAS: Michelle Douglas.

3 THE CLERK: Thank you.

4 **MICHELLE DOUGLAS**

5 having been called as a witness by the Respondent and being
6 first duly sworn, testifies as follows:

7 **DIRECT EXAMINATION**

8 BY MS. SIMPKINS:

9 Q Ms. Douglas, are you still the supervisor of this
10 case -- over this case?

11 A No, I am not.

12 Q Okay. What unit did it go -- or who's the case
13 worker now? Do you know?

14 A I'm the supervisor. I transferred it to was Patrick
15 Mitchell. I'm not sure who the supervisor is -- I mean, who
16 the case worker is at this time.

17 Q Are you aware that the children have been pulled
18 from their grandmother in Louisiana?

19 A No.

20 Q Okay.

21 MS. SIMPKINS: No further questions, Your Honor.

22 MR. CORDES: I have no follow-up on that, Your Honor.

23 THE COURT: You sure? Alright. You may step down.

24 Thank you very much.

1 MS. DOUGLAS: You're welcome.

2 (MS. DOUGLAS LEAVES THE STAND.)

3 MS. SIMPKINS: Michelle Jordan. She's in the hallway.

4 (THE WITNESS ENTERS THE COURTROOM.)

5 THE MARSHAL: Do you want to leave your stuff back here
6 or at the corner of the table?

7 MS. JORDAN: Yeah. I'll take it with me.

8 THE MARSHAL: Okay. Right there.

9 (THE WITNESS TAKES THE STAND.)

10 THE CLERK: Please remain standing and raise your right
11 hand.

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

15 MS. JORDAN: I do.

16 THE CLERK: Thank you. Please state your name for the
17 record.

18 MS. JORDAN: Michelle Jordan.

19 THE CLERK: Jordan?

20 MS. JORDAN: Uh-hmm (in the affirmative).

21 THE CLERK: Thank you.

22 MS. JORDAN: Uh-hmm (in the affirmative).

23 THE MARSHAL: Okay. Just speak loud enough for everybody
24 to hear.

1 MS. JORDAN: Okay.

2 THE MARSHAL: Thank you.

3 THE COURT: You may proceed.

4 MS. SIMPKINS: Thank you, Your Honor.

5 **MICHELLE JORDAN**

6 having been called as a witness by the Respondent and being
7 first duly sworn, testifies as follows:

8 **DIRECT EXAMINATION**

9 BY MS. SIMPKINS:

10 Q Ms. Jordan, are you familiar with my client,
11 Keaundra DeBerry?

12 A I am.

13 Q And how are you familiar with her?

14 A I was her caseworker.

15 Q When were you on her case?

16 A I'm not exactly sure the dates when I started. So,
17 I think I started with her either in 2010, 2008. I'm not
18 really sure which date I started with her.

19 Q Were you the on -- well, when did you stop working
20 with her?

21 A Um, I stopped becoming a caseworker in December of
22 2012.

23 Q Okay. Were you on her case from -- were you --
24 well, let me back up. Were you her permanency worker from the

1 very beginning? Or...

2 A That's correct.

3 Q Okay. So, you -- up until December 2012 were you
4 the only permanency worker on her case?

5 A I was the only one assigned to her case. Yes.

6 Q Okay. Do you know her children?

7 A I do.

8 Q Okay. What are their names?

9 A Aamiyah Lamb and Christopher Bynum.

10 Q And how old is Aamiyah?

11 A I'm thinking Aamiyah should be about -- she might be
12 eight now. I'm not sure. And Christopher, maybe, I would
13 say, three or four. I'm not really -- somewhere like that.

14 Q When was the last time you saw the kids? Do you
15 recall?

16 A The last time I saw the kids was when I took them to
17 Louisiana. I don't know if that was in -- I think it was 2010
18 when I transported them to Louisiana.

19 Q Have you talked to them since then? On the
20 telephone?

21 A I have talked to Aamiyah since then.

22 Q Did Aamiyah ever, yes or no, indicate to you whether
23 she wanted to return home to Mom?

24 A Yes. She has indicated that she wants to.

1 Q Let me take you back to December of 2010. Was
2 Keaundra pregnant at that time?

3 A I think so, but, you know, I didn't see Keaundra
4 though.

5 Q Okay.

6 A Um, so, I know she had another baby. I don't know
7 exactly when she had that other baby, though.

8 Q How do you know she had another baby?

9 A Um -- and I've never seen that other baby. But I
10 have heard from her mom, as well as from one of her
11 therapists, who said the baby had come into that office.

12 Q Okay.

13 A But I've never seen the baby. So...

14 Q Okay. Did you have any occasion with regard to that
15 new baby to call in a call to the hotline in the state where
16 she was living?

17 A Not to the hotline. Mm-hmm (in the negative).

18 Q And you say not to the hotline. Have you ever had
19 occasion to make a call to any other agency with regard to
20 that child?

21 A Um, I spoke with, I think, her therapist because I
22 wanted somebody to -- to take a look at the baby.

23 Q Okay.

24 A To make sure that that baby was fine.

1 Q Okay.

2 A Um, so that's what it -- that's what I did.

3 Q And did she do that, to your knowledge?

4 A She did.

5 Q Okay. So to your knowledge, has there ever been any
6 Child Protective Services involvement with the new baby?

7 MR. CORDES: Objection, Your Honor.

8 THE COURT: What --

9 MR. CORDES: She would lack personal knowledge.

10 THE COURT: I'm sorry?

11 MS. SIMPKINS: I'm asking --

12 THE COURT: Well --

13 MS. SIMPKINS: -- about her knowledge.

14 THE COURT: -- she asked to her knowledge.

15 MR. CORDES: Well, it would be based upon hearsay. It
16 wouldn't be on any personal observation. She said she'd never
17 seen the child. She's only getting this information from
18 speaking to other individuals.

19 THE COURT: Well let me ask. Was the baby born in Clark
20 County?

21 THE WITNESS: No, Your Honor. Not to my knowledge. Was
22 not.

23 THE COURT: Do you have knowledge of reports that are
24 made to CPS agencies in other states as a matter of your job?

1 THE WITNESS: I do not have knowledge of it.

2 THE COURT: Objection sustained.

3 BY MS. SIMPKINS:

4 Q Do Aamiyah and Christopher Jr. visit with the new
5 baby?

6 A Um, according to the grandmother, yes, they have
7 visited with the new baby.

8 Q Was there ever a sibling visitation order in this
9 case?

10 A No.

11 Q Now you submitted a case plan on this case around
12 about March of 2011, correct?

13 A I'm -- I'm not sure what the date is, so -- cuz I'm
14 not looking at dates. But --

15 Q Does that sound about right to you?

16 A Um, I -- I think one may have been submitted before
17 that, and that's why I'm saying I'm not sure. Um, I know a
18 case plan was submitted.

19 Q Okay. Would it refresh your recollection to look at
20 the case plan?

21 A Yes.

22 Q Okay. I have three different ones.

23 A Uh-hmm (in the affirmative).

24 Q Does that sound about right? That there were --

1 A It could be.

2 Q -- more than one.

3 A Yes. It could be.

4 MS. SIMPKINS: May I approach the witness, Your Honor?

5 THE COURT: You may. Just show Mr. Cordes what you're
6 going to show the witness.

7 (MR. CORDES REVIEWS THE DOCUMENT.)

8 MR. CORDES: Thanks.

9 MS. SIMPKINS: Uh-hmm (in the affirmative).

10 Take a look at each of those please, and let me know
11 when you're done.

12 THE WITNESS: Okay.

13 (PAUSE.)

14 Okay.

15 BY MS. SIMPKINS:

16 Q Does that refresh your recollection, Ms. Jordan?

17 A Uh-hmm (in the affirmative).

18 Q Okay. And did you submit a case plan in March of
19 2011?

20 A Yes. Uh-hmm (in the affirmative).

21 MS. SIMPKINS: May I approach, Your Honor, to retrieve
22 them?

23 THE COURT: You may.

24 BY MS. SIMPKINS:

1 Q Thank you.

2 A Uh-hmm (in the affirmative).

3 Q Now, with regard to the case plan that was submitted
4 to the Court, it included drug treatment. But isn't it true
5 that was removed from the case plan by the hearing master?

6 A That's -- yes. Uh-hmm (in the affirmative).

7 Q And as far as parenting is concerned, did Keaundra
8 complete parenting?

9 A She did.

10 Q Okay. And you attached proof to a court report,
11 didn't you?

12 A I did.

13 Q Okay. And as far as housing is concerned, did --
14 during your tenure on the case, did Keaundra show you proof of
15 housing?

16 A She did.

17 Q And did you attach proof of that to the court
18 reports?

19 A I did.

20 Q And, to your knowledge, does she continue to
21 maintain that housing?

22 A Um, different housing. It's a different housing, to
23 my knowledge. Not the same one.

24 Q And, so, explain to me. Where was the original

1 housing?

2 A The original housing was in Louisiana --

3 Q Uh-hmm (in the affirmative).

4 A -- when I first started with her. It was in
5 Louisiana. And then, I believe, she has moved to South
6 Carolina.

7 Q Uh-hmm (in the affirmative).

8 A So I think her housing is -- my last knowledge she
9 was in South Carolina.

10 Q And that was the house she inherited from her
11 father, correct?

12 A That's correct.

13 Q Okay. Now, did Keaundra keep in touch with you
14 throughout the life of the case?

15 A She did.

16 Q What about income? Has she had income?

17 A She has. Uh-hmm (in the affirmative).

18 Q And income really wasn't the main concern for her,
19 was it?

20 A No. Mm-hmm (in the negative).

21 Q Now with regard to physical abuse, she completed two
22 treatment programs. One in Louisiana and one in South
23 Carolina, correct?

24 A Uh-hmm (in the affirmative).

1 Q Is that a -- you got to say, yes or no.

2 A Yes.

3 Q Okay. Now the first one that she completed, that
4 was the one in Louisiana. Did you submit that to Court -- to
5 the Court as well?

6 A I did.

7 Q Okay. And in September of 2011, I believe, the
8 Court found that wasn't good enough, right?

9 A Yeah. The Court wanted her to do more.

10 Q And that was despite the Department being satisfied
11 with the program that she had completed, right?

12 A We were satisfied that she had completed the
13 program.

14 Q Isn't it true that in September of 2011, you advised
15 the Court that Mom had completed physical abuse counseling,
16 parenting and had stable housing, and asked the Court to
17 postpone the termination of parental rights?

18 A That's correct.

19 Q Okay. Now, the Court wanted Mom to admit that she
20 had held the iron to the baby's face, didn't they?

21 A That's my understanding.

22 Q Okay. And, but for Mom's refusal to admit that she
23 held the iron to the baby's face, she could have had her
24 children back, couldn't she?

1 MR. CORDES: Objection, Your Honor. Call for
2 speculation. She's not the judicial officer.

3 THE COURT: Sustained.

4 BY MS. SIMPKINS:

5 Q But for Mom's refusal to admit that she held the
6 iron to the baby's face, the Department would have advocated
7 for reunification, correct?

8 A Um, we would have. We would have asked the Court
9 for it.

10 Q Now, with regard to the counseling that she received
11 in Louisiana, what did you do to obtain that counseling for
12 her?

13 A We actually had to go and find an agency that could
14 actually help her, because she didn't have income. And this
15 was when she was in Louisiana, and Louisiana did not have any
16 programs. So, we had to go out and seek out and find a
17 program for her.

18 Q Uh-hmm (in the affirmative).

19 A And eventually we were able to.

20 Q Okay.

21 A Um, and -- yeah. We were able to find one that
22 would actually -- we couldn't find any physical abuse
23 counselors there in Louisiana, and then she didn't have funds.

24 Q Now, with regard to physical abuse counseling, is

1 there such a service here in Las Vegas had she been here, she
2 could have availed herself of?

3 A Yes. We do have something here.

4 Q Okay. And who is that?

5 A I believe that's through, um, Pat -- Red Rock.

6 Q Okay.

7 A Yeah.

8 Q And if there were no physical abuse counselors in
9 Louisiana, did you do anything to make sure that the Louisiana
10 therapist knew what the Department wanted her to cover?

11 A We did. We actually sent over, um, exactly what we
12 needed to be done.

13 Q Okay.

14 A We sent that over to the counselor.

15 Q Didn't you contact Red Rock to find out exactly what
16 subjects they covered as well?

17 A That's correct.

18 Q Okay. And did you also advise Miss -- well the
19 Louisiana counselor with regard to the abuse findings by the
20 Court here?

21 A Yes. We advised them.

22 Q Okay. Now, when Mom completed that counseling,
23 there were no further recommendations, were there?

24 A Not -- no, not from us.

1 Q From the counselor?

2 A No.

3 Q Now, Ms. Jordan, let me ask you a little bit about
4 DFS policies and procedures. You -- you filed several court
5 reports with the Court over -- with your tenure on the case,
6 didn't you?

7 A I did.

8 Q Okay. And is it DFS policy that you have to have
9 your supervisor sign off on those?

10 A That is. Uh-hmm (in the affirmative).

11 Q Okay. And as far as you're concerned, did you have
12 your supervisor sign off on -- on all of your court reports?

13 A I did. If -- yeah.

14 Q And did you write -- well, was there a time when you
15 were on leave during your time on Keaundra's case?

16 A There was. Uh-hmm (in the affirmative).

17 Q Do you remember when that was?

18 A Um, I was out from, I would say, almost like the --
19 the beginning of January I was in and out because I was
20 dealing with some -- my mom was terminally ill. And then, I
21 again was out, myself, in February, all the way until April.

22 Q And that's 2012?

23 A 2012, yes.

24 THE COURT: Effectively you were off January to April --

1 THE WITNESS: Yeah.

2 THE COURT: -- of 2012?

3 THE WITNESS: I was in and out in January, and then I was
4 out -- in and out. And then I was gone for some time there.

5 BY MS. SIMPKINS:

6 Q So, did you write -- there was court report that was
7 dated March of 2012. Did you write that report?

8 A I would -- I don't think I was here for March 2012.
9 I wasn't in the office, March 2012.

10 Q Okay. Who was your supervisor at the time?

11 A Michelle Douglas.

12 THE COURT: I'm sorry. Who was it?

13 THE WITNESS: Michelle Douglas.

14 (BRIEF PAUSE.)

15 MS. SIMPKINS: Court's indulgence. I'm trying to
16 differentiate between the questions I've already asked Ms.
17 Douglas and the questions I need to ask Ms. Jordan.

18 BY MS. SIMPKINS:

19 Q There was a report filed April 11th, 2012. Were you
20 still on leave when that report was filed?

21 A Yes.

22 Q Okay. Ms. Jordan, during your time on the case, has
23 Keaundra maintained contact with her children?

24 A Yes. She has, to my knowledge.

1 Q How often? Do you know?

2 A Um, I think she had -- and then I don't know a
3 hundred percent for sure, cuz they were out of state. But --
4 so I can't really say how often she was with them, but I would
5 say regular contact.

6 MR. CORDES: Objection, Your Honor. Then it would call
7 for speculation.

8 THE WITNESS: Okay.

9 MS. SIMPKINS: Well, Your Honor, as part of her job duty,
10 she is supposed to gather this information and present it to
11 the Court.

12 MR. CORDES: Well --

13 THE COURT: Well, it may have been the phrasing that the
14 witness used or -- I don't know. You need to rephrase.

15 MICHELLE JORDAN

16 testifies as follows on:

17 EXAMINATION

18 BY THE COURT:

19 Q Did you receive information from your counterparts
20 in Louisiana?

21 A I did.

22 Q Alright.

23 A Uh-hmm (in the affirmative).

24 Q And did that information include information of

1 contacts that the natural mother had with the children?

2 A It did. Uh-hmm (in the affirmative).

3 Q Based upon that information, what can you testify
4 regarding the extent of the contacts that the natural mother
5 had with the children?

6 A Um, that the nat -- natural mother had regular phone
7 contact with the children, and then, um, at times, they would
8 go -- go to like a family reunion out of state to South
9 Carolina to see Mom, when Mom moved to South Carolina. But
10 she had regular phone contact with the children.

11 THE COURT: Alright. Go ahead Ms. Simpkins.

12 MS. SIMPKINS: Thank you, Your Honor.

13 **DIRECT EXAMINATION (Continued)**

14 BY MS. SIMPKINS:

15 Q Now, do you know where the dad is?

16 A To my knowledge, he was in, um, a jail or a prison
17 in Louisiana.

18 Q Okay. Do you know if he's still there or --

19 A I do not.

20 Q Okay. When was the last time you had contact with
21 Keaundra?

22 A Um, I think when we were here in court, the last
23 time we were here in court in -- I would say -- was it
24 November of 2012?

1 Q That's correct. Okay. Do you know when the last
2 time Dad had any contact with Mom?

3 MR. CORDES: Objection, Your Honor.

4 THE WITNESS: Okay.

5 MR. CORDES: Call for speculation.

6 MS. SIMPKINS: I asked her if she knew.

7 THE COURT: Alright. Either based upon personal
8 knowledge or information as reported to you from Louisiana, do
9 you know the contact information concerning the father?

10 THE WITNESS: Um, based on, um, information from,
11 Keaundra, the last time she had contact with him was, um,
12 right before he went to jail. I think somewhat -- he was
13 arrested in South Carolina and extradited to Louisiana. But I
14 don't know what the time frame is on that.

15 (BRIEF PAUSE.)

16 BY MS. SIMPKINS:

17 Q So let me move forward a little bit. When Mom found
18 out, or Keaundra found out, that the Court was dissatisfied
19 with the treatment she received in Louisiana, do you know what
20 she did?

21 A Um, I can't say what she did. Um --

22 Q Well, did there come a time when she obtained other
23 treatment?

24 A She did. She obtained other treatment.

1 Q Okay. And who was that through?

2 A In -- and I wasn't instrumental in getting that
3 treatment started. So I don't -- I know it was from Jane
4 Fondue, is what I later found out. I think her name --

5 Q Fortune?

6 A Fortune. See, excuse me.

7 Q That's okay (chuckle).

8 A I made her a dip. Whatever.

9 Q Is that correct? Fortune correct? Or Fondue
10 correct?

11 A It's Fortune.

12 (LAUGHTER IN THE COURTROOM.)

13 THE COURT: You were thinking of fondue, but --

14 THE WITNESS: I know.

15 MS. SIMPKINS: You're making me hungry.

16 THE WITNESS: Uh-hmm (in the affirmative).

17 MS. SIMPKINS: Okay. Alright.

18 BY MS. SIMPKINS:

19 Q Did you, during your course of being the permanency
20 worker on the case, did you have occasion to contact Ms.
21 Fortune with regard to the treatment?

22 A Yes. I have.

23 Q Did you do essentially the same thing with Ms.
24 Fortune that you did with the Louisiana therapist and inform

1 her of what she needed to cover?

2 A I did.

3 Q Okay. And in your September 2012 court report, you
4 indicated that Mom had, in fact, been cooperative with the
5 Department and participated in physical abuse therapy in two
6 separate states, right?

7 A That's correct.

8 Q Okay. And in September 2012, you also indicated to
9 the Court that she had a job and had stable housing and
10 regular contact with her children, right?

11 A That's correct.

12 Q Would you agree that there is a bond between
13 Keaundra and her children?

14 A I would agree.

15 Q Okay. Do you know -- are -- do you have any
16 information that Mom provides any support for her children?

17 A I do not have that information.

18 Q Ms. Jordan, would you agree that the main reason you
19 recommended termination of parental rights as the permanency
20 plan is because Mom had not fully articulated to the agency
21 that she accepted responsibility for the injury caused to her
22 son, Christopher?

23 A I would.

24 Q And when you say, "fully accept responsibility," I

1 believe that was your -- the language that you used in the
2 report, you mean to say that she burned the child with an iron
3 herself?

4 A I don't know if she did that or not, so I can't -- I
5 wasn't there. So I can't say if she did that.

6 Q Okay. So what did you want her to articulate then?

7 A I wanted her to accept the responsibility that
8 either she burned her child or somebody burned her child, and
9 that she was responsible for that child, whether she did it or
10 somebody else.

11 Q So, did you have cause to discuss this with Ms.
12 Fortune? Specifically, what you were looking for from Mom?

13 A Um, I don't know if I would -- I'm not sure if I
14 went in detail with Ms. Fortune on it or not.

15 Q Were you satisfied with Ms. Fortune's assessment of
16 Keaundra's therapy?

17 A I was. Uh-hmm (in the affirmative).

18 Q Did you have any further concerns or any areas that
19 you thought Ms. Fortune needed to cover with Mom in therapy?

20 A Um, I think I wanted her to -- to discuss her role
21 in the injury of the child if she was not going to accept the
22 fact that she actually burned him, she needed to accept the
23 role that the child has an injury. And the injury is there
24 for some -- something put the injury there --

1 court.

2 Q So -- and I'm not trying to put words in your mouth,
3 Ms. Jordan, so correct me if I'm wrong.

4 A Okay.

5 Q You would have been satisfied if Mom would have been
6 able to articulate how she had lacked supervision over the
7 child which caused the child to be burned?

8 A I would have been -- I would have been satisfied if
9 she had gone through the physical abuse program.

10 Q Uh-hmm (in the affirmative).

11 A Okay.

12 Q Uh-hmm (in the affirmative).

13 A And be able to articulate what happened to her son.

14 Q Uh-hmm (in the affirmative).

15 A And move forward from there.

16 Q Okay. Fair enough.

17 Mmmm. Excuse me.

18 Have you noticed any -- in your contact with
19 Keaundra, from the very beginning of the case, until you were
20 off the case in December 2012, have you noticed any change in
21 Mom's demeanor or behavior since you got on the case, until
22 you got off the case?

23 A I have.

24 Q What did you notice?

1 A Well, when I first met her, she was over-the-top;
2 very loud and, you know, just wanting to explain, "I didn't do
3 this to him. I blah, blah." She was very adamant that she
4 didn't do it. She was very loud, and she could be
5 intimidating. And so it was hard, sometimes, to actually talk
6 to her because she was just -- she was totally convinced that,
7 "I didn't do this, and somebody has to listen to me. If I
8 have to call the FBI, somebody's going to listen." And then,
9 over -- over time we were able to get her to, um, bring her
10 levels down, so that somebody could actually hear her, and
11 listen to her, and have an intelligent conversation with her.
12 So she changed from being over-the-top, to somebody that you
13 could actually -- actually talk to and listen to you.

14 Q Okay. During your time on the case, did you ever
15 interview the daughter who was actually present when this
16 happened?

17 A I don't know if I want to say as much as an
18 interview; I did talk to her.

19 Q Uh-hmm (in the affirmative). Did she -- she's never
20 indicated to you that Mom held the iron to the baby's face,
21 has she?

22 A No. She did not indicate that to me.

23 Q Okay. And has she ever changed her story as to what
24 happened?

1 A Not to me.

2 Q Now, Ms. Jordan --

3 THE COURT: She being -- excuse me, she being the
4 daughter or --

5 MS. SIMPKINS: The daughter.

6 THE COURT: -- she being the mother?

7 MS. SIMPKINS: The daughter.

8 BY MS. SIMPKINS:

9 Q Now, did there come a time when Ms. Cheryl Cooke was
10 your supervisor that you discussed with her about going back
11 to the DA's office to ask them to take another look at the
12 case?

13 A Yes. We did. Uh-hmm (in the affirmative).

14 Q What happened with that?

15 A Um, when we went back to the DA's office to ask them
16 to take a look at it, um, it had already been decided on
17 though.

18 Q Uh-hmm (in the affirmative).

19 A So -- and that was to, you know, my misunderstanding
20 of the Court systems actually, until one of the judges
21 actually made it clear to me that, "Look, this has already
22 been ruled upon, It's..." I think they took it up to a higher
23 court, also. So we did ask them to take another look at it,
24 but we were told that it's already been decided on.

1 Q Okay. And during your time on this case, was
2 Keaundra ever able to articulate to you, the signs and
3 symptoms of physical abuse, and some things that she could do
4 to avoid physical abuse of her child?

5 A She was able to. Uh-hmm (in the affirmative).

6 Q Okay.

7 THE COURT: Said she was?

8 THE WITNESS: Yes.

9 BY MS. SIMPKINS:

10 Q Now, when you met with Keaundra in July of 2012,
11 your case notes indicate you -- that she demonstrated change
12 of behavior. What did you mean by that?

13 A Um, she was just a changed person. She was a person
14 who was -- who was ready to, um, to listen, you know, to some
15 of the -- the charges that were against her. Because she was
16 just totally in disbelief that the charges were there and that
17 this is how the system goes. So, she was able to sit down and
18 look at the paperwork, and start to say, "Okay. That's not
19 what I thought was going on." Whereas before, she just wasn't
20 listening to anything. So she had changed, by, "Now I'm ready
21 to listen. I see what's going on now, and I can understand
22 what you're saying now."

23 Q Ms. Jordan, during your tenure on the case and the
24 various reports that were filed, there are references to

1 another doctor in Louisiana who saw the child directly, the
2 child that was injured. Did you see those records?

3 A I did.

4 Q Okay. Do you know who obtained those records?

5 A They were obtained by the investigator, actually.
6 They were actually in the file.

7 MS. SIMPKINS: I have no further questions, Your Honor.

8 THE COURT: Mr. Cordes, any questions?

9 MR. CORDES: Yes, Your Honor.

10 **MICHELLE JORDAN**

11 testifies as follows on:

12 **CROSS EXAMINATION**

13 BY MR. CORDES:

14 Q Alright. So, Ms. Jordan, your last contact with the
15 mother was November 2012. Is that correct?

16 A That's -- that's -- that I can think, yeah.

17 Q Okay. And during that contact, it was a brief
18 contact here at the court where you said, "Hello."

19 A That's correct.

20 Q Did you discuss any substantive issues with the
21 mother during that contact?

22 A Not at all.

23 Q Now, the mother told you that the father was
24 arrested in South Carolina. Is that correct?

1 A That's what she told me.

2 Q Okay. When did she tell you that information?

3 A I'm going to say it was probably on a phone call and
4 it was at -- had to be in -- I don't know if it was November,
5 December. I'm not really sure when she told me that though.

6 Q Of what year?

7 A Of 2012.

8 Q Okay. So November or December of 2012 --

9 A It was --

10 Q -- you had a phone call with the mother, where she
11 told you he was arrested in South Carolina.

12 A Right. And I'm not really sure when she told me
13 that, is what I want to say. I'm just guessing when I say, at
14 that time frame. But it was in 2012.

15 Q Okay. What do you recall about the conversation
16 with the mother involving the father's arrest in South
17 Carolina?

18 A I recall her saying that he was there and that
19 someone, I don't know how the police ended up there, okay, cuz
20 -- I'm not really sure how they ended up there. But that they
21 had, um, transported him back to Louisiana.

22 Q Okay. And --

23 A Extradited him there.

24 Q And did the mother indicate whether or not the

1 contact with the father occurred around the same time that the
2 family reunion had taken place?

3 A I don't know if she's -- if she's saying during that
4 time or not, either. And, I'm -- I'm almost thinking she said
5 that she was told to call the police because he was there, but
6 I'm not really sure.

7 Q So, then the mother's last contact with the father,
8 was in South Carolina, some time in 2012?

9 A To my knowledge.

10 Q Based on your conversation with the mother?

11 A Yes.

12 Q Now, the mother's explanation for the injury to the
13 child was that the child kissed an iron. Is that correct?

14 A That's correct.

15 Q And that explanation has been consistent since the
16 initial removal in 2010 up and through your last interaction
17 with the mother some time towards the end of 2012. Is that
18 correct?

19 A Yes.

20 Q She has never provided another explanation to you
21 relative to the burn to the face. Is that correct?

22 A No.

23 Q Now, did Ms. DeBerry discuss with you any domestic
24 violence issues that she had with the father of the child?

1 A She has hinted around to -- and I think it came more
2 from her mother, that there's domestic violence issues going
3 on. She and I have discussed domestic violence. So, we did.
4 She did not tell me of an act with him, but we have discussed
5 domestic violence because her mother said there's domestic
6 violence going on. So...

7 Q Okay. So when you say we discussed it --

8 A Uh-hmm (in the affirmative).

9 Q -- what was Ms. DeBerry's response to you --

10 A Uh-hmm (in the affirmative).

11 Q -- relative to allegations that there may be
12 domestic violence in her relationship with the father?

13 A She did not, outright, say, "Yes, we have domestic
14 violence." She just engaged with the conversation as I was
15 saying, "You know, if there's domestic violence, you should
16 seek treatment for it." So...

17 Q To your knowledge, did she ever engage in any
18 domestic violence counseling?

19 A I don't know if she discussed it with this -- no, I
20 don't know if she did or not.

21 Q When you spoke to Ms. Fortune --

22 A Uh-hmm (in the affirmative).

23 Q -- in South Carolina --

24 A Uh-hmm (in the affirmative).

1 Q -- did you tell her that the Agency had concerns
2 relative to domestic violence based on reports from family
3 members?

4 A I did.

5 Q Did you ask Ms. Fortune to incorporate your concerns
6 relative to domestic violence into the counseling with Ms.
7 DeBerry?

8 A I think I did a verbal with her.

9 Q And you told Ms. Simpkins that there was no
10 information relative to financial support for the subject
11 minors. Is that because the mother never produced
12 documentation to support any payments?

13 A Right. I can -- I can remember her purchasing
14 things for the kids, cuz I do remember the grandmother telling
15 me that -- she calls her, Kiki (phonetic herein), that Kiki
16 bought the kids this, that and that. So she would show that
17 her daughter was, um, helping to provide some things for the
18 kids.

19 Q Now you told Ms. Simpkins that you believe there was
20 a bond between the mother and the children.

21 A Yes.

22 Q What do you mean by bond?

23 A Well, um, her -- the daughter would -- whenever --
24 when they were here in Las Vegas, she always cried, "I want my

1 mom. I want to go home to my mom." When the daughter was
2 moved, even in with the grandmother, she'd always ask me, "Ms.
3 Jordan, when can I go home to my mom? I want to go home to my
4 mom." So...

5 Q What about Christopher?

6 A Christopher was too young. And when I met
7 Christopher, he was pretty young. He wasn't verbal when he
8 was here in Las Vegas. So when I transported him there, he --
9 you know, he was still -- I didn't really get to talk with
10 Christopher as much, cuz he was a baby. More of a --

11 Q Okay.

12 A -- non-verbal.

13 Q Alright. So Christopher really never lived in the
14 home with the mother?

15 A Um, I believe he did. Um, when they were here in
16 Las Vegas --

17 Q Right.

18 A -- he lived with the mother.

19 Q Until he was burned.

20 A Right. Uh-huh (in the affirmative).

21 Q Okay.

22 A And then of --

23 Q But following that --

24 A No.

1 Q -- back in 2010 --

2 A No.

3 Q -- until now.

4 A He was with the grandma.

5 Q Did any father claiming to be the father of the
6 children, come forward to establish paternity, or any way
7 assert their rights as a father?

8 A No.

9 Q Okay.

10 A No.

11 Q Did you ever have contact with Christopher Bynum's
12 alleged father or putative father?

13 A Uh-hmm (in the affirmative). I had --

14 Q What contact --

15 A -- phone contact with him.

16 Q Okay.

17 A Uh-hmm (in the affirmative).

18 Q And when did that take place? Way back in 2010?

19 A It did. Uh-hmm (in the affirmative).

20 Q Okay.

21 A I've talked to him, actually -- yeah, I've talked to
22 him then. I may have spoken to him twice.

23 Q Throughout --

24 A Throughout, yes.

1 Q Okay.

2 A Uh-hmm (in the affirmative).

3 Q Do you recall, approximately, when the last
4 conversation was?

5 A I would say more like, maybe in 2011, maybe 2012.

6 Q Okay. And then after that conversation, ever
7 receive any financial support for the benefit of his child?

8 A No.

9 Q Any cards, gifts, letters? Did he make any kind of
10 attempt to provide emotional support for his child?

11 A Not that -- not to my knowledge.

12 Q Were you clear with him that his child was in foster
13 care?

14 A I was. I would say that, um, Mr. Bynum did visits
15 with his -- with his children, along with -- with Ms. DeBerry
16 when they would visit at the grandparent's house. He has, on
17 occasion, been there for a visit with the kids.

18 Q When they lived in Louisiana together?

19 A When they lived in Louisiana, yes. And Mr. Bynum
20 was trying to get his son to his mother.

21 Q Okay. And then how about as to Aamiyah's father, or
22 possible father? Any contact with that individual?

23 A No. I've tried to do -- I did diligent searches for
24 them, sent letters for them, and everything. But I was never

1 able to get anyone to -- to respond.

2 Q Okay. And so did any man claiming to be the father
3 of Aamiyah provide any financial support for the benefit of
4 that child while you were the case manager?

5 A No.

6 Q Okay. Did anyone claiming to be the father of
7 Aamiyah provide any emotional support by way of letters,
8 gifts, cards, anything for the benefit of Aamiyah's emotional
9 support?

10 A No.

11 Q So, as you sit here today, the injury to Christopher
12 is still unexplained based on the lack of a medically
13 consistent explanation. Is that correct?

14 A I'm sorry. Can you --

15 Q As you sit here today --

16 A Uh-hmm (in the affirmative).

17 Q -- the injury to Christopher is still unexplained
18 based upon no medically consistent explanation. Is that
19 correct?

20 A We do have two different explanations. So...

21 Q Correct.

22 A Yeah.

23 Q And you understand that both of those explanations

24 A Uh-hmm (in the affirmative).

1 Q -- have been checked with a doctor --
2 A Okay.
3 Q -- and are not consistent with the explanation. Is
4 --
5 A Yes.
6 Q -- that your understanding?
7 A Yes. Uh-hmm (in the affirmative).
8 Q Okay. As you sit here today, based on all of your
9 conversations with Ms. DeBerry --
10 A Uh-hmm (in the affirmative).
11 Q -- you don't know if she, in fact, burned
12 Christopher, do you?
13 A I do not, cuz, I was not there. So I -- mm-hmm (in
14 the negative).
15 Q Okay. And as you sit here today, you don't know for
16 a fact that Mr. Bynum burned -- or excuse me, Mr. --
17 A Uh-hmm (in the affirmative).
18 Q -- Bynum burned Christopher, right?
19 A I do not.
20 Q Okay.
21 A Mm-hmm (in the negative).
22 Q Now, was it your understanding from speaking to Ms.
23 DeBerry that Mr. Bynum was actually in the home with her and
24 the children on the day of the injury?

1 A That was not my understanding.

2 Q What was your understanding?

3 A We didn't discuss where -- well -- I bel -- he was
4 not there, as far as I was concerned. Um, from my
5 conversations with her, he wasn't -- when she recounted what
6 happened, he was not there.

7 Q Now, you indicated that the mother actually
8 completed two treatment programs for the physical abuse,
9 correct?

10 A That's correct.

11 Q Alright. After completing those programs, she still
12 did not demonstrate the behavioral changes that the Department
13 required for the children to be safely returned to her care.
14 Is that correct?

15 A I know after the first one she wasn't. I'm not sure
16 about the second one.

17 Q Because you had transferred the case by then?

18 A Yeah. I had -- I had not come back to court to --
19 for the second one.

20 Q Okay. Is there a difference between simply going to
21 classes and demonstrating behavioral changes from an agency's
22 perspective in assessing a family?

23 A Yes. There is.

24 Q Okay. Now, do you recall the last time you did a

1 safety assessment on this family?

2 A I do not.

3 Q And do your policies and procedures require that you
4 do a safety assessment before each court hearing?

5 A That's correct. Uh-hmm (in the affirmative).

6 Q And when you do that safety assessment for the
7 children, are you assessing their current location, or are you
8 assessing the parental home?

9 A Um, it should be the home that -- that the actual
10 kids are in.

11 Q Okay.

12 A That's the one --

13 Q So, in September --

14 A -- that I was assessing.

15 Q -- of 2012 --

16 A Uh-hmm (in the affirmative).

17 Q -- before the last court report that you generated
18 --

19 A Uh-hmm (in the affirmative).

20 Q -- you would have done a safety assessment based
21 upon the children's location with their maternal grandmother.
22 Is that correct?

23 A That's correct. Uh-hmm (in the affirmative).

24 Q And do you recall that the safety assessment at that

1 time was that the children were safe with their grandmother?

2 A It would have been if there was one done .

3 Q Since the children were removed from the care of the
4 parents --

5 A Uh-hmm (in the affirmative).

6 Q -- would you ever have personally conducted a safety
7 assessment of Ms. DeBerry's home, or would that have been the
8 investigator?

9 A Since they were removed?

10 Q Correct.

11 A Um, since she was out of state, I would not have
12 been able to do a safety assessment of her home.

13 MR. CORDES: Thank you, I have no further questions for
14 this witness.

15 THE COURT: Any redirect?

16 MS. SIMPKINS: Yes, Your honor.

17 MICHELLE JORDAN

18 testifies as follows on:

19 REDIRECT EXAMINATION

20 BY MS. SIMPKINS:

21 Q Ms. Jordan, let me back you up a little bit. Mr.
22 Cordes was asking you about the telephone call from Mom in
23 November, December of 2012, where she indicated to you that
24 the dad had been arrested.

1 A Uh-hmm (in the affirmative).

2 Q Okay. That happened prior to the telephone call,
3 correct?

4 A Yes.

5 Q Do you know how -- how much prior to the telephone
6 call?

7 A I do not.

8 Q I mean, it wasn't the day before, was it? It had
9 been a while, hadn't it?

10 A I cannot -- I honestly cannot say. I'd have to
11 actually look and see. When he was actually arrested, I don't
12 know.

13 Q Okay. Do you think it would refresh your
14 recollection to look at a printout from the Bossier, Louisiana
15 -- Bossier City, Louisiana Sheriff's Office?

16 A I guess that would show me when he was arrested, but
17 it's -- I don't know if I spoke to her, if he had been just
18 arrested a couple of days ago, or a month ago. That's the
19 part I'm not sure, um, when I talked to her versus him being
20 arrested.

21 Q Well; your previous testimony was; you talked to her
22 in November, 2000 -- or December 2012, right?

23 A Uh-hmm (in the affirmative). I talked to her in
24 December of -- in -- I talked to her either November or -- I

1 know I talked to her in November, cuz --

2 Q Okay.

3 A -- she was here.

4 Q Okay.

5 A But I spoke to her about him being arrested, prior
6 to that. So -- but I don't know exactly when.

7 Q Okay. You don't know when you talked to her?

8 A Mm-hmm (in the negative). I could have talked to
9 her in November, and she said, " He's arrested." And then she
10 came down here. And I know haven't -- I didn't speak to her
11 after November.

12 Q Okay.

13 A So, it would be prior to November --

14 Q So --

15 A -- or prior.

16 Q It could have been from January 1st to November 1st
17 --

18 A Could have been.

19 Q -- 2012.

20 A Yeah.

21 Q Okay. So there's really no way for you to tell.

22 A Mm-hmm (in the negative).

23 Q Okay. Fair enough. Now, when Mr. Cordes was asking
24 you about Mom, stating that the baby kissed the iron, that's

1 what the daughter told you, isn't it?

2 A That's what the daughter told me.

3 Q Okay. So, was Mom repeating what the daughter had
4 said?

5 A No. Mom didn't repeat what the -- Mom didn't repeat
6 what the daughter said.

7 Q Okay.

8 A Mom -- mom repeated -- Mom told me that she was not
9 in the room --

10 Q Okay.

11 A -- is what she said.

12 Q Okay. Now, with regard to the domestic violence
13 issues, Ms. Jordan, isn't it true that domestic violence was
14 dismissed from the petition by Hearing Master Femiano after
15 the court hearing?

16 A To my knowledge.

17 Q Okay. And with regard to the bond, Mr. Cordes was
18 asking you about the bond between the children and Aamiyah,
19 always stating to you that she, "Wanted to go home. When can
20 I go home." Do you know where the children are now?

21 A I do not.

22 Q Okay.

23 A Mm-hmm (in the negative).

24 Q Are you aware that they had been removed from the

1 grandmother?

2 MR. CORDES: Objection, Your Honor. Calls for --

3 MS. SIMPKINS: I'm asking as to --

4 MR. CORDES: -- speculation.

5 MS. SIMPKINS: -- her knowledge.

6 MR. CORDES: She just said she doesn't know where they
7 are.

8 MS. SIMPKINS: Well, being where they are, versus had
9 they been removed, are two different questions.

10 MR. CORDES: Okay. Alright. Well it assumes facts not
11 in evidence, Your Honor.

12 MS. SIMPKINS: How can I put them into evidence if I
13 can't ask a question.

14 THE COURT: Well, she's -- overruled. Go ahead.

15 BY MS. SIMPKINS:

16 Q Are you aware that they've been removed from the
17 grandmother, or no?

18 A Um, I just -- just recently became aware. I have no
19 idea where they're at.

20 Q Okay. With regard to -- you indicated that there
21 were two different explanations as to the injury to this
22 child. Were you talking about the two different doctor's
23 explanations?

24 A Yes.

1 Q Okay. So, we have one doctor, Dr. Mehta who said
2 that it was abuse, based on her review of the photos. And
3 then we have the other doctor from Louisiana who actually
4 looked at the child and said it was not abuse, correct?

5 A That's correct.

6 Q Okay. And Mr. Cordes asked you about Mom
7 demonstrating a behavioral change, you said, "On the first --
8 after the first therapy she didn't, but after the second
9 therapy, you're not sure." Right?

10 A Well it -- it wasn't actually after the therapies
11 that she -- she just started -- she started to change.

12 Q Okay.

13 A Is what she started to do. She started to change --

14 Q And --

15 A -- probably after the first therapy. It's not --

16 Q And your prior testimony was that you were never
17 really specific with Ms. Fortune as to what you wanted to see
18 from Mom, right? I'm not trying to put words in your mouth.

19 A I was specific with her, with -- we actually sent
20 over a list to her saying, "This is what we'd like to have
21 done."

22 Q Okay. So --

23 A It was pretty specific.

24 Q -- that was a list of specific topics to cover --

1 A Uh-hmm (in the affirmative).

2 Q -- like you sent to the first therapist, correct?

3 A That's correct.

4 Q Okay.

5 A It was pretty specific.

6 Q Okay. But as far as outcomes, as far as exactly
7 what you want Mom to say, exactly what you want to see from
8 Mom, that wasn't very specific was it?

9 A I don't know, cuz I think it was all spelled out.
10 It was all spelled out in the forms that we sent to her.

11 MS. SIMPKINS: Your Honor, I have no further questions.

12 THE COURT: Mr. Cordes, any follow-up?

13 MR. CORDES: Just briefly.

14 MICHELLE JORDAN

15 testifies as follows on:

16 RECROSS EXAMINATION

17 BY MR. CORDES:

18 Q Ms. Jordan, you are aware that the Court sustained
19 the physical abuse allegations against Ms. DeBerry, based upon
20 a trial, correct?

21 A I am aware of that, Your Honor --

22 Q Okay.

23 A -- I mean, Sir.

24 Q Yes. And so, as it stands right now, Christopher

1 was physically abused by Ms. DeBerry, resulting in the child
2 being placed into the care of the Department. Is that
3 correct?

4 A That's correct.

5 Q And at the time the Court made that determination,
6 they were aware that a doctor had rendered a different
7 opinion, after the children had been taken to Louisiana and
8 hidden by Ms. DeBerry and Mr. Bynum, correct?

9 MS. SIMPKINS: I'm going to object, Your Honor. I -- I
10 don't -- that would have been the CPS investigator.

11 MR. CORDES: Judge, it's part of the juvenile file.
12 There was an allegation.

13 MS. SIMPKINS: Well, that evidence was not allowed in
14 during the contested hearing. It's in the findings because it
15 wasn't certified copy.

16 THE COURT: So there's no evidence in the record, then,
17 that a medical doctor has --

18 MS. SIMPKINS: Well there --

19 THE COURT: -- found these not to be --

20 MS. SIMPKINS: No. There's -- there's --

21 THE COURT: -- abuse?

22 MS. SIMPKINS: -- repeated references in the J file to
23 these reports by the Department, in their reports to the
24 Court. Okay.

1 THE COURT: The Louisiana reports.

2 MS. SIMPKINS: Right. And in the findings from the
3 hearing master, she refused to allow that to be admitted as
4 evidence because there weren't certified copies.

5 THE COURT: And there's no evidence in the record that --

6 MR. CORDES: That that opinion exists.

7 THE COURT: -- that these injuries were anything other --
8 that these injuries were of a non-accidental nature. Is that
9 what you're saying?

10 MS. SIMPKINS: No. I -- I'd disagree with that, Your
11 Honor. Because the Department has --

12 THE COURT: Well if the records --

13 MS. SIMPKINS: -- repeatedly --

14 THE COURT: -- weren't admitted --

15 MS. SIMPKINS: -- indicated. But the Department has
16 repeatedly admitted that those records exist. So that's an
17 admission of party-opponent, and I would suggest to you that
18 that is evidence.

19 MR. CORDES: Well, Judge, respectfully, I disagree with
20 that interpretation. Just because the Department references
21 inadmissible evidence, doesn't then make it admissible.

22 MS. SIMPKINS: Well, it's in front of the Court now.

23 MR. CORDES: There's nothing in front of the Court, other
24 than this testimony.

1 THE COURT: What was the question that you objected to?
2 MS. SIMPKINS: I don't even remember. I'm sorry.
3 THE COURT: Neither do I. Did you want to repeat the
4 question, Mr. Cordes, or --
5 MR. CORDES: No, Judge. I'll move on at this point.
6 Actually, I have no further questions.
7 THE COURT: Okay.
8 MS. SIMPKINS: I have nothing further, Your Honor.
9 THE COURT: Thank you, Ms. Jordan. Thank you for your
10 testimony.
11 MS. JORDAN: Thank you, Your Honor.
12 THE COURT: Have a good day.
13 MS. JORDAN: You too.
14 (THE WITNESS LEAVES THE STAND AND EXITS THE COURTROOM.)
15 MS. SIMPKINS: And at this time, the only other issue
16 that I have, is I have an exhibit, a proposed exhibit, from
17 the -- a certified copy of the records of the Las Vegas
18 Municipal Court with regard to the domestic violence that Mr.
19 Cordes questioned my client about. And I would move for
20 admission of that at this point in time.
21 I had this dropped off on me.
22 MR. CORDES: Yeah.
23 MS. SIMPKINS: Did you get it?
24 MR. CORDES: Judge, I have no opp --

1 THE COURT: No objection?

2 MR. CORDES: It's a certified copy of a legal document.

3 THE MARSHAL: Ma'am.

4 THE COURT: Alright. That'll be Defense Exhibit what?

5 THE CLERK: "D".

6 THE COURT: Okay. It'll be admitted.

7 (DEFENSE'S EXHIBIT D IS ADMITTED.)

8 MS. SIMPKINS: And at this time we would rest, Your
9 Honor.

10 THE COURT: Any rebuttal?

11 MR. CORDES: No rebuttal witnesses, Your Honor.

12 THE COURT: Okay. Are the parties prepared to argue?

13 MR. CORDES: Yes, Your Honor.

14 MS. SIMPKINS: Could we take two minutes. I need to run
15 to the --

16 THE COURT: Yeah, as a matter of fact --

17 MS. SIMPKINS: Yeah.

18 THE COURT: -- it might be a good idea. Well take a --

19 MR. CORDES: Want to do five?

20 THE COURT: We'll take ten minutes.

21 MR. CORDES: Ten minutes.

22 THE COURT: Quarter of.

23 MR. CORDES: Okay.

24 MS. SIMPKINS: Okay.

1 MR. CORDES: Thanks, Judge.

2 (WHEREUPON, THE MATTER WAS TRAILED AT 10:39:17 AND RECALLED AT
3 10:54:08.)

4 THE COURT: Okay. We are back on the record in 446967.
5 Counsel and Ms. Douglas are present.

6 Mr. Cordes?

7 **CLOSING STATEMENT BY MR. CORDES**

8 MR. CORDES: Thank you, Your Honor. Judge, as set forth
9 in the Petitioner's pretrial memorandum, the State
10 respectfully submits that the evidence by way of the witnesses
11 that you've heard, as well as the documentary evidence that
12 has now been admitted into the Court record, clearly, and
13 convincingly establishes that Christopher and Aamiyah were
14 removed from the parents' care in 2010.

15 As such, this Court is required, by the statutes, to
16 apply certain presumptions in 128.109. Specifically, this
17 Court must presume that the termination is in these children's
18 best interest based upon the length of time that the children
19 have been out of the home, the fact that the parents have
20 neglected the children for a period in -- approximately
21 thirty-four months, up and through today's date, and other
22 parental faults that exist. Specifically, the Court should
23 apply 128.109, token efforts as to both parents, and
24 specifically, a failure of parental adjustment based upon the

1 length of time from the original case plan in March 2011, up
2 and through today's date.

3 Additionally, Your Honor, the State would submit
4 that the evidence has demonstrated that Christopher sustained
5 an unexplained injury. The explanation previously provided by
6 the mother, which she remains consistent to through the
7 testimony she provided before Your Honor, is that Christopher
8 was accidentally burned with an iron. That explanation was
9 determined by medical experts at the time of the underlying
10 adjudicatory hearing to be inconsistent with the extent and
11 nature of the injuries sustained by Christopher. The mother
12 has not provided any additional explanation, which may justify
13 --

14 (COURTROOM PHONE RINGS)

15 MR. CORDES: -- the injuries sustained by Christopher.

16 As such --

17 THE MARSHAL: Defense, they're calling you now.

18 MR. CORDES: Oh.

19 MS. SIMPKINS: You're kidding me.

20 THE MARSHAL: I'm sorry. Do you want me to --

21 (PAUSE WHILE THE MARSHAL ANSWERS COURTROOM PHONE.)

22 Department "D."

23 Right. Hold on, hold on.

24 (THE MARSHAL INQUIRES TO THE COURT.)

1 So do we want to call her back at this number so she
2 can hear the end of it?

3 THE COURT: Sure.

4 THE MARSHAL: Rosa, do you have --

5 THE CLERK: Yes.

6 THE MARSHAL: 318--

7 THE CLERK: I got it.

8 THE MARSHAL: -- 617-8319?

9 THE CLERK: Yes. She needs to hang-up though.

10 (THE MARSHAL SPEAKING TO THE CALLER.)

11 THE MARSHAL: Okay, Keaundra. What I need you do. We're
12 going to hang up and then we're going to call you, so make
13 sure you stay by the phone, so you can get the phone call.

14 (BRIEF PAUSE.)

15 Okay. Give me that number; 843-487-8256. Okay,
16 stay right there, we're going to call you. Bye.

17 Did you get the number, Rosa?

18 THE CLERK: 843-487-8256.

19 THE MARSHAL: Perfect.

20 (BRIEF CONVERSATION BETWEEN THE MARSHAL AND THE CLERK AS THE
21 NUMBER IS DIALED.)

22 (PHONE DIALS OUT.)

23 MS. DeBERRY: Hello.

24 THE MARSHAL: Hello, is this Keaundra?

1 MS. DeBERRY: Yes, it is.

2 THE MARSHAL: Okay. Can you hear me? This is the Family
3 Court in Las Vegas.

4 MS. DeBERRY: Yes, Ma'am. I can hear you all.

5 THE MARSHAL: Okay. We're just doing closing arguments
6 in your case, because we started this morning at 9:00 a.m. So

7 --

8 MS. DeBERRY: Okay.

9 THE MARSHAL: -- you're going to hear the attorneys.

10 THE COURT: Ms. DeBerry, this is --

11 MS. DeBERRY: Okay.

12 THE COURT: -- this is Judge Teuton. Can you hear me
13 alright?

14 MS. DeBERRY: Yes.

15 THE COURT: Alright. Mr. Cordes and Ms. Douglas from the
16 Department of Family Services are present, as are your
17 attorney, Melinda Simpkins and Ms. Molinar.

18 Mr. Cordes -- we called repeatedly -- this isn't
19 directed at you. We did call two or three times to separate
20 numbers, before we proceeded taking testimony this morning,
21 and we got your voicemail. At this stage of the proceedings,
22 Mr. Cordes is making his closing argument. You can listen to
23 that, and then you can hear Ms. Simpkins argue on your behalf,
24 and any rebuttal.

1 Alright?

2 MS. DeBERRY: That -- could you repeat that for me one
3 more time?

4 THE COURT: Yeah. Basically, Mr. Cordes is now arguing,
5 Ms. Simpkins will then argue. Mr. Cordes will have an
6 opportunity to respond, and then the case will be submitted to
7 me for a decision.

8 Alright?

9 MS. DeBERRY: Okay.

10 THE COURT: Mr. Cordes, will you say something just to
11 make sure she can hear you?

12 MR. CORDES: Yes. Good morning, Ms. DeBerry.

13 MS. DeBERRY: Good --

14 THE COURT: Did you hear Mr. Cordes?

15 MS. DeBERRY: -- morning.

16 THE COURT: Were you able to hear Mr. Cordes.

17 MS. DeBERRY: Yes. I was able to hear him.

18 THE COURT: Alright. Ms. Simpkins.

19 MS. SIMPKINS: Hi Keaundra.

20 MS. DeBERRY: Hi.

21 THE COURT: Alright.

22 Okay. Mr. Cordes you may proceed.

23 MR. CORDES: Thank you, Your Honor.

24 Additionally, Your Honor, I believe the testimony

1 that you heard, combined with the documentary evidence,
2 supports the fact that, in light of the nature of the injury,
3 which the District Court has already confirmed as being
4 physical abuse by Ms. DeBerry, renders her to qualify as an
5 unfit parent.

6 As such, the State is requesting the Court make a
7 finding that Ms. DeBerry is unfit, based upon the nature of
8 the injuries that Christopher sustained, that her failure to
9 successfully make behavioral changes by way of the case plan
10 objectives set forth for her, specifically, her failure to
11 identify the nature of the injuries Christopher sustained, and
12 the circumstances that led to the physical injuries sustained
13 by Christopher, is a failure of parental adjustment.

14 The evidence also supported, by clear and convincing
15 testimony and documentary evidence, that Ms. DeBerry has only
16 made token efforts to comply with her case plan, change her
17 circumstances, and avoid being an unfit parent.

18 As to the fathers. The evidence has demonstrated
19 that Mr. Bynum and any other man claiming to be the father of
20 these children, has abandoned the children. They have not
21 provided any financial support, or emotional support, in at
22 least the last six months, and specifically, Mr. Bynum, has
23 not been involved in these children's lives since sometime in
24 2010, shortly after their removal, but for one brief

1 conversation, according to Ms. Jordan, wherein he was informed
2 that the children are still in care, and he took no further
3 steps after that. Indications by way of Ms. Bynum's -- or Ms.
4 DeBerry's conversations with Ms. Jordan, indicate that he may
5 actually have committed further criminal conduct and may have
6 been incarcerated towards the end of this case, rendering him
7 to either abandon or have neglected the children.

8 Additionally, Your Honor, the evidence has
9 demonstrated neglect for a period of approximately thirty-four
10 months, during which time this case has been regularly
11 reviewed by the Juvenile Court, determination has been made
12 that the children could not be returned to the care of the
13 parents based upon their circumstances and the nature of these
14 injuries. And we would be submitting a request that the Court
15 make a finding of neglect by Ms. Deberry, as well as the named
16 father, and any potential fathers.

17 In assessing the best interest, Your Honor, the
18 Court is required to determine the parental fitness, as well
19 as the best interest together. And given the length of time
20 that these children have been in the care of the Department,
21 in foster care, respectfully submit that the evidence has also
22 demonstrated that their best interest would be achieved by
23 freeing them for purposes of adoption.

24 And with that, we would respectfully submit it.

1 THE COURT: Ms. Simpkins?

2 CLOSING STATEMENT BY MS. SIMPKINS

3 MS. SIMPKINS: Thank you, Your Honor.

4 It's been a while, so I've written down a lot of
5 things. Your Honor, in the Petition to Terminate Parental
6 Rights, the State alleged every ground, and I believe, we can
7 pretty much dispense with abandonment. I further believe that
8 we can dispense with token efforts. I believe the evidence is
9 clear that by the time Mom eventually got to the contested
10 hearing, and got her case plan, the State was basically ready
11 to file for termination of parental rights because due to the
12 numerous continuances, she -- that worked against her.

13 Once she obtained a case plan, I would submit she
14 immediately started working that case plan. And that at the
15 start of this trial, I told you -- and the evidence presented
16 throughout the trial, indicated that Mom has completed that
17 case plan. And that's what the Department has repeatedly put
18 in their reports to the Court.

19 Accordingly, Your Honor, I would submit that token
20 efforts does not apply even under the presumptions in NRS
21 128.109. So I would submit that we're left basically with
22 four allegations of parental fault: neglect, unfitness, risk
23 of harm and failure of parental adjustment. And that's
24 basically to correct the conditions which led to the removal.

1 Starting with neglect. Neglect regards, again, "The
2 condition of a child, lack in proper parental care by reason
3 of the fault or habits of the parent. If the parent neglects
4 or refuses to provide proper or necessary care, subsistence,
5 education, medical or surgical care, or other care necessary
6 for the child's health, morals or well being, or it's a parent
7 who engages in a situation" -- I'm sorry -- "Put's the child
8 in a situation that's dangerous to life, limb, injurious to
9 health or morals, and the neglect need not be willful."
10 Again, that's NRS 128.014.

11 And the Supreme Court has explained this definition
12 in more detail in the Champagne decision which, although
13 reversed on other grounds, I cite it every time I'm in front
14 of you, Your Honor. I know the Court is familiar with it, but
15 it is the seminal law on this case, and it's a term applied to
16 the child. And basically it's a child who lacks the proper
17 parental care by reason of parental fault. And what this --
18 what the Champagne court said is, to provide a jurisdictional
19 basis for termination, neglect must be serious and persistent
20 and be sufficiently harmful to the child so as to mandate
21 forfeiture of parental rights.

22 Now, in the matter currently before the Court,
23 there's no indication that these children have lacked
24 necessary care due to the faults or habits of their mother.

1 The issue as propounded by the State throughout these
2 proceedings as physical abuse. And I would submit, Your
3 Honor, nobody really believes this happened. That wasn't the
4 State's theory of the case, that my client physically --

5 MR. CORDES: Objection, Your Honor --

6 MS. SIMPKINS: -- abused this child at the contested
7 hearing.

8 MR. CORDES: -- that mis-states the evidence.

9 MS. SIMPKINS: Well, Your Honor, it's in front of the
10 Court already.

11 THE COURT: Well, we're kind of limited to the findings
12 that have been made.

13 MR. CORDES: "No one really believes that" is not the
14 evidence before the Court, Your Honor. So...

15 MS. SIMPKINS: Again, that's argument, Your Honor.

16 THE COURT: You can argue, Ms. Simpkins.

17 MS. SIMPKINS: Further, the evidence established that my
18 client kept in contact with the children while they were with
19 her mother and out of her care, and that she provided for
20 these children while they were in her mother's care. And, in
21 addition, I'd take this opportunity to remind the Court that
22 Keaundra DeBerry has a child in her care. And so, if she's so
23 neglectful, and so unfit, you would think that she couldn't
24 have these children, that she wouldn't have that child.

1 There's been no injury to this after-born child.
2 There was no call to the hotline in South Carolina. There was
3 not report to authorities. And as we stand here today, this
4 child continues to reside with his mother, again, with no ill
5 effects. Your Honor, the -- all the evidence presented to
6 this Court, indicates that the injury to Christopher Jr. was
7 an isolated incident. You've heard nothing about Mom using
8 improper discipline to discipline these children. You have
9 heard nothing about any prior instances of abuse or neglect or
10 involvement with CPS. So, based upon the Nevada Supreme
11 Court's explanation of the neglect statute, every indication
12 is that there was not serious and persistent neglect. And,
13 accordingly, the State's argument on this ground must fail.

14 With regard to unfitness, that's under 128.018, "A
15 parent of a child, who, by reason of the parent's fault or
16 habit or conduct toward the child or other persons, fails to
17 provide such child with proper care." And again, unfitness
18 deals with the condition of the parent. Champagne has
19 indicated also, "That the unfitness has to be severe and
20 persistent, as such to render the child -- the parent
21 unsuitable to maintain a parental contact."

22 NRS 128.016 and -- oh -- I'm sorry -- 106 and 107,
23 indicate, "Specific considerations when determining the
24 neglect and unfitness and when a child is not in the physical

1 custody of the parent." And I would submit that there are --
2 there are two that really apply, or that may apply here. And
3 one is the, "Conduct to a child of a physical, emotional, or
4 sexually cruel or abusive nature." And the second one is,
5 "Unexplained injury."

6 With regard to conduct of a child -- conduct toward
7 a child of a physically abusive nature, when this case came
8 in, the basic allegation was that in -- was that Christopher
9 Bynum Sr. had burned the baby with an iron. And, Your Honor,
10 I would submit, again, that was the theory of the case in the
11 beginning. But if you look at how this case started, and the
12 record submitted in this case -- but I would submit you have
13 to look at how this case started, the records submitted in
14 this case, and Ms. Fortune's testimony; the therapist, Jane
15 Fortune, who came to testify.

16 We know from Ms. Jordan's testimony, that the
17 daughter has repeatedly said, "The baby kissed the iron." The
18 daughter who was the witness, who was in the room -- the only
19 witness in the room at the time, and she has never changed her
20 story. There is repeated reference by the Department in court
21 reports as to a doctor in Louisiana who actually, physically
22 examined the child and found no evidence abuse -- of abuse.
23 And they made these representations to the Court, even despite
24 Dr. Mehta's testimony that there was physical abuse, at the

1 contested hearing, and even despite the fact that the hearing
2 master denied the request to admit those records because they
3 weren't certified.

4 Clearly, set out as the only reason to deny
5 admission in the findings, is lack of certification. And I
6 would note, that Counsel couldn't have obtained those records,
7 because they were from a doctor out of state in Louisiana.
8 Our subpoenas don't work there. And our office tried to
9 obtain the records; we were unsuccessful. I would note that
10 the only way Counsel could have received those records was
11 through DFS with the State. So the question as to
12 authenticity is not really taken well.

13 Nonetheless, the Department continued to reference
14 this doctor who examined the child and they found that no
15 abuse occurred. In addition, there was evidence that DFS
16 requested that the DA take another look at the case, even
17 after the contested hearing had already been decided.

18 The Department referred Mom to two therapists, one
19 in Louisiana and one in South Carolina. The reports from both
20 therapists are included in the "J" file. Mom successfully
21 completed that therapy. And Jane Fortune, who came to
22 testify, has extensive -- whose extensive experience in
23 working with abusive parents and abused children, repeatedly
24 indicated to this Court, that Keaundra DeBerry does not

1 exhibit any symptoms of being an abusive parent.

2 She talked about past behaviors being predictors of
3 future behaviors, and Mr. Cordes repeatedly asked her about
4 this issue. And she indicated that past behaviors were not a
5 good indicator, that past behaviors indicate only a propensity
6 for future behaviors. And when I asked her to elaborate, she
7 gave examples. She indicated in child abuse, when a person
8 has abused a child, they will not typically say, "I want to go
9 abuse my child again. I want to go hurt my child again." But
10 red flags in Ms. Fortune's head, are that, "Mommy and Daddy
11 beat me, and it worked well for me. I believe in spanking."
12 "What do you spank with?" "I spank with a switch. I spank
13 with a belt." That's the predictor that they are verbalizing
14 another intent. If they're verbalizing behavior, Ms. Fortune
15 indicated, until the behavior takes place, you can only form
16 some prediction of the future based on what they're saying.

17 Now, I would submit, Your Honor, that we predict
18 things every day. Who's going to win a basketball game? You
19 know, what numbers are going to come up in the lottery? If I
20 put three dollars in Mega Bucks, will that -- will I win
21 millions? What's the weather going to be like? Am I going to
22 get a raise this year? I've got a lottery ticket. That's my
23 prediction of what those numbers are going to come up. And, I
24 can tell you, that based on the numbers that I've picked,

1 every single one of those numbers has come up before.

2 Now, you carry -- what the State was advocating to
3 its logical conclusion, I should be winning that lottery.
4 Because the -- those numbers have come up in the past, now
5 that's a good indicator that they're going to come up now. I
6 can tell you that UNLV has won the NCAA tournament in the
7 past. Is that a good indicator that they're going to win this
8 year? I can tell you that it rained in Las Vegas before. Is
9 that a good indicator that it's going to rain today? No, Your
10 Honor, there has to be more.

11 Ms. Fortune was right. Past behavior is an
12 indicator, but without more, only the propensity is there.
13 There must be other signs or indications. Every parent, I
14 would submit, has the propensity to abuse the child. Does
15 that mean that we should terminate every parents' rights
16 because of that propensity?

17 Ms. Fortune stated that she saw no indication of any
18 red flags, nothing indicating any more than a propensity to
19 abuse children, even knowing that the hearing master found
20 that Keaundra physically abused her child. Ms. Fortune
21 believes that Keaundra is a low risk to re-offend, regardless
22 of the hearing master's finding, which I submit to you could
23 never be wrong. And, for the record, I'm being very sarcastic
24 here. No one actually believes that Keaundra DeBerry

1 physically abused her child.

2 With regard to the unexplained injury, which is the
3 crux of the State's case, I submitted a memorandum pursuant to
4 Eighth Judicial District Court Rule 7.27, outlining the
5 concerns with mandating that a parent admit to a crime in
6 order to be reunified with their child. I would note that
7 Keaundra has never admitted that she held an iron to the
8 baby's face, and she never will. This, however, is exactly
9 what the Court and what DFS is requiring her to do, what the
10 State is requiring her to do. And this is, in a nutshell, is
11 why we're here today.

12 Now, you take a look at her case plan. One of the
13 action steps is, and I quote, "She will be able to articulate
14 in dialogue, with the specialist and therapist, the sequence
15 of events which resulted in physical abuse as sustained by the
16 Court, and how she will be able to ensure that no future
17 physical abuse to Christopher Jr. occurs."

18 Now, the Court found that Keaundra physically abused
19 this child resulting in a burn to the child's face. What
20 Doctor Mehta testified, and it's in the findings, was that the
21 burn was caused by holding an iron to the baby's skin. This
22 is in -- again, in the findings. Thus, in order to meet this
23 objective of her case plan, Keaundra would have to say that
24 she held an iron to her baby's face, and she's simply not

1 going to do it. That's a crime, Your Honor. And, I would
2 submit, not only is the County being sued over this very issue
3 right now, but the extensive case law --

4 MR. CORDES: Objection.

5 MS. SIMPKINS: -- which I've cited in my --

6 MR. CORDES: Objection, Your Honor.

7 THE COURT: As to the --

8 MR. CORDES: The County being sued over this very thing.

9 MS. SIMPKINS: They are being sued over this very thing,
10 Your Honor. It's been in the newspaper.

11 MR. CORDES: There's no evidence before the Court.

12 THE COURT: No. There's no evidence before the Court.

13 MR. CORDES: Counsel is still limited in her argument to
14 the evidence --

15 THE COURT: To the evidence.

16 MR. CORDES: -- that was admitted.

17 THE COURT: The objection is sustained.

18 MR. CORDES: Thank you, Your Honor.

19 MS. SIMPKINS: The extensive case law, which I cited in
20 my brief, indicates that this violates -- this practice
21 violates a parent's rights and that a court cannot require a
22 parent to admit to a crime before their children will be
23 returned. The Court -- what the Court can require is therapy,
24 but they can't require an admission. The question is whether

1 that therapy would be successful without an admission. Has
2 the parent corrected the conditions? Again, failure of
3 parental judgement, has the parent corrected the conditions
4 which led to the removal?

5 With regard to that issue, I would urge the Court to
6 look at the M.D.O. case that is out of Minnesota that I cited
7 in our brief. There, the Court found, that if the State is
8 advocating that there can be no rehabilitation without an
9 admission, they bear the burden of proving that assertion.
10 Here, we only have the testimony of Jane Fortune. A
11 professional with years of experience in treating both
12 physically abused children and physically abusive parents.
13 Her testimony is un-rebutted by any equally qualified witness.
14 DFS may be dissatisfied with the treatment, that's
15 questionable because of what they put in their court reports.

16 The State is certainly dissatisfied with the
17 treatment, but neither DFS nor the State has any type of
18 contact with Keaundra DeBerry or did not have the type of
19 contact with Keaundra DeBerry that Jane Fortune had. We
20 engage professionals, like Ms. Fortune, every day because
21 that's the type of expertise we lack, the necessary training
22 and experience to evaluate a parent and to make a
23 determination.

24 Ms. Fortune's determination was that Ms. DeBerry's

1 treatment was successful, and she's low risk to re-offend.
2 Accordingly, the State cannot prove failure of parental
3 adjustment. And that's all the evidence that has been offered
4 to this Court regarding her treatment. And even though the
5 State has yet to hear the explanation of the injury that they
6 want to hear, the State has not proven that that treatment was
7 unsuccessful. Unexplained injury, again, is only one factor
8 in an unfitness determination, Your Honor, and it is not
9 dispositive of the issue.

10 With regard to risk of harm, NRS 128.105 allows this
11 Court to, "Terminate parental rights based upon risk of
12 serious physical, mental, or emotional injury to the child, if
13 the child were returned to or remains in the home of his
14 parent or parents." Neither Nevada case law or statutory law
15 defines this term, other than that simple definition.
16 However, one could extrapolate that based upon the
17 requirements of neglect and unfitness, the risk of harm also
18 has to have serious injury and be severe and persistent, more
19 than just a simple risk.

20 Further, as Ms. Fortune told you, the only -- a good
21 indicator -- or an indicator, I'm sorry, of future risk would
22 be by prior actions. And Ms. Fortune explained that theory in
23 detail. I'm not going to go over it again because I've
24 already argued it, but I'll take this opportunity to remind

1 the Court that Ms. Fortune sees no indicators and she sees no
2 red flags from Keaundra DeBerry of future abusive treatment.

3 Injury by the plain language of the statute is
4 required to be severe. And with that being said, as to the
5 risk of harm, we take that risk every day a child is placed
6 with a foster parent. We take that risk every time a child is
7 placed with an adoptive parent or guardian. We take that risk
8 every time a child is placed in foster care. Children are
9 abused in foster care on a regular basis, even when the State
10 has stepped in to protect them.

11 I'd submit, Your Honor, that such risk can never be
12 fully negated. And thus in order to terminate, it has to be a
13 severe risk, not just any risk. And, again, Keaundra
14 successfully completed her therapy. She completed her case
15 plan and has demonstrated changed behaviors as testified to by
16 Ms. Fortune, and has admitted, by the Department, in stating
17 that -- in the court reports that she has completed her case
18 plan and completed therapy. Now, not only has Keaundra found
19 -- been found to be a low-risk to re-offend, but again, she
20 has another child in her care with no involvement from CPS in
21 any state.

22 So I would submit any risk of harm has been
23 mitigated, and the State has failed to prove this ground as
24 well.

1 The Court's indulgence, I'm sorry.

2 THE COURT: Uh-hmm (in the affirmative).

3 MS. SIMPKINS: With regard to what Ms. Jordan said on the
4 stand that she had never really, fully, articulated to Jane
5 Fortune what they expected to see or what they expected to
6 hear from Keaundra, there were no details. I would submit the
7 Champagne case indicates that -- in the Champagne case, many
8 plans proposed to the Murphy's, failed to specify relevant
9 criteria to determine successful completion.

10 The -- in People vs. C.A.K., that's a court out of
11 Col -- that was a case out of Colorado, the lower court order
12 -- court's order terminating parental rights for the
13 appellant's failure to successfully complete treatment plans
14 was reversed. The Colorado court held that if a trial court
15 intends the successful completion of a treatment plan, as a
16 condition for the return of the child, then the treatment plan
17 must specify what the relevant criteria will be to determine
18 success. Even after all that testimony there's no clear
19 indication what the relevant criteria is that Keaundra must
20 meet to determine her success, other than admitting to a
21 crime.

22 NRS 128.107 includes considerations where a child is
23 not in the physical custody of the parent, services provided
24 or offered to the parent to facilitate reunification. DFS

1 provided services to Keaundra, Keaundra participated in every
2 single one. And when it comes time for DFS, basically to put
3 their money where their mouth is and give Keaundra's children
4 -- or, I'm sorry, recommend returning Keaundra's children,
5 they oppose because she hasn't admitted to a crime.

6 Your Honor, a case plan is a defined term under NRA
7 -- NRS 128.0155, and it's, "A written agreement between the
8 parents of a child who is the subject -- who is subject to the
9 jurisdiction of the juvenile court, and the agency having
10 custody of the child which the primary objective -- with the
11 primary objective of reunifying the family, or if the parents
12 fail to comply with the terms, freeing the child for
13 adoption." Again, an agreement between Keaundra and DFS, it's
14 a contract. She's not contracting for the return of the
15 child. What she's contracting for is DFS's recommendation to
16 return the child, and DFS failed to live up to their end of
17 that bargain.

18 They indicate they haven't seen behavioral changes.
19 But I would submit, Your Honor, how can Keaundra demonstrate
20 these changes to anyone, if the two -- if you won't allow her
21 to have unsupervised visits, or even return the children to
22 her? We have to -- and when we look at the child that
23 Keaundra does have in her care, there haven't been any
24 problems.

1 As to the desires of the child. Ms. Jordan
2 testified that the child, at least the daughter who was verbal
3 at the time, has repeatedly requested to come home to her mom,
4 has begged to come home to her mom. Every time she talked to
5 Ms. Jordan, she wanted to come home to her mom.

6 Efforts of the parents to adjust their
7 circumstances. I would submit Keaundra has done everything
8 that she's been asked to do, and there have been no additional
9 services offered or required. There's no evidence that they
10 asked her to do anything additional than what she had already
11 done. Keaundra's bonded to these children, she maintained
12 contact with her mother about the children. She sends support
13 for the children when they were with her mother. She has
14 housing for herself and the kids, and she can support herself
15 and the children.

16 The other factor is whether additional services
17 would be likely to bring about a lasting change, enabling the
18 return of the child within a predictable period. And if it's
19 a concern, she could continue counseling with Jane Fortune.
20 We could have involvement, they've -- you've heard testimony
21 about a family reunion in South Carolina. There's family
22 everywhere. Family -- we could have family involvement. We
23 could place the children in South Carolina with family there,
24 and Mom could progress to unsupervised visitation, overnights,

1 weekends and then home. It doesn't have to go quickly, but I
2 would submit, Your Honor, it should have moved forward. We
3 shouldn't be sitting here now, with no further services
4 offered to this family. We cannot judge whether Keaundra has
5 made a lasting change unless we give her the chance to
6 demonstrate that.

7 As for the best interest of the children, there's
8 evidence that she -- they are bonded, or at least the daughter
9 is bonded to her mother. She begs to go home. Mom calls the
10 children numerous times; she sends support for them. I mean,
11 I've already gone over all this, so I won't bother you with it
12 now. But she shows a deep and loving bond with her children
13 and wants them back in her care. She's completed her case
14 plan in order to effectuate that reunification, and the only
15 issue is her refusal to admit to a crime. I would submit,
16 Your Honor, termination of parental rights is not in the
17 children's best interest.

18 With regard to the domestic violence, and I've
19 submitted proof to the Court that there -- no charges have
20 been filed against my client. The State asked my client a
21 number of questions about DV, they asked Ms. Jordan about DV.
22 Keaundra denied DV. Again, no charges ever filed, no
23 conviction ever existed, nothing has been provided to this
24 Court with regard to that. And further, I would note that

1 this was heard by the hearing master at the contested hearing
2 and denied, despite my client's testimony regarding the same
3 incident that she described to you. It's in the findings.

4 And I know Your Honor is aware that you can't
5 impeach a witness with a misdemeanor conviction unless it
6 involves veracity, and we don't even have a misdemeanor
7 conviction here. So I would ask this Court not to be
8 distracted by this issue. This is not an issue at all.

9 A last word about the presumptions. Again,
10 continuances requested by former counsel and by the DA's
11 office, work to deprive the family of time -- timely
12 resolution. Keaundra has done more than token efforts. She
13 has complied with the case plan within six months after the
14 date on which the plan was commenced, and there are no
15 presumptions, given that token efforts is out -- that apply to
16 parental fault. In order to terminate, again, there must be
17 parental fault, there must be best interest.

18 I would submit, Your Honor, Mom is in a position to
19 immediately care for these children, but she has never been
20 given that opportunity and based upon her refusal to admit to
21 a crime. There have been no objective standards articulated
22 by the Department against which the Court can measure
23 Keaundra's progress. The only evidence presented as to her
24 rehabilitation or risk to re-offend was presented by Ms.

1 Fortune. It's un-rebutted. Therapy has been successful.

2 As Ms. Fortune indicated, "My experience in working
3 with women who have battered children or battered spouses,
4 typically, they have a history of abuse themselves by a
5 parent, a spouse, boyfriend, girlfriend. There's anger.
6 There's trauma which manifests as anger, and it's taken out on
7 the children. I don't see that in her, in Keaundra. I don't
8 hear it in her history, I have to stretch to believe that of
9 her, and I don't stretch that far." And I would submit, I
10 would ask the Court, you shouldn't stretch that far either.

11 So, with that, we would request that the petition be
12 denied.

13 MR. CORDES: Judge, you don't need to go outside of the
14 jurisdiction. Case law in the state of Nevada is very clear.
15 K.D.L., specifically instructs this Court to look at a
16 parent's case plan compliance. And it's not simply going to
17 classes, checking off the boxes that I went. It is doing the
18 behavioral changes. We have not seen that from Ms. DeBerry
19 because she hasn't even started to address the issue that
20 brought Christopher and Aamiyah to the attention of the
21 Department back in 2010.

22 She needs no additional time; she's had plenty of
23 time. So this red herring about these delays and the
24 evidence, all that was resolved. She had a case plan in March

1 of 2011. She still, through this date, has not completed the
2 case plan. For Counsel to argue that it's completed, is
3 contrary to the evidence that you heard. Ms. DeBerry,
4 herself, sat on the stand and said, "What I told the Court
5 back in 2010, is how Christopher was injured." Well, we know
6 that a hearing master and a District Court judge, both believe
7 that that explanation by Ms. DeBerry was not consistent with
8 the totality of the evidence.

9 Counsel would insist that, "Well, we dismissed the
10 domestic violence, but you know how hearing masters could be
11 wrong sometimes. So the physical abuse finding is not
12 correct." That's contrary to the evidence. The evidence is
13 very clear. Hearing Master made a determination after
14 assessing the credibility and weighing the evidence, and a
15 District Court judge affirmed that decision. Ms. DeBerry is a
16 physical abuser of a child. There is no dispute. So, to try
17 and couch this any different way, is a disservice to this
18 Court and these children.

19 Ms. DeBerry failed, failed to tell the Court, failed
20 to tell the Department of Family Services, how Christopher
21 sustained that very serious physical injury to his face, which
22 was consistent, based on medical testimony of an iron being
23 held to his face and burning him.

24 Ms. DeBerry is unfit. Case law in Nevada is very

1 clear. Statutorily, it is set forth in NRS 128. There's no
2 dispute based upon this evidence that she is an unfit parent.
3 Your Honor, the presumptions apply, she needs no additional
4 time in this matter. Obviously, any additional time is not
5 going to bring her to the point of helping her in counseling.
6 She's told Your Honor she is never going to say she burned
7 that child. If she never tells the Department or this Court
8 what happened, appropriate counseling cannot be undertaken.

9 You heard Ms. Fortune. She wasn't a very
10 respectable professional. I think her testimony was
11 questionable on numerous levels. As it relates to her
12 counseling, very minimal involvement with Ms. DeBerry. If
13 you'll recall, there was a couple sessions, no counseling for
14 a number of months, and then a quick session that Ms. DeBerry
15 attempted to get re-engaged in.

16 Your Honor, these children need to be done with
17 foster care. The only way to achieve that, in these three
18 years, is to grant this termination; free them for adoption.

19 Thank you.

20 THE COURT: Alright. Well, unfortunately, I need to go
21 back and -- I want to review my notes. But as I'm listening
22 to the argument today, if I understand -- and I'm going to ask
23 each of you to comment. If I understand the statutes, failure
24 of parental adjustment, compliance with the case plan, and

1 correcting those faults or habits or whatnot of the parent,
2 that caused the child to come into custody. There's been
3 argument that I am bound in this proceeding by finding that
4 Ms. DeBerry was the physical abuser as the hearing master had
5 found below.

6 The -- quite frankly, the issue I've got is that the
7 evidence that's presented in this proceeding, may be different
8 than the evidence that was presented before the hearing
9 master. And, in fact, I doubt if there was evidence before
10 the hearing master which came in, in this case, that Aamiyah,
11 the daughter, had told the investigator, Ms. Cummings, that
12 she was the one that was supposed to be watching Christopher.
13 But, that the boyfriend, that is Mr. Bynum, had said that
14 Christopher had tried to kiss the iron, which indicates to me
15 that the boyfriend was present and gave an explanation to
16 Aamiyah.

17 We have Ms. DeBerry testifying before the hearing
18 master and testifying before this court, that Mr. Bynum was
19 not even present. Her testimony was that Mr. Bynum didn't
20 return to the residence till that afternoon, after he picked
21 up Aamiyah from school. It's interesting that Mr. Bynum,
22 following the child sustaining this injury, left the state to
23 Louisiana with the child -- flew the child to Louisiana.

24 What concerns me in this case is that Ms. DeBerry

1 continues to maintain the position that she did not, and Mr.
2 Bynum did not, injure this child, that this was an accidental
3 injury. I am convinced, based upon the review of the findings
4 of the hearing master, that this injury was non-accidental;
5 that it was intentionally inflicted.

6 The question I've got, and I want to add one last
7 finding from Ms. Fortune, and she was asked about this.
8 Discussing the incident with Ms. Fortune, her report, and she
9 testified, "That Ms. DeBerry stated that the father of the
10 children was in the apartment." Which is absolutely
11 inconsistent with her testimony before the hearing master, and
12 her testimony before this court.

13 The issue in my mind, is not necessarily compliance
14 with the case plan, but the question of unfitness in that the
15 evidence would support a finding that she has consistently
16 protected an abusing individual from appropriate punishment
17 and prosecution, by allowing that individual to leave the
18 state with the victim, by testifying before a hearing master,
19 and testifying in this court, that that person wasn't present.

20 And if that is the finding of this Court, then it
21 would seem to me, that unfitness would be the appropriate
22 finding and not necessarily failure of parental adjustment, if
23 the failure of parental adjustment criteria is restricted to a
24 case plan, which required an admission to a factual finding

1 that was made as a result of testimony presented in that
2 proceeding, which may not, in fact, be a correct factual
3 finding based upon subsequently discovered testimony and
4 evidence. That's the issue I'm wrestling with in my mind.

5 Mr. Cordes, do you care to comment? Ms. Simpkins,
6 do you care to comment?

7 MR. CORDES: I do, Your Honor. I believe, as well as
8 unfitness, then the findings by the Court, or the topic that
9 you have just discussed, also leads to a determination as to
10 an unreasonable risk of harm to the children or child, should
11 you return the children. Because, if in fact, Ms. DeBerry has
12 not been truthful before the hearing master, not been truthful
13 before this Court, and really knows that Mr. Bynum was the
14 perpetrator of the physical abuse, she has maintained contact,
15 at least we know by the testimony, that he was in South
16 Carolina within the same area that she lives in, was arrested,
17 and returned to Louisiana based upon her own testimony and
18 statements to Ms. Jordan.

19 So, you -- the Court, I believe, should question
20 whether or not a return would potentially subject these
21 children to future contact with Mr. Bynum as a result of Ms.
22 DeBerry's willingness to protect him from appropriate
23 punishment. So -- and I do understand as it relates to the
24 failure of parental adjustment. But the State and the Court

1 are bound by the evidence that was admitted, and therefore
2 prepared a case plan upon the testimony.

3 THE COURT: I understand.

4 MR. CORDES: And so I don't think the State or these
5 children, specifically, should be punished by the fact that
6 Ms. DeBerry was not forthcoming with evidence that could have
7 changed the case plan.

8 THE COURT: Ms. Simpkins?

9 MS. SIMPKINS: Well, Your Honor, I had occasion to review
10 Ms. Fortune's testimony last night. And, all due respect to
11 the Court, you asked her about that when we submitted the
12 report. You asked her about that, and she indicated to you,
13 after I questioned her, that that was -- she had mistakenly
14 written that in her report, that Mr. Bynum was in the
15 apartment. She indicated to you that she -- that was her
16 mistake, that Mom had been completely consistent with her, and
17 that Mr. Bynum was not in the apartment. That's -- that's the
18 evidence that is before the Court.

19 I don't -- I can't recall any specific time that my
20 client ever indicated that Mr. Bynum was in the apartment.
21 Her testimony, if I recall correctly, and again, it's been a
22 long time, was that Mr. Bynum was at the apartment, he dropped
23 -- I believe he dropped off the children and then he left.
24 And at the time of the injury, Mom was in the bathroom and the

1 child, her daughter, was standing right there. So, I don't
2 have any indication that Mr. Bynum was ever --

3 THE COURT: Okay. Alright. On -- on the factual issue,
4 I will -- luckily it's the last note I have from her
5 testimony.

6 MS. SIMPKINS: Right. It's only the last one.

7 THE COURT: So I don't have to listen to all of it. I
8 will go back and review it.

9 But -- and I think, I can't tell from this if it was
10 during cross examination or if, in fact, it was my question,
11 but I make the note that the State's proposed Exhibit 2, which
12 was subsequently admitted -- or the Defense Exhibit 2 -- no
13 it's the State's Exhibit 2, January 2nd, 2012, Defendant
14 states that the father was in the room but not -- was in the
15 home but not in the room, which is what it says in her report.
16 I'll go back and listen to the actual testimony, just to
17 verify or refute, what my notes and what her report says.

18 But on the subsequent issue -- or the underlying
19 issue as to the interplay between the case plan, the findings
20 that were made in the underlying proceeding, versus findings
21 that may be made as a result of testimony that wasn't admitted
22 or offered in the underlying proceeding.

23 Comments on that.

24 MS. SIMPKINS: Well, the -- in -- when you -- and I'm not

1 exactly sure, exactly what you're asking me, Your Honor. My
2 initial reaction was that there was a recent case out of the
3 Supreme Court, and I'm sorry, I can't -- it's not coming to my
4 brain right now. About how the hearing master's findings are
5 not binding on the District Court, but I know that you have a
6 District Court hear -- master already supporting these
7 findings.

8 But I would submit to this Court, that you are free
9 to make your own findings, because this is a different
10 proceeding. Although, that is evidence in this proceeding, I
11 think you're free to make your own findings here. If that
12 answers your question.

13 THE COURT: Yeah, it tends to. Alright.

14 In any event, I will take this matter under
15 advisement, and I'll try to make the decision as soon as
16 possible. It has been --

17 MS. SIMPKINS: Thank you, Your Honor.

18 THE COURT: -- pending for quite a while.

19 MR. CORDES: Thank you, Your Honor. Appreciate your time
20 this morning.


21 MS. DOUGLAS: Thank you.

22 THE COURT: Thank you.

23 (THE PROCEEDING ENDED AT 11:37:58.)

24 * * * * *

1 ATTEST: I do hereby certify that I have truly and correctly
2 transcribed the digital proceedings in the above-entitled case
3 to the best of my ability.

4 
DARRYL THOMAS,
5 Transcriber II
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IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

In the Matter of the Parental Rights as to:
AAMIYAH DE'NASIA LAMB AND
CHRISTOPHER LAMONT BYNUM, JR.

MINORS.

KEAUNDRA DEBERRY,

Co- Appellant

vs.

CLARK COUNTY DEPARTMENT OF
FAMILY SERVICES

Respondent

) Nevada Supreme Court No. 69047
District Court No. D446967

) Electronically Filed
) Apr 12 2016 11:13 a.m.
) Tracie K. Lindeman
) Clerk of Supreme Court

RESPONDENT'S APPENDIX

Volume III

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1 THE COURT: -- proceed?

2 MS. MOLINAR: Yes, Your Honor.

3 KEAUNDRA DEBERRY

4 testifies as follows on:

5 RECROSS EXAMINATION

6 BY MS. MOLINAR:

7 Q Ms. DeBerry, was there domestic violence on your
8 petition for abuse and neglect?

9 A No.

10 Q Was domestic violence found to be true by a
11 preponderance of the evidence at your trial for abuse and
12 neglect?

13 MR. CORDES: Objection, Your Honor, as to relevance.

14 MS. MOLINAR: Your Honor, Mr. Cordes was the one who
15 brought up domestic violence. So I'm trying to --

16 THE COURT: Well, he brought up the --

17 MS. MOLINAR: -- disprove --

18 THE COURT: -- issue of domestic violence. But if it
19 wasn't alleged in the petition it would not have been
20 relevant.

21 MS. SIMPKINS: Your Honor, the petition's already in
22 evidence. Actually, it was alleged in the petition. However,
23 as it -- The Court knows the decision is in evidence as well,
24 and it was dismissed.

1 THE COURT: All right.

2 BY MS. MOLINAR:

3 Q Ms. DeBerry, have you ever been arrested for
4 domestic violence?

5 A No.

6 Q Have you ever been convicted of domestic violence?

7 A No.

8 Q Is it your testimony today that the incident we were
9 referring to earlier was dismissed because they cited the
10 wrong individual?

11 A Correct.

12 Q Okay. Ms. DeBerry, Mr. Cordes asked you to -- about
13 -- he asked you earlier why you were not get back with
14 Christopher Bynum and you answered one of your reasons was
15 because you wanted a better life for your children. Could you
16 clarify that statement?

17 A Well I moved back home to become better -- you know,
18 to make a better life for my kids, has nothing to do with Mr.
19 Bynum. I just feel that I will provide a better life as what
20 I've been doing with my kids there in South Carolina away from
21 everything I've been through. So being in South Carolina I
22 feel that I can start over with my kids there alone.

23 Q Okay. Do you feel that Christopher Bynum is a bad
24 influence on your children?

1 A No.

2 MS. MOLINAR: That's it, Your Honor. That's all my
3 questions.

4 THE COURT: Mr. Cordes, anything on that limited issues?

5 MR. CORDES: Yes.

6 **KEAUNDRA DEBERRY**

7 testifies as follows on:

8 **REDIRECT EXAMINATION**

9 BY MR. CORDES:

10 Q What does it mean, everything you've been through?

11 A Um, here in Las Vegas, this situation with my kids,
12 situation with the young individual that -- what I was going
13 through. And I just feel that I will be better off at my own
14 resident where I'm from where I have the support from family
15 members because I will be closer to my family members.

16 MR. CORDES: Thank you. Nothing further.

17 THE COURT: All right. You may step down.

18 (THE WITNESS LEAVES THE STAND.)

19 Your next witness, Mr. Cordes.

20 MR. CORDES: Michelle Douglas.

21 (MS. DOUGLAS TAKES THE STAND.)

22 THE COURT: Is this your last witness?

23 MR. CORDES: It may be my last witness in my case in
24 chief, Your Honor. Obviously, in light of some of the

1 testimony, I may need to call a rebuttal witness relative to
2 the domestic violence issue.

3 THE COURT: All right.

4 THE MARSHAL: Raise your right hand.

5 THE CLERK: You do solemnly swear the testimony you are
6 about to give in this action shall be the truth, the whole
7 truth, and nothing but the truth, so help you God?

8 MS. DOUGLAS: Yes, I do.

9 THE CLERK: Thank you. Please state your name for the
10 record.

11 MS. DOUGLAS: Michelle Douglas.

12 THE CLERK: Thank you.

13 MS. DOUGLAS: You're welcome.

14 **MICHELLE DOUGLAS**

15 having been called as a witness by The State and being first
16 duly sworn, testifies as follows:

17 **DIRECT EXAMINATION**

18 BY MR. CORDES:

19 Q Michelle, will you spell your last name for the
20 record?

21 A D-o-u-g-l-a-s.

22 Q Thank you. And where are you currently employed?

23 A Department of Family Services.

24 Q How long have you been employed with the Department

1 of Family Services?

2 A Nine years.

3 Q And in what capacity are you employed with the
4 Department of Family Services?

5 A I am a supervisor.

6 Q And as a supervisor with the Department of Family
7 Services are you responsible for the Christopher Bynum and
8 Aamiyah Lamb case?

9 A Yes, I am.

10 Q In your capacity as a supervisor what are your
11 responsibilities for this specific case?

12 A Well, I'm there to monitor the case plan. I'm there
13 to take a look and read any type of assessments that will come
14 in and try to match what the assessment says to services that
15 would be appropriate to help the individual. Our stated goals
16 are to reunify and put families back together if it can be
17 safely done and appropriate. I provide supervision to the
18 caseworker, and I will also work directly with the client
19 depending upon what type of services the client needs. If the
20 client would like to speak to me, I'm available. I attend
21 Child and Family Team meetings. I attend meeting of
22 professionals. I also consult with providers to make sure
23 that a client is getting what they need or if a client can
24 articulate exactly what they need I will be able to assist

1 with that as well. So...

2 Q All right. So in reviewing the file maintained by
3 the Department of Family Services for this case, did it
4 reflect that Aamiyah and Christopher were placed into
5 protective custody in May of 2010?

6 A That is correct.

7 Q Okay. To your knowledge, has there ever been a
8 return of those children to any parental figure?

9 A Not to my knowledge.

10 Q In your management of this case, were case plans
11 developed for Ms. DeBerry with objectives for her to be
12 reunified with the children?

13 A That is correct.

14 Q So as it relates to Ms. DeBerry's case plan, it's my
15 understanding that that was approved by The Court in or about
16 March of 2011. Does that sound about right?

17 A Correct.

18 MS. SIMPKINS: Objection, Your Honor. The problem is
19 I've got a case plan in March of 2011. It's signed by a
20 different supervisor, not by Ms. Jordan (sic). And so I'm
21 objecting on the basis of hearsay.

22 MR. CORDES: Well, it's already been admitted into
23 evidence.

24 THE COURT: Is it in here?

1 MR. CORDES: Yes.

2 MS. SIMPKINS: Well she can't testify to it. I mean, it
3 -- the document speaks for her -- for itself, but she can't
4 testify regarding it because it's hearsay.

5 THE COURT: Well, the -- the objection to the question's
6 overruled.

7 Go ahead.

8 THE WITNESS: My name is Ms. Douglas --

9 MR. CORDES: Right.

10 THE WITNESS: -- not Ms. Jordan.

11 MR. CORDES: I know. She just misspoke.

12 THE WITNESS: Thank you.

13 BY MR. CORDES:

14 Q But it's been overruled, so you can answer it.

15 A Thank you. Could you restate the question please,
16 Sir?

17 Q Yes. Was the case plan for the mother developed in
18 about March of 2011?

19 A That is correct.

20 Q And as to the case plan for Ms. DeBerry did you have
21 a chance to ever review the objectives in that case plan with
22 the mother?

23 A I was able to review -- I became the supervisor on
24 this case in November of 2011. Upon receiving the North Unit

1 at that time I did go through all cases, and I did review all
2 case plans.

3 Q Okay.

4 A I did, in fact, go through the case plan with the
5 mom, telephonically and in-person later and date.

6 Q All right. So when you first went over the case
7 plan with Ms. DeBerry, was that telephonically or in the face-
8 to-face meeting?

9 A That was telephonically.

10 MS. SIMPKINS: Objection, foundation as to when.

11 MR. CORDES: All right.

12 THE COURT: All right. You may proceed --

13 MR. CORDES: I will get there, if I may. Thank you.

14 THE COURT: -- with your foundation questions.

15 BY MR. CORDES:

16 Q All right. So you became the supervisor November
17 2011. Do you recall when you may have had that telephone call
18 or discuss this telephonically with Ms. DeBerry?

19 A Yes. That's going in to like May of 2012 when Ms.
20 Jordan, the actual caseworker, went out on medical leave.

21 Q Okay. And do you recall when you may have had the
22 face-to-face meeting with Ms. DeBerry to go over the case
23 plan?

24 A Yes. The face-to-face meeting I cannot recall the

1 actual date, but it was the date that I actually located Ms.
2 Fortune as an appropriate, um, counselor for Ms. DeBerry while
3 I was sitting in the office with her previous attorney and the
4 District Attorney.

5 Q And --

6 A So I would say May of 2012 if it goes along with
7 what we were saying accordingly.

8 Q Okay. All right. And in discussing the case plan
9 objectives with Ms. DeBerry, did you go over the component
10 relative to the injury that Christopher had sustained?

11 A Yes.

12 Q What do you recall discussing with Ms. DeBerry
13 during your telephonic review of the case plan in or about May
14 of 2012?

15 A Well, I will say that the conversation began as
16 hostile. It was very difficult at the time to speak to Ms.
17 DeBerry.

18 MS. SIMPKINS: Objection, non-responsive.

19 THE COURT: Sustained.

20 MR. CORDES: If I may be heard, it is responsive. I
21 asked her what does she recall from the conversation.

22 MS. SIMPKINS: No, you asked her what she talked about.

23 THE COURT: Relative to --

24 MR. CORDES: The discussion of the case plan.

1 THE COURT: Well, it was actually relative to the
2 discussion of a specific portion of the case plan having to do
3 with abuse.

4 MR. CORDES: Correct.

5 THE COURT: Just read -- well, start over.

6 MR. CORDES: All right, I'm sorry.

7 BY MR. CORDES:

8 Q During the telephonic discussion with Ms. DeBerry in
9 or about May of 2012 regarding her case plan, what do you
10 recall?

11 A I recall that it was very difficult to speak with
12 Ms. DeBerry. But I tried to focus on the report given to us
13 by Doc -- by the psychologist, Pharr -- the counselor, Pharr,
14 to explain to Ms. DeBerry that the illusion that it gave was
15 that it was not actual therapy. And that it was more like a
16 topic discussion session where she went in to her therapist
17 and said, I need a definition for abuse, I need a definition
18 for physical abuse, let's talk about a definition for
19 appropriate parenting, let's talk about a definition for, um,
20 an estranged relationship. So it was more, you give a topic,
21 you give a definition and the session was over. In fact, if
22 you look at the actual written report, it reflects that. When
23 I could finally talk to Ms. DeBerry and it was after about
24 three or four phone calls, we finally got to an understanding

1 of what that looked like and what the Department was needing
2 and what, in fact, Hearing Master Femiano had requested of
3 her. So my goal at that time was a, to help her assimilate
4 back where she was in North Carol -- in North Carolina so that
5 she could find an appropriate therapist, okay, that we could
6 take what she did and give her credit for that. But now we
7 needed to take it a step further. So, okay, you start class,
8 you get a syllabus and you define the problems. And now we
9 need to dig deep into the problems. And I do not believe that
10 that had happened. So that is why I found Ms. Fortune so that
11 she could, in fact, take what she had learned in Ms. Pharr,
12 giving her some credit for that piece, but now it was time to
13 swim in the pool --

14 Q Okay.

15 A -- and dig deep into the definitions and why we were
16 having her do the type of in-depth soul searching as a parent.

17 Q When you spoke to Ms. DeBerry did she ever tell you
18 that she had actually physically abused Christopher Jr.?

19 A No.

20 Q What was Ms. DeBerry's explanation for Christopher
21 Jr.'s injuries when you spoke to her in May of 2012?

22 A That her son kissed an iron.

23 Q How about during the face-to-face meeting when you
24 again went over the case plan with her? What was her

1 explanation as to the injury sustained by Christopher Jr.?

2 A It never changed.

3 Q From the Department of Family Services perspective,
4 is her explanation for Christopher Jr.'s injury consistent
5 with that observed by the Department and law enforcement?

6 A No.

7 Q The case plan uses terms, articulate the sequences
8 of events which resulted in the physical abuse. Has Ms.
9 DeBerry ever provided a sequence of events that led to the
10 injury sustained by Christopher Jr.?

11 A No.

12 Q The case plan for Ms. DeBerry indicates that she
13 needs to address the precipitating risk facts, triggers,
14 sequence of events that led to the physical abuse and
15 participate in any kind of safety planning that may develop
16 from there. To your knowledge, has Ms. DeBerry ever
17 accomplished that perspective of her case plan?

18 A No.

19 Q As long as she persists in the explanation that
20 Christopher Jr. caused this injury to himself, will the
21 Department of Family Services ever be able to safety plan the
22 return of the children to her care?

23 A No.

24 Q During the time you've been responsible for

1 supervising this matter in November 2011 to present, have you
2 had any contact with Mr. Bynum, Sr.?

3 A No.

4 Q In any of the discussions with the mother, Ms.
5 DeBerry, have you discussed her relationship with Mr. Bynum?

6 A Yes.

7 Q And what did Ms. DeBerry tell you about her
8 relationship with Mr. Bynum, Sr.?

9 A That there was fear involved, there was power and
10 control. That there was situations where she felt that she
11 was not empowered as a parent or as a girlfriend. That she
12 was put down, that he belittled her. There were self-esteem
13 issues and that there was, again, fear.

14 Q Okay. When did Ms. DeBerry indicate that she had
15 this fear and the power and control issues?

16 A Ms. DeBerry came to the Department and made a visit
17 here and I believe it was for one of the hearings. She met at
18 length with her attorney. She met at length with Michelle
19 Jordan, and then they both came over to the office. We --

20 Q When you say both --

21 A I'm sorry. Michelle Jordan escorted Ms. DeBerry
22 over to my office and we met in one of the side rooms.

23 Q And was that in this calendar year, to your
24 knowledge?

1 A That is correct.

2 Q Do you remember what month of 2012 it may have taken
3 place?

4 A I want to say August, but I'm not sure. It was the
5 last time Ms. DeBerry actually physically flew here.

6 Q And when you had the discussion with Ms. DeBerry
7 relative to her fear and power and control with Mr. Bynum,
8 Sr., did you make any recommendations?

9 A I did.

10 Q And what recommendations did you make?

11 A That she continue in therapy. That she explore why
12 she, in fact, picks men of that nature. We talked about the
13 fact that she met this man, really didn't know this man,
14 became pregnant within three months of their relationship, had
15 no idea of his past criminal history, really didn't know
16 anything about his past at all, and what -- where it led up to
17 be. It was actually a very heartfelt conversation. Um...

18 Q Okay. Did Ms. DeBerry disclose any domestic
19 violence?

20 A Correct.

21 Q Okay. What did she disclose about the domestic
22 violence?

23 A She did not disclose physical abuse but more of the
24 power and control. We talked about that on numerous

1 occasions. We talked about being belittled. We talked about
2 a weight issue. We talked about him kind of being the
3 empowered person in the home, dictating to her what goes on,
4 made her kind of frazzled. We even talked to her -- talked on
5 a few occasions about the fact that now that he was gone and
6 he was in jail, how empowered she is and how wonderful she
7 looked and how much different her attitude is. Because prior
8 to her actually coming here and speaking to me, it was always
9 an offensive conversation. When she came here, Michelle
10 Jordan was so happy to bring her to me and introduce me to
11 this changed person and how she was quiet, she was reserved,
12 she was intact, she was articulate. Um, she was -- I don't
13 want to say remorseful, but just very, very humble and kind.
14 And that's what we see -- we see today. So it was very
15 difficult for me to understand what had just occurred two
16 weeks prior over the phone. It was like two different people.
17 Um, so yeah.

18 Q Okay. And so in making referrals, how were you able
19 to locate Ms. Fortune?

20 A Well, in having a discussion over and over, we
21 talked a little bit and Ms. DeBerry said that she really
22 didn't understand why she needed another therapist. Number
23 two, after talking about adding the -- talking about the DV,
24 talking about the self-esteem, talking about PTSD, talking

1 about trauma, talking about all the different things that led
2 up to this that was going on in her life including the issue
3 with this co-worker and we talked about the boundaries there
4 which she had acknowledged absolutely that those were taken,
5 you know -- done incorrectly from her being a -- a supervisor
6 and a subordinate. You know, to get into a therapy where she
7 felt comfortable, where she could go in and interview. Where
8 -- and so looking at that in a very rural area we weren't
9 sure. So we were in -- I was in a meeting. Ms. DeBerry was
10 on the telephone. I was with her, her former attorney and the
11 District Attorney, and just went on my cell phone basically
12 and found Ms. Fortune. And so it was wonderful to hear that
13 it was a great match. But I did that. Um, there was no -- no
14 observed or no reported effort on Ms. DeBerry's part to do the
15 same. And it was pretty quick and I'm -- was glad that there
16 was --

17 Q Okay.

18 A -- a relationship.

19 Q As a result of finding Ms. Fortune for Ms. DeBerry,
20 did the Department of Family Services put together any kind of
21 referral packet or identify the circumstances of the case so
22 that Ms. Fortune would have an understanding of why the
23 counseling was necessary?

24 A I don't know if it was written, but I do know that

1 Ms. Jordan did have a conversation with Ms. Fortune as to make
2 it so that it was a mutual report. So we had a self report
3 from our client and also a collateral report where the
4 Department would call in and speak to the therapist to make
5 sure that the things that they are working on are correct, and
6 that we didn't get the same type of definition -- you know,
7 fact, definition type of report or assessment that she got at
8 her other -- at the other therapist.

9 Q Okay. Where are the children currently placed by
10 the Department of Family Services?

11 A They are placed with the maternal grandmother,
12 Bonita and her husband and they're -- in the -- on the Air
13 Force Base in placement.

14 Q And pursuant to that placement is there any kind of
15 report from the state of Louisiana, ICPC or I'm not sure
16 because they're on a base, if some other organization is
17 reporting the welfare of the children.

18 A Absolutely. There's always an ICPC report and we
19 make contact with the ICPC worker every thirty days. We have
20 phone -- and the norm is to get a quarterly written report.

21 Q Okay. And just so the record's clear, what does
22 ICPC stand for?

23 A It's an interstate compact. And what it is, is an
24 agreement that our state prepares. They work through a common

1 cell in Carson City and we ask for supervision so that
2 children may go live with relatives out of state. And when we
3 cannot comfortably provide an answer if they're safe or not,
4 the -- the supervising state will go out and do the work of a
5 social worker and report back to us.

6 Q Okay. And so are those quarterly reports received
7 in this matter for these children?

8 A I believe so.

9 Q Based on the length of time that the children have
10 been in care, has the Department of Family Services identified
11 a permanency plan for these two children?

12 A That is correct.

13 Q What is the permanency plan?

14 A It's adoption by the maternal grandmother and
15 grandfather.

16 Q And do you have an opinion as to whether or not that
17 would be in the children's best interest?

18 A I do.

19 Q And what is that opinion based upon?

20 A That at this -- at this juncture it is in the
21 children's best -- best interest to remain where they are.

22 Q Now there's been some testimony relative to a child
23 that Ms. DeBerry gave birth to in the state of Louisiana.

24 A Correct.

1 Q I believe it's Keaundre.

2 A Correct.

3 Q Had Keaundre been born in the state of Nevada, would
4 there have been proceedings initiated to take protective
5 custody of that child?

6 A Absolutely.

7 MS. SIMPKINS: Objection, speculation.

8 MR. CORDES: I don't believe it's speculation for this
9 person who testified --

10 THE COURT: Overruled.

11 THE WITNESS: Absolutely.

12 BY MR. CORDES:

13 Q Do you know if any legal proceedings were initiated
14 in any other jurisdiction relative to Keaundre?

15 A I do not bel -- no.

16 Q As you sit here today is there any evidence that Mr.
17 Bynum Sr. has participated in any of his case plan objectives
18 for reunification?

19 A No.

20 Q We heard some testimony from the mom that there is a
21 father of Aamiyah. I believe it was Joseph --

22 THE COURT: Lamb.

23 MR. CORDES: Lamb.

24 BY MR. CORDES:

1 Q Any indication that Mr. Lamb has come forward to
2 establish paternity or any way assert his rights as a father?

3 A I don't recall.

4 Q Since you've been assigned to the case November 2011
5 to present, have you ever had any communication with Mr. Lamb?

6 A No, I have not.

7 Q Since November 2011 any indication that any parent
8 including Ms. DeBerry has provided financial support for the
9 benefit of the children?

10 A No.

11 THE COURT: That's a no?

12 THE WITNESS: Correct, no.

13 THE COURT: Okay.

14 BY MR. CORDES:

15 Q Now, are there regular reviews of the juvenile file
16 in this matter?

17 A Correct.

18 Q How often do those reviews take place?

19 A Um, every six months.

20 Q Has the juvenile court approved the identified
21 permanency plan of TPR and adoption for these children?

22 A Yes, they have.

23 Q Do you know when that permanency plan was approved
24 by The Court?

1 A I don't recall the actual date, but it would be at
2 the last six month hearing.

3 Q Do you have any concerns relative to the possibility
4 of the children being returned to the care of Mr. Bynum, Sr.?

5 A Many concerns.

6 Q What would those be?

7 A His lack of follow through. Um, his current
8 criminal situation. Um, some of the concerns expressed to me
9 from our client, Ms. DeBerry. And also concerns expressed to
10 me by Bonita about him, who is Ms. DeBerry's mother.

11 Q And can you be a little bit more specific about the
12 concerns that you might have relative to the criminal case?

13 A The current criminal case I do not know.

14 Q Okay. Do you have any concerns relative to the
15 children possibly being reunified with Ms. DeBerry?

16 A I do.

17 Q What concerns do you have?

18 A I think the overall truthfulness of the situation
19 that happened, more so the dis-acknowledgment of what really
20 went on in their relationship and her past relationships with
21 men. And the fact that the trauma and the PTSD needs to be
22 opened up and talked about and worked on, because it takes
23 many, many, many years to do that. To change -- it doesn't
24 make -- it didn't make sense to me today when the testimony

1 talked about her wanting to change her life and then not being
2 able to disclose any issues with Mr. Bynum when there were
3 issues previously disclosed about him. My concern also was
4 the fact that her mother disclosed a lot of information to me
5 about her concerns and about family concerns about Mr. Bynum
6 indeed --

7 MS. SIMPKINS: I'm going to object as to what the mother
8 said, Your Honor, as hearsay.

9 THE COURT: Well so far she hasn't said what the mother
10 said other than the general concerns is she hasn't stated any
11 specific facts. And it's limited to that. The objection's
12 overruled. If you try to go further, I can't hear it.

13 MR. CORDES: Okay.

14 THE WITNESS: Okay.

15 BY MR. CORDES:

16 Q So concerns that were raised by family members.

17 A That is correct.

18 Q Now, were you aware that there was a family reunion
19 that Ms. DeBerry had visitation with the children during?

20 A Yes.

21 Q Okay. How did you become aware of that family
22 reunion?

23 A I received a phone call from Ms. DeBerry's mother.

24 Q Following the phone call from Ms. DeBerry's mother,

1 were you able to explore what happened during that family
2 reunion with Ms. DeBerry herself?

3 A Not until she came here and we had a conversation.

4 Q Okay. So what did Ms. DeBerry tell you about the
5 family reunion that took place in June or July of 2012?

6 A She didn't really say much about the reunion. She
7 just told me that she got to visit with her children and that
8 really un -- just no affect. I mean, that she had a visit
9 with her kids and that it went well.

10 Q Okay. Did she discuss with you any presence of Mr.
11 Bynum, Sr. being in the South Carolina home or any concerns
12 that the family was raising?

13 A After I asked.

14 Q Okay. So tell me what happened.

15 A Um, I did ask Ms. DeBerry if he was present at the
16 reunion.

17 Q When you say he...

18 A Mr. Bynum, Christopher Bynum Sr. I asked her if he
19 was living in the home, which -- Christopher Bynum Sr., if he
20 frequently visited the home, Christopher Bynum Sr., and if he
21 was even in North Carolina, Christopher Bynum Sr., being he.

22 Q Okay. You keep saying North Carolina but I show
23 Mom's in --

24 A I'm sorry.

1 Q -- South Carolina.
2 A It is South Carolina.
3 Q Okay. All right.
4 A I never was good --
5 Q So --
6 A -- in geography.
7 Q -- you asked Ms. DeBerry those questions.
8 A Correct.
9 Q What was her response to the discussion?
10 A Um, her response was that Mr. Christopher Bynum does
11 not live there. That Mr. Christopher Bynum visits. That Mr.
12 Christopher Bynum does not have any belongings in her home.
13 Um, and that basically that he is not there.
14 Q Why did you discuss his belongings being in the home
15 with Ms. DeBerry?
16 A Because I was told by a family member that that is
17 one of her concerns.
18 Q Okay. And so did Ms. DeBerry offer to provide an
19 explanation as to who was living in the home or what the
20 circumstances were around the reunion time?
21 A No.
22 Q Now, Ms. -- you said Ms. DeBerry indicated that Mr.
23 Bynum does visit South Carolina?
24 A That he had visited. Yes.

1 Q You had this conversation with Ms. Bynum (sic) in
2 August of 2012 when she was present in Nevada?

3 A I had it again in August when she was present, and I
4 had it on the telephone call or calls when I was trying to
5 assist Ms. DeBerry. And, again, the difficulty was in the
6 communication and her not screaming and being offensive
7 towards me.

8 Q Based on the physical abuse that The Court found
9 against Christopher Jr., do you have any concerns relative to
10 him being returned to Ms. DeBerry?

11 A Yes, I do.

12 Q What concerns do you have?

13 A Um, I don't think she was truthful about what
14 happened. I do not believe that the move was pre-planned
15 based upon a conversation I had with Ms. Bonita, who is Ms.
16 DeBerry's mother, who told me that the ticket was purchased
17 because --

18 MS. SIMPKINS: Objection.

19 THE WITNESS: -- her daughter called her.

20 MS. SIMPKINS: Hearsay, Your Honor.

21 THE COURT: What Ms. Bonita told you will be stricken as
22 hearsay.

23 THE WITNESS: Okay.

24 BY MR. CORDES:

1 Q So just what your concerns are relative to the
2 safety of Christopher. You said truthfulness about what
3 actually happened and then the information regarding the move.
4 Any other issues?

5 A Regarding the move and truthfulness about her past.

6 Q Now you had an opportunity to hear Ms. Fortune
7 testify today, right?

8 A I did.

9 Q Okay. And do you recall her testifying about the
10 past behavior being an indicator for future behavior?

11 A Oh, yes.

12 Q Okay. Do you have an opinion as to whether or not a
13 parent who physically abuses a child in the past is likely to
14 physically abuse a child in the future?

15 A I do.

16 Q What opinion do you have?

17 A I think that when you do not address the issue and
18 you continue to cover up the issue or issues that led to your
19 frustration, that led to -- because as we know child abuse is
20 usually a symptom of something -- there's no way that you can
21 move forward because you have never acknowledged truthfully
22 what happened that day.

23 Q You've heard Ms. Fortune testify that Ms. Bynum
24 (sic) engaged in counseling from May 2012 through June 27th of

1 2012. Anything in that testimony that indicated there was
2 progress on behalf of Ms. DeBerry?

3 A Well I -- I have concerns. Again, it's a very short
4 amount of time. I think they touched on issues. They started
5 -- the issues were sort of brought to the surface with Ms.
6 Pharr or with the Department. Ms. Pharr defined them. And
7 she kind of got her head outside the water, per se. But I
8 think it's time that she needs to swim and really dwelve (sic)
9 into the issues. I was extremely surprised to see the short
10 amount of time and the fact that she hadn't gone back until
11 October, considering the enormity or the severity of the
12 injury to her child. And also the fact that the in depth
13 conversations that we had had knowing we were moving forward
14 to this and knowing that we really wanted to try to figure out
15 how to reunify that all of those months basically went empty
16 without any type of therapeutic session. So, respectfully,
17 with my experience in this field, I don't really call what she
18 went through was therapy. I think it was a therapeutic
19 session to open up issues and to take some definitions. But
20 somebody -- when somebody discloses to me as a supervisor the
21 type of past that she's had, the trauma that she's endured,
22 even the removal of children, the entire escapade that
23 happened with the move and the police and not getting in touch
24 with our department and the doctors and discrepancies -- I

1 mean, again, that's all trauma. And every time somebody is
2 traumatized, it's -- it's almost like they -- they regress,
3 they regress, they regress. It's like when a child is removed
4 after remove after removal, the affect is there. So my
5 concerns are, again, with what had happened. And I -- and
6 just within the last two years with our department, not to
7 mention her past relationships that she has disclosed to me
8 about the power and control, the self-esteem, the lowering of
9 self-esteem, the belittling and all those behaviors, I don't
10 call that therapy at all. I call that self disclosure. I
11 think our Department did an appropriate job in finding her a
12 therapist again. Michelle Jordan, who is my subordinate, let
13 the therapist know that it is a concern for us and continued
14 to be a concern. As you --

15 MS. SIMPKINS: Objection, hearsay.

16 THE WITNESS: So that was under --

17 MS. SIMPKINS: As to what Ms. Jordan told the therapist,
18 Your Honor.

19 MR. CORDES: Well, Ms. Jordan's going to be here to
20 testify, Your Honor.

21 THE COURT: Well, I didn't know that -- I didn't hear her
22 say what Ms. Jordan had told the therapist.

23 Did you say what the --

24 THE WITNESS: Under my direction -- I can rephrase that,

1 Your Honor. I instructed as the supervisor on this case for
2 Ms. Jordan to let the therapist know as part of our collateral
3 referral that domestic violence, not necessarily physical but
4 emotional, power and control, things of that nature, were
5 disclosed to us -- to me, as a supervisor, and to Ms. Jordan,
6 okay, so that we want to have them evaluated and looked at as
7 part of her treatment. So I can say what I have said and
8 instructed my staff to do.

9 THE COURT: Okay.

10 THE WITNESS: Thank you.

11 MR. CORDES: Thank you. I have no further questions for
12 this witness.

13 THE COURT: All right. Before your cross I've got a
14 question.

15 I think you indicated that Ms. Pharr, the first
16 therapist, had written a report --

17 THE WITNESS: That is correct.

18 THE COURT: -- that you had reviewed. And in going
19 through State's Exhibit 1 I found a one-page report attached
20 to the permanency and placement review dated 9/14/2011.

21 Jill?

22 (THE MARSHAL BRINGS THE DOCUMENT TO THE WITNESS STAND.)

23 I just ask you if this is the report or if there's
24 more that's not contained in the case plan that you received

1 from Ms. Pharr.

2 THE WITNESS: Thank you.

3 This is the report, Your Honor. It's the six core
4 issues that they have defined and -- I mean, identified and
5 defined.

6 THE COURT: All right. And you describe from reading
7 that report you described, in your opinion, that it didn't
8 address therapy so much as an educational process. Is that
9 right?

10 THE WITNESS: I believe it -- yes, that it was more like
11 an educational process.

12 THE COURT: All right. Okay.

13 THE WITNESS: Thank you.

14 THE COURT: Thank you.

15 THE WITNESS: Yep.

16 THE COURT: All right. Now, you may cross.

17 MS. SIMPKINS: Thank you, Your Honor.

18 **MICHELLE DOUGLAS**

19 testifies as follows on:

20 **CROSS EXAMINATION**

21 BY MS. SIMPKINS:

22 Q Ms. Douglas, you were supervisor -- you came on this
23 case in November of 2011. That was your testimony, correct?

24 A Correct.

1 Q Okay. So have you been a supervisor the whole time
2 with Department of Family Services?

3 A Yes.

4 Q Okay. And where were you prior to November of 2011?

5 A I was a supervisor for the emergency response team
6 for Child Protective Services here.

7 Q So anything that you testify to that took place
8 prior to November 2011 is based on your review of the file,
9 correct?

10 A That is correct.

11 Q Who was the supervisor before you?

12 A Um, Cheryl Cook.

13 Q And does -- to your knowledge does Ms. Cook still
14 work for the Department of Family Services?

15 A Yes, she does.

16 Q Now, Ms. Jordan has been the same caseworker
17 throughout the life of this case, hasn't she?

18 A That is correct.

19 Q And she is familiar with Mom?

20 A (No audible response.)

21 Q Yes?

22 A I believe so.

23 Q And she's familiar with the children?

24 A I believe so.

1 Q Mr. Cordes was asking you -- she was the caseworker
2 in December of 2010, correct?

3 A Correct.

4 Q And Mom was -- or actually gave birth at the time
5 with Keaundre, correct?

6 A Correct.

7 Q Okay. And she has that baby now?

8 A That is correct.

9 Q And was there ever any call made to a hotline out of
10 state from you or, to your knowledge, Ms. Jordan or anyone
11 else in the Department of Family Services?

12 A Um, I can only attest to Ms. Jordan and myself.

13 Q Okay. Did -- so you didn't make a call to a hotline
14 and neither did Ms. Jordan?

15 A No.

16 Q Now, has the case plan ever been changed since it
17 was first initiated back in March of 2011?

18 A I believe so.

19 Q Do you recall what was changed?

20 A No, I don't.

21 Q Do you know how many times it was changed?

22 A No, I don't.

23 Q Do you know if drug treatment was taken out?

24 A My understanding from the testimony today, yes.

1 Q So you don't know personally, just from what you
2 heard today?

3 A Um, from what I heard today.

4 Q Did you review the file prior to your testimony
5 today?

6 A I did refer -- review the file. However, um, drug
7 --

8 Q That's all I need to know.

9 A Okay.

10 Q Are you aware that Mom has housing?

11 A Yes.

12 Q And are you aware that even Mom has pretty much had
13 housing throughout the life of this case?

14 A Yes.

15 Q Okay. And you're aware also that Mom has kept in
16 contact with the Department of Family Services, correct?

17 A Yes.

18 Q Okay. And, in fact, you testified to several
19 conversations that you allegedly had with her, correct?

20 A Correct.

21 Q Specifically, one in May of 2012, right?

22 A Um-hmm (in the affirmative).

23 Q And when you have conversations with clients you're
24 supposed to note it in UNITY, aren't you?

1 A Um, yes.

2 Q Okay. Would it surprise you to learn that there's
3 no note of any conversation that you had with my client in May
4 of 2012?

5 A It would not.

6 Q Now, you spoke about on your testimony my client
7 supposedly told you about fear and power and control when
8 she's talking about Mr. Bynum and that she would have low
9 self-esteem and was belittled and not empowered.

10 A Yes, and --

11 MR. CORDES: Objection, Judge. I'm just going to object
12 to the way the question is phrased. Ms. Simpkins phrased it,
13 supposedly. That's not the testimony. The evidence before
14 The Court is this conversation took place.

15 MS. SIMPKINS: Your Honor, there's no case note of this
16 conversation and this is -- as you just --

17 THE COURT: Well there may not be a case note but there's
18 direct testimony --

19 MR. CORDES: Correct.

20 THE COURT: -- that the conversation took place.

21 BY MS. SIMPKINS:

22 Q When you testified that this conversation took
23 place, what therapy did you refer Mom to with regard to
24 domestic violence?

1 A I had her since we were looking at a very rural area
2 in which I am not familiar with that part of the United States
3 in terms of how rural it is, talked to Mom about let's try to
4 find someone somewhere that's very close to the house, that
5 has the credentials. So that if we reported to what you need,
6 and Mom you talk about what you need, then we'll be able to
7 cover the issues at hand. So that's how we had to go about it
8 based upon the fact that we didn't have a lot of choices.

9 Q Okay, Ms. Douglas, the question is what therapy did
10 you refer her to?

11 A I referred her to, um -- just lost my train of
12 thought as to the therapist's name, I'm sorry. The therapy --

13 THE COURT: Fortune.

14 THE WITNESS: Ms. Fortune, thank you. And I referred
15 here there to address issues of concern of past trauma,
16 domestic violence, abuse and neglect, what happened to her
17 child and what has happened over the past year with this case.
18 I also made the referral to say that she did, in fact, see a
19 therapist prior to coming into the Carolina, and that we
20 didn't want to rehash something like that. We wanted to take
21 it a step further.

22 BY MS. SIMPKINS:

23 Q So it's your testimony that --

24 A And a step further.

1 Q -- you're the one that sent the referral to Ms.
2 Fortune?

3 A No, I am not. I am the supervisor on the case, and
4 I staff my cases weekly if not daily at times with my
5 caseworkers. And it was very clear to the conversation that I
6 had with Ms. DeBerry what was going to happen. And I relayed
7 that information and the name of the counselor to my
8 subordinate, Michelle Jordan, to make an appropriate referral.

9 Q Did you see the referral before it went out?

10 A Um, I usually do not and I don't have to.

11 Q And this is the same Ms. Fortune that I believe you
12 testified earlier you found on your cell phone?

13 A That's correct.

14 Q Did you check out her credentials before you
15 referred?

16 A Um, what I did was I check --

17 Q Yes or no.

18 A -- did I check her credentials --

19 Q Did you check her credentials --

20 A -- meaning what?

21 Q You -- let me rephrase the question. You just
22 testified that one of the things you were looking for in a
23 rural area --

24 A Um-hmm (in the affirmative).

1 Q -- was someone with the credentials who could do
2 this. Your previous testimony was you found her on your cell
3 phone.

4 A Correct.

5 Q So did you check out her credentials before you sent
6 --

7 A I did not verify her credentials. No.

8 Q Now when you said -- (cough) excuse me -- you had a
9 meeting with my client and her attorney in August of 2012, I
10 believe I represented her in August of 2012. Was it me that
11 you were talking about meeting with you?

12 A No, it was prior to -- so I'm not sure of the date
13 before you came on board. Um, her prior attorney, um --

14 Q And that was Romeo Perez, correct?

15 A Romeo Perez, yes, asked to be taken off of this
16 case, and it was before then. And one of the reasons
17 developed that he wanted to be taken off this case --

18 Q Well I -- no, the question was it wasn't me, it was
19 Mr. Perez.

20 A No, it was not you.

21 Q Ms. Jordan, is it true that you won't give Keaundra
22 her children unless she is able to tell you what happened as
23 far as -- well, let me rephrase. You won't recommend
24 reunification until she is able to tell you what happened to

1 Christopher Sr. --

2 A No --

3 Q -- in a way that's consistent with The Court's
4 findings?

5 MR. CORDES: Objection, Your Honor, as phrased.

6 MS. SIMPKINS: I'm sorry?

7 THE COURT: What's the basis?

8 MR. CORDES: As phrased. Ms. Simpkins referred to
9 Christopher Sr. So she asked Ms. --

10 MS. SIMPKINS: I'm sorry, Christopher Jr., Your Honor,
11 I'm sorry.

12 THE WITNESS: And my name is Michelle Douglas, not
13 Michelle Jordan.

14 MS. SIMPKINS: I'm sorry.

15 THE WITNESS: Thank you.

16 BY MS. SIMPKINS:

17 Q Try this again. Ms. Douglas, isn't it true that the
18 Department will not recommend reunification of Christopher Jr.
19 or any other child with my client as long as she refuses to
20 tell or doesn't express to the Department what happened to
21 Christopher Jr. in a manner consistent with The Court's
22 findings?

23 A Not necessarily.

24 Q Really.

1 A It's what is consistent with the injury of the
2 child.

3 Q The case plan says isn't it true that it has to be
4 consistent with The Court's findings.

5 A Well The Court's findings is what the Department
6 believes is consistent with the injury of the child.

7 Q And The Court's findings were physical abuse.

8 A That is correct.

9 Q So until Mom can admit that she physically abused
10 these children -- or this child, Christopher Jr., the
11 Department will not recommend reunification?

12 A The Department will recommend reunification when the
13 Depart --

14 Q Yes or no.

15 A Can you rephrase that?

16 Q Isn't it true that until Mom admits that she
17 physically abused this -- Christopher Jr., the Department will
18 not recommend reunification?

19 A That's not true.

20 Q But that's what it says in the case plan. Does it
21 -- let me rephrase. Isn't it true in the case plan that
22 caregiver, meaning Mom, will be able to articulate in dialogue
23 with the specialist and the therapist the sequence of events
24 which resulted in physical abuse as sustained by The Court and

1 how he or she will be able to ensure that no future physical
2 abuse to Christopher Jr. occurs?

3 A That is different than the question you asked me.

4 Q Is that a correct reading of the requirement of her
5 case plan --

6 A That is --

7 Q -- that she be able to articulate with the
8 Department the sequence of events that resulted in physical
9 abuse as sustained by The Court?

10 A That is a -- that is correct.

11 Q Okay.

12 A That is not in the question you asked me.

13 Q Now the physical abuse that was sustained by The
14 Court indicates that Mom physically abused this child,
15 correct?

16 A That is correct.

17 Q Okay. So she, in order to complete this requirement
18 of her case plan, must be able to tell you the events and that
19 she physically abused this child because that's what was
20 sustained by The Court?

21 A Correct.

22 Q And until she does that, she will not have completed
23 the case plan in the Department's opinion?

24 A That's correct.

1 Q And until she's able to do that, the plan is going
2 to remain termination of parental rights?

3 A That is correct.

4 Q Now you also were talking about a family reunion.
5 Do you know when that family reunion was?

6 A It was, I believe, at the end of June, beginning of
7 July of 2012.

8 Q Okay.

9 A It was the last time she had a visit with her
10 children, that her mom drove them down to see her.

11 Q And Mom told you that Mr. Bynum was not at that
12 reunion?

13 A Mom meaning who?

14 Q Mom Keaundra.

15 A That is correct.

16 Q Other people indicated contrary to what Mom said?

17 A That is correct. Whether -- well, that he was in
18 North Carolina, not that he was in the reun -- at the reunion.
19 I don't know if he was at the party itself.

20 Q Um-hmm (in the affirmative).

21 A But I was told that he was present.

22 Q During that time? The time --

23 A That is correct.

24 Q Okay.

1 A Um-hmm (in the affirmative).

2 Q Were you aware that Mr. Bynum was actually arrested
3 and booked in the Bossier City Sheriff's Department on June
4 1st, 2012?

5 MR. CORDES: Objection, Your Honor.

6 MS. SIMPKINS: What's the objection?

7 MR. CORDES: Lack of foundation.

8 MS. SIMPKINS: I'm asking if she was aware.

9 THE COURT: She's asking if she's aware. Actually, I
10 guess it assumes facts not in evidence.

11 MR. CORDES: Facts not in evidence. Right.

12 BY MS. SIMPKINS:

13 Q Do you know when he was booked?

14 A No.

15 Q You never -- obviously, you never saw him there,
16 correct? You never went?

17 A That is correct.

18 Q How did you find out he was incarcerated -- or do
19 you know that he was incarcerated?

20 A The only thing -- incarceration that I know of is
21 his present incarceration. And that is because Ms. DeBerry
22 articulated to me over the telephone, and in person again,
23 that she received a call from the police department wanting to
24 find out where he was based upon knowledge that he was with

1 her and that they had a warrant to execute for his arrest at
2 the time.

3 Q So you never bothered to look on the Internet to
4 verify whether or not she was telling you the truth?

5 A No, I don't have to.

6 Q Okay. And he's the father, right?

7 A He is the father. Correct.

8 Q Okay. And if he wanted to come in and work a case
9 plan, he could do that as well, right?

10 A That is correct.

11 Q So isn't it important for you to know where he is if
12 he's in custody?

13 A Not necessarily.

14 Q Especially if you're terminating -- or you're moving
15 to terminate parental rights?

16 A Oh yeah, absolutely.

17 Q Okay.

18 A Absolutely.

19 Q But you have no independent knowledge of when he was
20 arrested?

21 A No. But that's not something I can't get. It's
22 very easy.

23 Q But you didn't bother to.

24 MR. CORDES: Objection. It's argumentative.

1 THE COURT: Sustained as to the, bother, phrase.

2 BY MS. SIMPKINS:

3 Q Ms. Douglas, didn't you have a meeting with my
4 client on July 12th, 2012 in person?

5 A Correct.

6 Q And at that point in time you discussed her case
7 plan completion and her relationship with her new therapist?

8 A Correct.

9 Q And at that point in time, Mom was able to discuss
10 aspects of her case and what she had learned, correct?

11 A Correct.

12 Q And didn't you note in her -- in your case note with
13 regard to this conversation that Ms. DeBerry was appropriate
14 and was able to articulate her wrongdoings as well as some
15 changes that she's making in her life?

16 A Correct.

17 (BRIEF PAUSE.)

18 MS. SIMPKINS: Court's indulgence. I'm sorry, Judge.

19 BY MS. SIMPKINS:

20 Q When was Ms. Jordan on leave?

21 A Uh, I'm going to say from March -- March of 2012 to
22 June of 2012 into July.

23 Q Of 2012?

24 A No. You know what, I -- I don't know -- remember

1 exactly the dates. But there was a five month period in 2012
2 that she was on medical leave. Yes.

3 Q Were there any court reports during that time
4 submitted to The Court?

5 A I don't recall.

6 Q I'm sorry. When -- do you recall when it started?
7 You said there was a five month period approximately.

8 A You know what I don't recall based upon -- she went
9 out on non-consecutive leave and then consecutive leave. So
10 it's hard to -- for me to remember the exact date right now.

11 Q If a court report of March 22nd or -- sorry March
12 2012 was filed March 7th, 2012 indicated that Ms. Jordan was
13 on leave, would that be pretty much consistent with what you
14 recall?

15 A That's correct.

16 Q Okay. Did you sign as supervisor her report? Or --

17 A That's correct.

18 Q Okay. So if it said Cheryl Cooke obviously that was
19 an incorrect -- you signed it, it wasn't Cheryl?

20 A I would never sign another supervisor's name without
21 putting my initials --

22 Q Well --

23 A -- next to it.

24 Q No, I'm not saying --

1 May I approach the witness, Your Honor?

2 THE COURT: You may. What's the date of the report?

3 MS. SIMPKINS: The date of the report is March 7th. The
4 file date is March 7, 2012.

5 (MS. SIMPKINS APPROACHES THE WITNESS STAND.)

6 BY MS. SIMPKINS:

7 Q My confusion, Ms. Jordan, is -- Ms. Douglas, I'm
8 sorry --

9 THE COURT: (Chuckle.)

10 THE WITNESS: (Chuckle.)

11 THE COURT: Further illustration of your confusion
12 (chuckle).

13 MS. SIMPKINS: -- is massive (laughing).

14 THE WITNESS: That's a hard name there.

15 BY MS. SIMPKINS:

16 Q Is that your signature or is that Ms. Cooke's
17 signature?

18 A No, that is my signature.

19 Q Okay.

20 A And this just -- yes, that's my signature.

21 Q That's not Ms. Cooke's?

22 A It says Ms. Cooke underneath because UNITY did not
23 populate a new -- a new supervisor's name. But that is my
24 signature.

1 Q Okay.

2 (MS. SIMPKINS RETURNS TO HER TABLE.)

3 Yeah, I thought Cheryl's signature's a little --

4 A Yeah, that's mine.

5 Q -- more legible. No offense.

6 A Um-hmm (in the affirmative).

7 Q Okay.

8 THE COURT: That's your signature (chuckle)?

9 MS. SIMPKINS: Now --

10 THE WITNESS: I'll work on it, Your Honor (chuckle).

11 BY MS. SIMPKINS:

12 Q Termination of parental rights was the primary
13 permanency goal in March of 2012, correct?

14 A Correct.

15 Q When did it change -- when did the primary
16 permanency goal change from reunification to termination of
17 parental rights?

18 A On that date, correct?

19 Q I don't know. That's why I'm asking you.

20 A May I look at the report?

21 MS. SIMPKINS: May I approach the witness, Your Honor?

22 BY MS. SIMPKINS:

23 Q Do you recall when it was changed? I have to do
24 this the right way.

1 A I don't -- I don't recall dates.

2 Q Would it refresh your recollection to look at the
3 report?

4 A It would -- it would help.

5 MS. SIMPKINS: Okay. May I approach?

6 THE COURT: You may.

7 (MS. SIMPKINS APPROACHES THE WITNESS.)

8 THE WITNESS: Thank you.

9 MS. SIMPKINS: Uh-huh (in the affirmative). Let me know
10 when you're done reading.

11 THE WITNESS: Okay.

12 THE COURT: Second to the last page.

13 THE WITNESS: Okay. It's on page 3, Your Honor, with the
14 permanency goal and projected date of achievement. It was
15 changed then termination of parental rights and adoption by a
16 relative. And then you were saying the second to last page
17 which would be the summary.

18 THE COURT: Right. Unless I'm not reading it correctly.

19 THE WITNESS: Yes, if you look at what I wrote on page --
20 I apologize -- 6 in the summary and recommendations, there's a
21 goal for the next review period which is a TPR with adoption
22 by maternal grandparents. And the recommendations of this
23 Department at the time of moving forward with TPR in achieving
24 permanency for the children.

1 BY MS. SIMPKINS:

2 Q Ms. Jordan -- (sigh).

3 A Just call me Ms. Jordan at this point.

4 MR. CORDES: (Chuckle.)

5 MS. SIMPKINS: I'm sorry.

6 THE WITNESS: It's all right. It's a long day.

7 MS. SIMPKINS: I am really sorry, I apologize. Ms.

8 Douglas. I'm going to --

9 THE COURT: The record's going to reflect that any
10 reference to North Carolina is actually South Carolina.

11 MR. CORDES: Thank you.

12 MS. SIMPKINS: (Laughing.)

13 THE WITNESS: Yeah.

14 THE COURT: And any reference to Ms. Jordan's actually to
15 this witness.

16 MR. CORDES: Thank you, Your Honor.

17 BY MS. SIMPKINS:

18 Q In re-reviewing these documents very briefly, would
19 it be fair -- are you sure that that is the first
20 recommendation to change the permanency plan or could it have
21 been done before?

22 A Your Honor, it could be -- it could be done before.

23 Q Okay.

24 A However --

1 Q Let me show -- however what?

2 A I'm sorry. The removal date is 5/21 in 2010.

3 Q Um-hmm (in the affirmative).

4 A And so in normal situations I look at a case at a
5 seven-month mark, a ten-month mark and a twelve-month mark
6 depending upon what the actual progress in the case plan are
7 doing. I have at times approached The Court on certain cases
8 and asked for Your Honor to approve a change in the goal based
9 upon the circumstances of the case at an earlier date. I have
10 done it as early as six months based upon abandonment and some
11 other factors. I have asked The Court at seven months. I had
12 asked The Court at ten months, and I've asked The Court at
13 twelve months depending upon the case. And I've reversed that
14 as well. I work a concurrent plan from the beginning.

15 Q Is it true that the concurrent plan as of April --
16 well, when -- let me back up. When did you say that Ms.
17 DeBerry got her case plan?

18 A I didn't say that.

19 Q Okay.

20 A I don't remember.

21 Q Do you recall when Ms. DeBerry got her initial case
22 plan?

23 A Her initial case plan should have been developed
24 within forty-five days of the plea.

1 Q Okay. When was the case plan filed with The Court?

2 A I was not the supervisor on the case at that time.

3 Q Would March 2011 sound about right?

4 A Um, depending upon how many evidentiary hearings and
5 the way The Court may have been structured, the -- at that
6 point, it should have been earlier. But, again, at times when
7 you have different structures in the case it really depends
8 upon what happened. So if I may just read sort of the report
9 dates here and look at the petition date to see when, in fact,
10 they pled.

11 Q It wasn't a plea.

12 MR. CORDES: It was a trial.

13 THE WITNESS: I'm sorry.

14 Pardon me?

15 MR. CORDES: Nothing, sorry.

16 THE WITNESS: Okay. I'm sorry.

17 THE COURT: If I may, I'm going to jump in to try to
18 expedite this.

19 The disposition report dated February 22nd, 2011 --

20 THE WITNESS: Um-hmm (in the affirmative).

21 THE COURT: -- has a case plan attached to it.

22 THE WITNESS: Um-hmm (in the affirmative).

23 THE COURT: And it's the only case plan I've found.

24 THE WITNESS: Okay. That would be the original case

1 plan.

2 BY MS. SIMPKINS:

3 Q Okay. So February 2011. And then by April of 2011,
4 are you aware that the -- in your review of the file prior to
5 your testimony today that there was added a concurrent
6 permanency goal of termination of parental rights?

7 A I was not the supervisor at that time. But, yes, I
8 can see that being put in a court report.

9 Q And that by September of 2011 the goal -- the
10 primary permanency goal became termination of parental rights?

11 A Correct.

12 MS. SIMPKINS: Okay. May I approach the witness to
13 retrieve my...

14 THE COURT: Yeah, you can approach. But what was the
15 last question?

16 MS. SIMPKINS: That by September 2011 -- September 14th,
17 2011 the primary permanency goal became termination of
18 parental rights.

19 THE COURT: Well...

20 MS. SIMPKINS: And she said that sounds about right, I
21 think, is what you said.

22 THE WITNESS: Um-hmm (in the affirmative). That it could
23 have -- it could be that.

24 THE COURT: And that -- Counsel, that's reflected where

1 on the report?

2 MS. SIMPKINS: It's reflected in the report of September
3 14th two --

4 THE COURT: Yeah, I'm looking at it.

5 MS. SIMPKINS: Okay.

6 THE COURT: And it shows -- on page 3 it shows permanency
7 goal and projected date of achievement as --

8 MS. SIMPKINS: It's on page 3 of the report, Your Honor,
9 term --

10 THE COURT: Termination of parental rights.

11 MS. SIMPKINS: Yeah. That's the primary permanency goal.
12 That's when it became the primary.

13 THE COURT: And there's a concurrent permanency goal --

14 MS. SIMPKINS: Concurrent goal --

15 THE COURT: -- of reunification.

16 MS. SIMPKINS: -- reunification.

17 THE WITNESS: Um-hmm (in the affirmative).

18 MS. SIMPKINS: Yes.

19 THE COURT: Okay.

20 MS. SIMPKINS: The prior report the perm -- primary
21 permanency goal was still reunification.

22 THE COURT: I see. All right.

23 MS. SIMPKINS: And then -- okay.

24 THE COURT: I'm not as intimately familiar with these

1 reports as you are.

2 MS. SIMPKINS: Sorry, Judge.

3 BY MS. SIMPKINS:

4 Q Now, in March -- let me -- back to the March of 2012
5 report you maintained that the primary permanency goal would
6 remain termination of parental rights even though you noted
7 that Mom actively participated in physical abuse counseling,
8 correct?

9 A Correct. And that is because as a concurrent plan.

10 Q Just yes or no would be just fine.

11 A Okay.

12 Q And even though the counselor indicated that Mom
13 displayed an understanding of the concept of physical abuse
14 and a greater insight into the effects of physical abuse and
15 mental abuse, correct?

16 A Correct.

17 Q And you still maintain TPR was the goal even though
18 the report notes that another doctor examined the child and
19 found that there was no evidence of abuse?

20 A Correct.

21 Q And you also note in that report that Mom completed
22 her case plan?

23 A I did not.

24 Q You didn't note in the report that Ms. DeBerry has

1 completed her case plan and has the knowledge and tools to
2 effectively parent her children?

3 A Well, obviously, you're reading it to me so I may
4 have.

5 THE COURT: What report --

6 BY MS. SIMPKINS:

7 Q Would it refresh your recollection to look at it?

8 A I would like to see it, yes, so I can explain,
9 please.

10 THE COURT: What's the date of the report, Counsel?

11 MS. SIMPKINS: The date of the report is -- it's file
12 date is March 7th, 2012. I'm looking on the last -- well,
13 it's the next to the last page. There's a blank page attached
14 to the back, about line 7, Your Honor.

15 THE COURT: All right.

16 (MS. SIMPKINS APPROACHES THE WITNESS AND HANDS HER A
17 DOCUMENT.)

18 THE WITNESS: Thank you.

19 MS. SIMPKINS: Just let me know when you're finished
20 reading it, Ms. Douglas. Got it right that time.

21 BY MS. SIMPKINS:

22 Q Is that what you indicated in the report?

23 A Yes, but I explained my --

24 Q Well, no -- you indicated that Mom had completed her

1 case plan in the report. Yes or no.

2 A Yes.

3 Q Okay.

4 (MS. SIMPKINS RETRIEVES DOCUMENT FROM THE WITNESS.)

5 You also went on to say that Ms. DeBerry's actual
6 comprehension of her role in this act of physical abuse versus
7 her child just having an injury due to him not being
8 supervised, it was difficult for you to ascertain -- let me
9 back up. You went on to say, "conversely, it is difficult for
10 DFS to ascertain the information detailing Ms. DeBerry's
11 actual comprehension of her role in this act of physical abuse
12 versus her child just having an injury due to him not being
13 supervised." Correct?

14 A That is correct.

15 Q Okay. Based on that alone you were still
16 recommending termination of parental rights, correct?

17 A Correct.

18 Q Now, if there was a report in March and we usually
19 have review hearings every six months --

20 A Um-hmm (in the affirmative).

21 Q -- why is there a report filed in April?

22 A There may have been a status check.

23 Q Do you recall what that status check was for?

24 A No, I don't.

1 Q Did you draft the April report or what -- do you
2 know if Ms. Jordan was still on leave at the time?

3 A I don't recall. Obviously, I would need to see the
4 report.

5 MS. SIMPKINS: May I approach the witness, Your Honor?

6 BY MS. SIMPKINS:

7 Q Would it refresh your recollection to look at the
8 report?

9 A Yes, it would.

10 THE COURT: You may.

11 (MS. SIMPKINS APPROACHES THE WITNESS AND HANDS HER A
12 DOCUMENT.)

13 THE WITNESS: Thank you. Yes, I drafted this report.

14 BY MS. SIMPKINS:

15 Q Okay. Thank you.

16 A Yep.

17 Q Now, you indicate in that report that Dad was living
18 with Mom, right?

19 A That is what I was told.

20 Q And that was a concern for the Department because
21 Dad was the one that the Department believed held the iron to
22 the baby's face?

23 A Incorrect.

24 Q So when Ms. Mossman previously testified that she

1 believed the dad was the one that held the iron to the baby's
2 face, that's not your theory of the case? Is that what you're
3 saying?

4 A That's Ms. Mossman's theory.

5 Q Okay. Isn't it true that the Department's theory is
6 that Dad was the one responsible for the injury to the child?

7 A That is what was Ms. Mossman testified.

8 Q I'm asking what the Department -- isn't it true that
9 the Department's theory of the case was that Dad was the one
10 that injured the child?

11 MR. CORDES: Objection. Just as to lack of foundation as
12 to when the theory was formulated or if it's still the theory.

13 BY MS. SIMPKINS:

14 Q Is that still the theory today, Ms. Douglas?

15 A I think it's one of them. But I don't like to
16 categorize in theories.

17 Q So is it your testimony today that the Department
18 now believes that Mom was the one that physically abused the
19 child?

20 A The Department believes that we do not know who
21 physically abused the child, but that only one or two parents
22 were with the child at the time of his abuse.

23 Q And there's also another child present, right?

24 A That's correct.

1 Q And there's been no evidence that the Department has
2 been able to dig up in any of the interviews with any of the
3 people involved that indicates that Mom was present in the
4 room when the child was injured?

5 A Can you say that -- repeat that?

6 Q Was there any indication that Mom was present in the
7 room when the child was injured?

8 MR. CORDES: Judge, I'm just going to object as to vague
9 and ambiguous based upon the mother's prior testimony as to
10 the description of the room. She described, if you'll recall,
11 the room set up.

12 THE COURT: Right.

13 MR. CORDES: And so I just think that --

14 THE COURT: Whether or not the bathroom is a --

15 MR. CORDES: Correct.

16 THE COURT: -- separate room.

17 MR. CORDES: Correct. So I'm just going to lodge that
18 objection.

19 THE COURT: All right. Well if you can answer the -- the
20 objection's noted, if you can answer the question. So if you
21 can't answer the question, then just tell us what you think or
22 what you can answer.

23 Can you rephrase your question?

24 THE WITNESS: Yeah.

1 BY MS. SIMPKINS:

2 Q Was there any indication that Mom was present in --
3 in deference to Mr. Cordes -- in the area in...

4 A I can answer it now.

5 Q Is there any indication that Mom saw the injury take
6 place to Christopher Jr.?

7 A (No audible response.)

8 Q Anyone --

9 A She could have based upon her testimony today and
10 her description of the room.

11 Q Really? I didn't hear her say anything about line
12 of sight.

13 A She's --

14 MR. CORDES: Objection, Your Honor, argumentative as
15 phrased.

16 THE WITNESS: She --

17 THE COURT: Sustained.

18 THE WITNESS: I'm sorry.

19 MR. CORDES: You don't have to answer it as phrased.

20 THE WITNESS: Okay.

21 BY MS. SIMPKINS:

22 Q Did she have line of sight?

23 A According to her testimony today, yes.

24 Q Well -- I thought her testimony was she was in the

1 bathroom, the child was in the bedroom. It was the same area,
2 correct? Correct me if I'm wrong.

3 A She's testified that it was a master suite.

4 Q Yes.

5 A That there's no door.

6 Q I don't recall her saying that.

7 A That it was a doorway.

8 Q Um-hmm (in the affirmative).

9 A To the bathroom. And that it was open. So the
10 answer is, yes, she could have been in line of sight of her
11 children.

12 Q Hmm. What if the -- what if the doorway was -- I
13 don't know what it -- perpendicular to the master bedroom?
14 What she around --

15 A That's not how she des --

16 Q Is it possible --

17 A -- cribed it.

18 Q Are you familiar with the layout of that bedroom?
19 Have you ever seen it before?

20 A I've never been in it.

21 Q Okay. Thank you. So other than she could have
22 possibly seen it, according to her testimony today, do you
23 have any other testimony or any other evidence or any other
24 witnesses that indicate that Mom saw the injury to the child?

1 A No.

2 THE COURT: Well, hold on.

3 THE WITNESS: Oh, I'm sorry.

4 THE COURT: It's kind of a compound question. First, are
5 there any other witnesses?

6 BY MS. SIMPKINS:

7 Q Any other witnesses?

8 A (No audible response.)

9 Q Were there any witnesses to this injury to the
10 child?

11 MR. CORDES: Judge, I'm just going to object as phrased
12 because there are witnesses to the injury itself that we've
13 already heard about. Now, how it was caused I think is what
14 Ms. Simpkins is asking.

15 MS. SIMPKINS: Well, Your Honor --

16 MR. CORDES: So...

17 MS. SIMPKINS: -- I'm trying to get into this because she
18 had indicated that they weren't sure who caused the injury.
19 But I'm trying to establish that the Department has no
20 indication that Mom was the one that caused the injury despite
21 the findings of the hearing master.

22 MR. CORDES: I -- Judge, I still have the objection. I
23 don't think Ms. --

24 THE COURT: I'm not sure, quite frankly, what the

1 relevance is. There was a finding that the mom caused the
2 injuries. What the Department thinks at this point is, quite
3 frankly, I think irrelevant. Now you can convince me
4 otherwise.

5 MS. SIMPKINS: Well I don't think it's irrelevant, Your
6 Honor.

7 THE COURT: Well, I mean, from what I -- what I read of
8 the recommendation was that Mom testified there was no other
9 adult present. The medical examiner testified that it was a
10 intentional injury.

11 MS. SIMPKINS: Um-hmm (in the affirmative).

12 THE COURT: By definition, that is evidence that Mom
13 inflicted the injury.

14 (PAUSE.)

15 BY MS. SIMPKINS:

16 Q Did -- when I was talking about your concerns with
17 regard to Dad and you indicated in your April 2012 report that
18 Mom was living with Dad, did you ever send anyone out to the
19 home to check this out?

20 A I didn't have to.

21 Q Is that a no?

22 A Well, I was informed by her mother. So it had
23 already been done.

24 Q The mother who lives out of state?

1 A Her mother was actually visiting and visited during
2 that time where she reported her concerns to me on more than
3 one occasion that he had been living in the home. So she had
4 come down for the reunion and gave me my information.

5 Q But the reunion was in June or July of 2012.

6 A Correct.

7 Q Okay. This was the April report of 2012.

8 A Okay.

9 Q Okay. The reunion would have been after you drafted
10 the report.

11 A That is correct.

12 Q Okay.

13 A Yeah, so I -- all my information came from Bonita.

14 Q Who said that he was at the reunion.

15 A That he lived with Ms. DeBerry, that she had
16 concerns that he is around there, that she was so upset at one
17 point that she wanted to have her uncles come in to the home
18 and remove him from there.

19 (BRIEF PAUSE.)

20 And that she was also very --

21 Q There's no question.

22 A I'm sorry.

23 Q You never told Mom not to have Mr. Bynum around did
24 you?

1 A I'm sorry. I didn't know you were --

2 Q You never told Mom not to have Mr. Bynum around did
3 you?

4 A I may have.

5 Q Now, at the time you filed the April 2012 report,
6 when was the last time you had contact with Dad?

7 A With Mr. Bynum, Sr.?

8 Q Uh-huh (in the affirmative). Senior.

9 A I didn't have contact with Mr. Bynum, Sr.

10 Q Do you know when if Ms. Jordan ever had contact with
11 Mr. Bynum?

12 A It was reported to me. Yes.

13 Q Okay. When was the last contact she had with him?

14 A I don't recall the date.

15 Q Would it been before the April 2012 report?

16 A I don't recall.

17 Q Now we talked about Dad being currently
18 incarcerated. You're aware of that, aren't you?

19 A Yes.

20 Q Okay. Do you know how long his sentence is?

21 A I don't.

22 Q Do you know what he's incarcerated for?

23 A I don't.

24 Q And I think we've previously established you don't

1 know when he became incarcerated?

2 A In his current prison term, no.

3 Q Now you also noted in your April 2012 report that
4 Mom calls the children about three or four times a day since
5 she relocated to South Carolina, correct?

6 A That was reported to me.

7 Q And you also reported that Mom had housing; she had
8 a home left to her by her father, right?

9 A Correct.

10 Q Okay. And that she had completed parenting classes,
11 right?

12 A Correct.

13 Q And you also attached, I believe, a copy of the
14 contemporary quality care assessment, right?

15 A Correct.

16 Q And it covered six core issues, right?

17 A That's correct.

18 Q Okay. And Mom was the one that found this treatment
19 provider?

20 A I believe so.

21 Q And as to these six core issues, how did the
22 treatment provider -- were those something that the treatment
23 provider covered themselves or was that information given to
24 them?

1 MR. CORDES: I'm going to object, Your Honor. Call for
2 speculation.

3 MS. SIMPKINS: Well, did the --

4 THE COURT: Just rephrase.

5 MS. SIMPKINS: I'll rephrase, Your Honor.

6 BY MS. SIMPKINS:

7 Q Did Ms. Jordan contact, to your knowledge, Red Rock
8 Psychological Services with regard to the subjects that they
9 cover in their physical abuse classes so that she could relay
10 them to the therapist in Louisiana?

11 A I don't recall but that is something that we would
12 do to provide assistance with an appropriate referral for a
13 client.

14 Q And you were -- your testimony, correct me if I'm
15 wrong, was that you were dissatisfied with the treatment
16 because you don't think that it covered enough in depth?

17 A Right. I think that it was more like an assessment,
18 that it defined those core issues, but did not personalize
19 those issues. And when you're in therapy you need to
20 personalize issues in order to get at the root of stuff in
21 order to make like sufficient progress to overcome and make
22 lifestyle changes and fulfill an obligation to The Court in a
23 case plan.

24 Q And so when Mom found out that the Department was

1 dissatisfied with that treatment, she was cooperative in going
2 to Ms. Fortune as well, wasn't she?

3 A At the -- I believe the conversation had been
4 previously given to her, um, by Ms. Jordan. When I spoke with
5 her and could finally get into a conversation with her, she
6 was a hundred percent cooperative. And, again, we talked
7 about finding a therapist that's appropriate for her where she
8 feels comfortable taking those core issues and attaching some
9 personal -- personalizing it so that she can, in fact, work a
10 case plan and attend therapy. So, yeah.

11 Q So Mom was willing to go into therapy --

12 A Sure.

13 Q -- with Ms. Fortune?

14 A Absolutely. Yes.

15 Q Now, on your direct examination with Mr. Cordes you
16 mentioned a current criminal case. What were you talking
17 about?

18 A Current criminal case -- for Mr. Bynum?

19 Q I don't know.

20 A Mr. Bynum.

21 Q Okay. And that's the one -- were you referring to
22 what he's in prison for now?

23 A Correct.

24 Q Was there a criminal case as to Mom with regard to

1 this issue?

2 A I believe so.

3 Q And do you know what happened on that?

4 A I do not.

5 Q To your knowledge, was Mom ever arrested?

6 A No.

7 Q Were you ever called to testify at a preliminary
8 hearing?

9 A No.

10 Q Now your testimony earlier when you were talking
11 about therapy, you indicated -- and I'm paraphrasing -- that
12 when you cover up issues there's no way you can move forward
13 in your therapy.

14 A Correct.

15 Q Okay. That's your personal opinion, correct?

16 A It's a professional opinion as well.

17 Q Are you a licensed counselor?

18 A I am not a licensed counselor. However --

19 Q That's all I need to know.

20 A Okay.

21 MR. CORDES: Objection, Your Honor. She should be
22 allowed to finish the answer.

23 THE COURT: You can inquire on redirect.

24 MS. SIMPKINS: The an -- the question was is she a

1 licensed counselor, yes or no. Done.

2 THE COURT: You can elaborate on redirect if you wish,
3 Mr. Cordes.

4 MR. CORDES: Thank you.

5 BY MS. SIMPKINS:

6 Q And it's your indication today that the therapy that
7 Mom went through with Ms. Fortune wasn't sufficient?

8 A I don't call it therapy.

9 Q But did you ever -- do you ever speak to Ms. Fortune
10 about your concerns?

11 A I just heard her testimony today.

12 Q So that's a no?

13 A Correct.

14 Q You actually relied on Ms. Jordan to speak to Ms.
15 Fortune?

16 A That's correct.

17 MS. SIMPKINS: I have no further questions, Your Honor.

18 THE COURT: Mr. Cordes?

19 MR. CORDES: Thank you.

20 **MICHELLE DOUGLAS**

21 testifies as follows on:

22 **REDIRECT EXAMINATION**

23 BY MR. CORDES:

24 Q All right. So the report that you filed April of

1 2012 relative to Mr. Bynum, Sr. living with Ms. DeBerry was
2 based upon information received from the family?

3 A That is correct.

4 Q All right. And then did you continue to receive
5 reports from the family regarding any concerns that they had?

6 A Um, correct.

7 MS. SIMPKINS: Your Honor --

8 I'm sorry to interrupt you, Mr. Cordes.

9 I believe I may have a witness sitting in the
10 hallway. I don't think we're going to get to her today. Is
11 it -- could I check the hallway, please?

12 THE COURT: Yeah, you -- yeah, go ahead.

13 MS. SIMPKINS: Thank you.

14 THE COURT: Just hold it for a minute, Mr. Cordes.

15 MR. CORDES: I will, Your Honor, as I flip through my
16 notes.

17 THE COURT: You can get your questions in order.

18 (WHEREUPON, THE MATTER WAS TRAILED AT 16:30:06 AND RECALLED AT
19 16:30:53.)

20 ... your witness to return to the next hearing?

21 MS. SIMPKINS: I'll re-subpoena her.

22 THE COURT: All right.

23 MS. SIMPKINS: That shouldn't be a problem.

24 THE COURT: Okay.

1 MS. SIMPKINS: We don't have a new date yet anyway.

2 MR. CORDES: All right. So --

3 THE COURT: I do.

4 MS. SIMPKINS: Oh, you do (chuckle).

5 MR. CORDES: (Chuckle.)

6 BY MR. CORDES:

7 Q Ms. Douglas, Ms. Simpkins was asking you some
8 questions about the March 2012 report and a reference within
9 there that you indicate Mom had completed her case plan.

10 A Correct.

11 Q Okay. And when you wrote the report in March of
12 2012 referencing her completion of the case plan, why was it
13 phrased in that manner?

14 A Um, it was phrased in that manner because you can
15 actually complete a case plan. You can go through the steps,
16 you can attend different classes, you can attend therapeutic
17 sessions, assessments, evaluations. However, if you cannot
18 model or report behavior change, then, in fact, completing a
19 case plan doesn't mean you learn anything from it. And the
20 Department looks for behavior change. We look for improved
21 skills. We look for a maturity on behalf on the parents which
22 is usually a very different circumstance from the day that
23 they come in to enter a plea when their children are just
24 removed or even at the scene when an investigator goes out and

1 confronts them to when we start to work with them and motivate
2 them to reunify. Um, I did put that in there. However, the
3 next sentence was, conversely, this is what I needed to see in
4 order to make a different type of determination.

5 Q Okay. And following the report being filed with the
6 Juvenile Court in March of 2012 --

7 A Um-hmm (in the affirmative).

8 Q -- did The Court continue the permanency plan for
9 these two children as termination of parental rights and
10 adoption?

11 A Yes, they did.

12 Q Now the petition seeking to terminate the parental
13 rights in this matter was filed back in March of -- excuse me,
14 May 24th of 2011. Were you aware of that?

15 A I was not the supervisor on the case at the time.
16 Yes, I was aware from a review.

17 Q Okay. And so since May 24, 2011 up and through
18 today's date, is the position of the Department of Family
19 Services that termination of parental rights and adoption is
20 the permanency plan for these children?

21 A Correct.

22 Q Given everything you know about the mother's
23 circumstances, the historical information she provided to you
24 as well as the counseling services and the children's

1 placement, do you believe that termination of parental rights
2 would be in these children's best interest?

3 A Yes.

4 MR. CORDES: Thank you. No further questions.

5 **MICHELLE DOUGLAS**

6 testifies as follows on:

7 **RECROSS EXAMINATION**

8 BY MS. SIMPKINS:

9 Q You don't think the children should remain together?

10 MR. CORDES: Objection, Your Honor.

11 BY MS. SIMPKINS:

12 Q You don't think it's in the children's best interest
13 to remain together?

14 MR. CORDES: Objection, Your Honor.

15 MS. SIMPKINS: What's the objection?

16 THE COURT: Well --

17 MR. CORDES: As phrased. The children are the two
18 children in this case. And the two children in this case, by
19 testimony and evidence, are together. So --

20 MS. SIMPKINS: There's a sibling, Your Honor.

21 MR. CORDES: Unless it's phrased differently --

22 MS. SIMPKINS: There's been evidence that there's a
23 sibling.

24 THE COURT: Well, no, I don't understand why you're

1 asking the question, you don't think they should be together.

2 MS. SIMPKINS: She -- I'm --

3 THE COURT: There's been no indication they're not going
4 to be together.

5 MS. SIMPKINS: Well no there's one child -- there's --
6 there are three children, Your Honor. My client has one.

7 THE COURT: We --

8 MS. SIMPKINS: I'm talking about the two siblings and the
9 one with Mom.

10 THE COURT: Okay. Well then just clarify your question.

11 MS. SIMPKINS: Okay.

12 BY MS. SIMPKINS:

13 Q You don't think it's in the best interest of the
14 siblings to be together, the sibling with Mom and the two
15 siblings with Grandma?

16 A It is not in the best interest of Aamiyah and
17 Christopher Jr. to be reunified with their mother. It is in
18 the best interest for all three siblings to have visitation,
19 and they will be based upon the current appropriate placement of
20 them being with her maternal -- with their maternal
21 grandmother.

22 Q And -- but you have no concerns with Mom with regard
23 to this new baby?

24 A This baby is placed in another state. I have no

1 jurisdiction over this child in another state. I have not
2 read any reports from another state. But I can't give an
3 opinion based upon the fact that I have no jurisdiction over
4 this child at all.

5 Q You're a mandatory reporter are you not?

6 A However --

7 Q Is that yes or no?

8 A I'm a mandatory reporter. Correct.

9 Q Okay. And you have as a professional worker with
10 the Department of Family Services and there's an open case if
11 you have those concerns --

12 A Um-hmm (in the affirmative).

13 Q -- are you not required to report them to the
14 hotline in that state under the mandatory reporter law?

15 A I am.

16 Q Okay. And you didn't do so in this case, did you?

17 A No, I did not.

18 Q Okay. Now, when you talked about Mom's case plan
19 and basically checking off boxes rather than modeling a
20 behavior change --

21 A Correct.

22 Q -- I believe is how you put it, really what you
23 needed to see was an admission from Mom that she burned this
24 child, right?

1 A I needed to see a comprehension of Mom of -- or an
2 admission of what was going on in her life that may have led
3 to her doing this.

4 Q And --

5 A I did not see that.

6 Q When you say you wanted to see Mom model a behavior
7 change, you've never observed Mom with the current child, have
8 you?

9 A No, I have not.

10 Q And when you say you wanted to see a behavior
11 change, you were here and present when Ms. Fortune was
12 testifying about how Mom came in to her office and how Mom was
13 now, right? You heard that?

14 A That is correct.

15 Q Okay. And so as you sit here today you have no
16 indication of Mom's skills in raising a child, specifically
17 the child she has, right?

18 A I have an indication that Mom has not reached the
19 maturity level to openly and effectively communicate honest
20 behaviors in her life and situations in her life that have
21 compromised her ability to parent Christopher and keep him
22 safe appropriately.

23 Q So you have no knowledge of Mom's skills in
24 parenting as they stand today, especially since she has a

1 child in her care?

2 MR. CORDES: Objection, Your Honor. Been asked and
3 answered.

4 MS. SIMPKINS: And it was -- and I would move to strike
5 that answer because it was not -- not responsive.

6 THE COURT: Actually, the objection is sustained. The
7 motion to strike is overruled.

8 BY MS. SIMPKINS:

9 Q You said you wanted to see improved skills, right?

10 A Um-hmm (in the affirmative).

11 Q As far as Mom is concerned, correct?

12 A Correct.

13 Q But you have never had the opportunity to observe
14 her parenting skills as they stand today, have you?

15 A No, I have not.

16 MS. SIMPKINS: No further questions.

17 MR. CORDES: Nothing further.

18 THE COURT: Nothing further?

19 All right. You're not free to go, but you may step
20 down.

21 MR. CORDES: (Chuckle.)

22 MS. DOUGLAS: Thank you.

23 MR. CORDES: And with that, Judge, The State would rest.

24 MS. SIMPKINS: And, Your Honor, I'm sure you -- I just

1 let my witness go. We're not going to get to her today
2 obviously. It's -- Michelle Jordan's my last witness.

3 THE COURT: Yeah. Well, no, it's four twenty-five.

4 Okay. I previously indicated that I correctly
5 assumed we would not complete the case today. The -- other
6 than the Wednesday before Thanksgiving my calendar is packed
7 every other day of the week with trials or hearings until
8 December the 14th. That is a Friday.

9 MR. CORDES: Judge, State is available. Thank you.

10 MS. SIMPKINS: I am usually available unless I have
11 another TPR. Hold on.

12 (MS. SIMPKINS LOOKS FOR PAPERS IN HER BOX.)

13 Mr. Cordes, I won't let you get away from me at all.

14 Looks good. December 14th.

15 THE COURT: Nine a.m.

16 MS. SIMPKINS: Nine a.m.

17 MR. CORDES: Thank you, Your Honor.

18 MS. SIMPKINS: Thank you, Your Honor.

19 MR. CORDES: Appreciate your time and consideration.

20 THE COURT: All right, thank you. And as previously
21 indicated -- now I don't know how you're going to do this.

22 MS. SIMPKINS: Oh, I'm sorry. Ms. Molinar has a
23 contested hearing that day. Can we get another day?

24 THE COURT: Not until next year.

1 MS. MOLINAR: Well I can reschedule if Jason's willing
2 to.

3 THE COURT: Yeah, I think you need to reschedule the
4 contested hearing.

5 MS. MOLINAR: If you can tell Jason to do it; that's
6 fine. All right.

7 MS. SIMPKINS: December 14th.

8 MR. CORDES: Judge, The State will make arrangements to
9 stipulate --

10 THE COURT: Reschedule?

11 MR. CORDES: -- to a continuance of that matter so Ms.
12 Molinar can yet be present.

13 THE COURT: All right. As Ms. DeBerry -- as far as she's
14 concerned, we'll be able to -- we'll be able to call her and
15 she can appear telephonically through the court system and
16 it's going to be, you know, recorded. Everything will be
17 recorded; you'll be able to hear the testimony.

18 However, you're not going to be able to consult with
19 her through the system. So you'll need to make some
20 arrangements if she chooses not to be here, some arrangements
21 to be on a cell phone or something with her separately if
22 consultation with her is necessary. I'm willing to make an
23 accommodation and recess between direct examination and cross
24 examination so that you can have some time to consult with her

1 before you do your cross and vice versa. But I don't know
2 what other way to accommodate her physical absence from the
3 courtroom.

4 MS. SIMPKINS: Well I'm sure if she chooses to be here
5 she can. We'll put our heads together and see if -- if we can
6 come up with a solution.

7 THE COURT: Yeah, absolutely. I mean, the preference is
8 that she be here.

9 MS. SIMPKINS: Um-hmm (in the affirmative).

10 THE COURT: But my point is the next date is going to go
11 forward --

12 MS. SIMPKINS: Right.

13 THE COURT: -- whether she's here or not.

14 THE MARSHAL: No outstanding documents or evidence,
15 exhibits?

16 THE COURT: Just what I've got.

17 THE MARSHAL: Okay.

18 MR. CORDES: I believe the judge has them.

19 THE MARSHAL: Perfect.

20 MR. CORDES: Thank you.

21 Thank you, Judge.

22 THE MARSHAL: Have a nice weekend everybody.

23 MS. SIMPKINS: Thank you.


24 THE COURT: All right. Have a good weekend.

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(THE PROCEEDING ENDED AT 16:41:59.)

* * * * *

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.


DARRYL THOMAS,
Transcriber II