

IN THE SUPREME COURT OF THE STATE OF NEVADA

LYUDMYLA ABID,

Appellant,

vs.

SEAN ABID,

Respondent.

Electronically Filed
Mar 17 2016 03:41 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

S.C. DOCKET NO.: 69995
District Court Case No. D-10-424830-Z

MOTION FOR TRANSMITTAL OF EVALUATION
INVOLVING MINOR CHILD

COMES NOW Respondent, Sean Abid, by and through his attorneys, John D. Jones, Esq., of the law firm of BLACK & LOBELLO, and, pursuant to NRAP 27, requests an order from this court directing the district court clerk to transmit a copy of the Relocation Risk Assessment to this court to be held confidentially as well as be made part of the appendices in this appeal.

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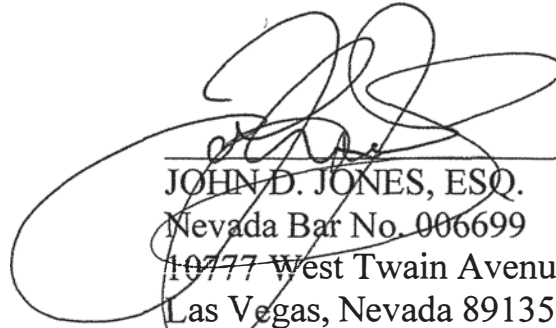
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This Motion is made and based on all the papers and pleadings on file herein, the Points and Authorities submitted herewith, the affidavit of counsel attached hereto, and is made in good faith and not to delay justice.

DATED this 17 day of March, 2016.

BLACK & LOBELLO



JOHN D. JONES, ESQ.
Nevada Bar No. 006699
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801
Attorneys for Respondent,
SEAN ABID

POINTS AND AUTHORITIES

This appeal involves the relocation of minor children outside the state of Nevada. Until the district court’s order on March 1, 2016, Sean had been awarded primary physical custody of their minor child, namely ALEKSANDR ANTON ABID (“Sasha”), date of birth: February 13, 2009.

At the initial hearing on Sean’s Motion to Change Custody, the district court ordered a “Child Interview” be conducted by Dr. Stephanie Holland and scheduled an evidentiary hearing. The evidentiary hearing concluded on January 25, 2016 and the district court entered its “Findings of Fact, Conclusions of Law And Order”

(the “Final Order”) on March 1, 2016, in which it granted Sean’s request for primary physical custody. In its Final Order, the district court specifically addressed the Child Interview which was prepared by Dr. Stephanie Holland, licensed psychologist, on June 5, 2015 and June 22, 2015. Specifically, the interview confirmed the alienation alleged by Sean. Dr. Holland’s trial testimony further confirmed it was no longer in the best interest of the minor child for Appellant to have joint physical custody. Specifically, Dr. Holland stated that in 15 years providing outsourced services to the Eighth Judicial District Court, Family Division, she had only encountered one other case of alienation worse than that perpetrated by Appellant.

According to E.D.C.R. 5.13(a), an evaluation such as the one prepared by Dr. Holland for the district court, “shall be delivered to the judge in chambers. Only the parties and their attorneys are entitled to read the written reports, which are confidential except as provided by order of the judge.” Further, “[a]n attorney retaining a copy of a written report may not make copies of the report or disclose its contents to anyone without advance permission of the judge.” E.D.C.R. 5.13(b).

Additionally, “[n]o copy of a written report, or any part thereof, may be made an exhibit to, or a part of, the open court file except by the judge” and “[n]o party may reproduce a copy of a written report or any part thereof or share the contents of a written report with any other person.” E.D.C.R. 5.13(c). However,

“[a] written report may be received as direct evidence of the facts contained therein that are within the personal knowledge of the specialist who prepared the report.”

In as much as Dr. Holland’s report fully supports the district court’s Decision it is highly relevant to the issues on appeal. Given the strict local requirements regarding the copying and dissemination of confidential reports involving children, however, Sean requires the court’s permission in order to make Dr. Holland’s report a part of the appendices in this appeal. For this reason, Sean respectfully requests this court to issue an order directing the Clerk of the Clark County District Court, Family Division, to transmit a copy of Dr. Holland’ child interview reports dated June 5, 2015 and June 22, 2015, to this court where it will be held in a confidential manner and be made a part of the appendices in this appeal.

DATED this 17th day of March, 2016.

BLACK & LOBELLO



JOHN D. JONES, ESQ.
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10777 West Twain Avenue, Suite 300
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702-869-8801
Attorneys for Respondent,
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AFFIDAVIT OF JOHN D. JONES, ESQ.

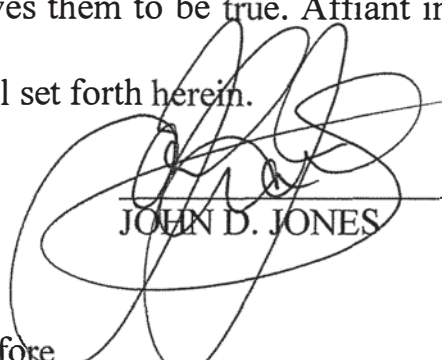
STATE OF NEVADA)
SS.
COUNTY OF CLARK)

JOHN D. JONES, ESQ., first being duly sworn, deposes and says:

1. That he is an attorney licensed to practice in the state of Nevada and attorney for Respondent in the above-referenced action; that by virtue of that fact, he has personal knowledge of the matters contained herein and is competent to testify to the same;


2. That Affiant makes this affidavit in support of the foregoing “Motion for Transmittal of Evaluation Involving Minor Child;”

3. That Affiant has read the said Motion and hereby certifies that the facts set forth in the Points and Authorities attached thereto are true according to the record herein, and Affiant believes them to be true. Affiant incorporates these facts into this Affidavit as though full set forth herein.

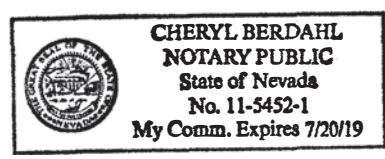


JOHN D. JONES

SUBSCRIBED AND SWORN to before me this 17th day of March, 2016



NOTARY PUBLIC in and for said County and State




CERTIFICATE OF MAILING

The foregoing “Motion for Transmittal of Evaluation Involving Minor Child” in the above-captioned matter was served this date by mailing a true and correct copy thereof, via first class mail, postage prepaid and addressed as follows:

Radford J. Smith, Esq.
RADFORD SMITH CHTD.
2470 St. Rose Pkwy. Suite 206
Henderson, NV 89074
Attorney for Appellant
Lyudmyla Abid

Dated this 17th day of March, 2016


Cheryl Berdahl
an Employee of Black & LoBello