

# IN THE SUPREME COURT OF THE STATE OF NEVADA

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NEVADA SUPREME COURT

2016 APR -7 PM 2:44

INDICATE FULL CAPTION:

Michael Foley,

Appellant

v.

Patricia Foley,

Respondent

No.

69997

**FILED**

DOCKETING STATEMENT APR 12 2016  
CIVIL APPEALS

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Maclean*  
DEPUTY CLERK

## GENERAL INFORMATION

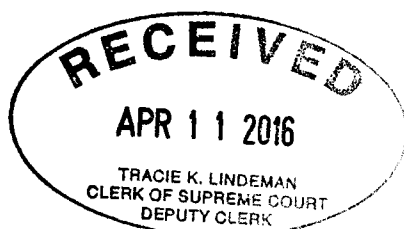
Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.



16-11270

Revised December 2015

1. Judicial District Eighth Department "C"  
County Clark Judge Rebecca Burton  
District Ct. Case No. R-11-162425

**2. Attorney filing this docketing statement:**

Attorney Michael Foley (Pro Se) Telephone 702-771-9725  
Firm N/A Pro Se  
Address \_\_\_\_\_

Client(s) Pro Se

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Unknown Telephone 562-458-9052  
Firm N/A  
Address \_\_\_\_\_

Client(s) Respondent

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:   |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction   |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim   |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute   |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____   |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:  |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification                     |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): <u>Denial of Objection</u> |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Foley v. Gillespie, Case No. 64351

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Foley v. Foley, 8th Dist. Ct. Case No. D-08-403071-D

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

This is an action that was filed in District Court by the respondent, who is represented by the State in her pursuit and in the collection of money officially labeled as "child support." This action was filed without a summons or complaint, and appears to be a derivative of the action *Foley v. Foley*, 8th Dist. Ct. Case No. D-08-403071-D. The Appellant was found by the District Court to be indigent, and unable to pay fees in this action, yet the Court found that he has the ability to pay \$2,000 to free himself from what the Petitioner complains is a modern, unconstitutional debtors' prison. Notwithstanding this court's holding in *Lamb v. Lamb*, 433 P.2d 265 (1967), the Petitioner argues that the 14th Amendment to the U.S. Constitution controls over this action, as interpreted by the U.S. Supreme Court in *Turner v. Rogers*, *Turner v. Rogers*, *Turner v. Rogers*, 131 S. Ct. 2507 - 2011. The District Court did not seem to apprehend the motivation for the State to intervene without providing counsel to the indigent party, this Appellant/Respondent, and does not realize that the State stands to gain millions of dollars pursuant to Title IV-D of the Social Security Act for depriving the Appellant of his liberty.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The Appellant should not have been confined in a prison (NRS 22.140; 208.075) or deprived of personal liberty, or found in contempt because there was no evidence presented to the Court showing that the Appellant had the ability to pay. To the contrary, the Court had found that the Appellant was indigent, and because there was no evidence to the contrary, and because the Respondent/Petitioner Patricia Foley failed to appear to support the Petition, and failed to provide any evidence that the Appellant had the ability to pay her anything, and because the Court did not state with any specificity the resource that the Appellant was withholding that could purge him of the contempt, the Appellant's 14th Amendment right to due process as defined by the U.S. Supreme Court in *Turner v. Rogers* was violated. According to the *Turner* Court, as well as recent admonitions by the U.S. Attorney General, States must not jail persons for inability to pay fines or other money that they do not have. See letter to State Court Administrators from the U.S. Department of Justice, Civil Rights Division, dated March 14, 2016. <https://www.justice.gov/crt/file/832461/download>. See also

<http://www.acf.hhs.gov/programs/css/resource/turner-v-rogers-guidance>

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None known.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☐ No

If not, explain:

N/A

**12. Other issues.** Does this appeal involve any of the following issues?

☒ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

There is no way that the Nevada Supreme Court will relinquish the Courts' power to hold parents in contempt for the inability to pay child support because no matter how the legislature writes or amends the Nevada Constitution, there is no way that the court will follow the words, "there shall be no imprisonment for debt, except in cases of fraud, libel, or slander." The legislature is not likely to enact an amendment to the Constitution requiring the Court to follow the 14th Amendment as interpreted in a specific Supreme Court case, and to tell it to not add exceptions to certain articles by decree.

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

The right to freedom from bodily restraint, and freedom from oppression motivated by the State's interest in collecting easy money from the Federal government pursuant to Title IV-D of the Social Security Act is an issue that affects many citizens within the State of Nevada. Because the issue is one of fundamental Constitutional rights, the Supreme Court should decide this issue. If the Court is not persuaded to follow the 14th Amendment and U.S. Supreme Court Authority, then the Appellant may appeal to the U.S. Supreme Court in a more timely fashion if this Court denies this State appeal.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A evidentiary hearings are seldom allowed for jailed respondents

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

## TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 2-8-2016; 2-22-2016

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

17. Date written notice of entry of judgment or order was served 2-8-16 ; 2-25-16

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing n/a

☐ NRCP 52(b)      Date of filing n/a

☐ NRCP 59      Date of filing n/a

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion n/a

(c) Date written notice of entry of order resolving tolling motion was served n/a

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** March 17, 2016

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)(1)

### **SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

☐ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☒ Other (specify) NRAP 3A(a)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

This party is aggrieved by the order(s) identified and entered herein.



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

Patricia Foley

(uninvited, unauthorized to intervene non-party) State of Nevada

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

*It is unknown whether the State will intervene in this appeal, or advocate on behalf of the respondent Patricia Foley.*

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Respondent Patricia Foley appears to be making a claim in this separate action for child support.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☐ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

The Respondent is unable to answer this question without qualified legal representation.

(b) Specify the parties remaining below:

none known.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

There is no other known remedy to have redress or recourse in this matter. See NRAP 3A(a).

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

No complaint or summons was ever filed or served in this action. The appellant, not having been appointed counsel, as required by the 14th Amendment to the U.S. Constitution, and the 6th Amendment in a de facto criminal proceeding falsely labeled as "civil,"

~~The Appellant~~ requests that the Court waive the requirement that the above requested documents be attached.

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Michael Foley  
Name of appellant

4-7-2016  
Date

Clark County, Nevada  
State and county where signed

Michael Foley  
Name of counsel of record

Michael Foley  
Signature of counsel of record

## CERTIFICATE OF SERVICE

I certify that on the 7<sup>th</sup> day of April, 2016, I served a copy of this completed docketing statement upon all counsel of record:

☒ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Patricia Foley  
8937 Austin Ridge Ave  
Las Vegas, NV 89178

Dated this 7<sup>th</sup> day of April, 2016

Michael Foley  
Signature

1 NEJ  
Steven B. Wolfson, District Attorney  
2 Nevada Bar No. 001565  
Family Support Division  
1900 East Flamingo Road, Suite 100  
3 Las Vegas, Nevada 89119-5168  
(702) 671-9200 - TDD (702) 385-7486 (for the hearing impaired)  
4 294910200A

5  
6 **DISTRICT COURT**  
7 **CLARK COUNTY, NEVADA**  
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9 Patricia Foley,

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Petitioner,

vs.

Michael Foley,

Respondent.)

Case no. R-11-162425-R  
Dept. no. CHILD SUPPORT

15 NOTICE OF ENTRY OF ORDER/JUDGMENT

16 To: MICHAEL FOLEY, Respondent

17  
18 Please take notice that the enclosed order/judgment against the respondent MICHAEL FOLEY was  
19 entered in the above-entitled matter on January 15, 2016.  
20

21 CERTIFICATE OF MAILING

22 The foregoing Notice of Entry of Order/Judgment was served upon Michael Anthony Foley by mailing  
23 a copy thereof, first class mail, postage prepaid to 209 S Stephanie, Ste B-191, Henderson, NV 89012,  
24 on the 8th day of February, 2016.  
25

26 /s/ Kathrine Belneev  
27 Employee, District Attorney's Office  
28 Family Support Division

MRAO  
STEVEN B. WOLFSON  
DISTRICT ATTORNEY  
Nevada Bar No. 001565  
FAMILY SUPPORT DIVISION  
1900 East Flamingo Road, Suite 100  
Las Vegas, Nevada 89119-5168  
(702) 671-9200  
TDD (702) 385-7486 (for the hearing impaired)  
294910200A

  
CLERK OF THE COURT

**District Court**  
**CLARK COUNTY, NEVADA**

Patricia Foley,

Petitioner,

Case No. R-11-162425-R

vs.

Department No. CHILD SUPPORT

Michael Foley,

Respondent.

**MASTER'S RECOMMENDATION**

This matter having been heard on JANUARY 15, 2016 before the undersigned Hearing Master, having considered all the evidence and having been fully advised in the premises, hereby makes the following Findings and Recommendations:

Parties present: ☐ Respondent ☐ Respondent's attorney ☐ Petitioner ☐ Petitioner's attorney

☐ PATERNITY ☒ PATERNITY PREVIOUSLY DECIDED

☐ FINANCIALS: ☒ CONTINUE PRIOR ORDERS (NO CHANGE TO PRIOR FINANCIAL ORDERS).

Respondent's **INCOME SHALL BE WITHHELD** for the payment of support.

☐ Good cause to stay income withholding is based on: \_\_\_\_\_. Said withholding shall be postponed until Respondent becomes delinquent in an amount equal to 30 days support.

☐ ENFORCEMENT OF CONTROLLING ORDER: The registered order from \_\_\_\_\_, dated \_\_\_\_\_, #\_\_\_\_\_, is hereby confirmed and is the controlling order for the following reasons: ☐ only order \_\_\_\_\_.

☐ ESTABLISHMENT OF CONTROLLING ORDER: This is the first order establishing a child support obligation for this noncustodial parent for the child(ren) listed in this order who reside(s) with this custodian.

☐ Respondent is referred to Employment Services for an appointment on \_\_\_\_\_ at \_\_\_\_\_ AM.

☒ Health insurance coverage for the minor child(ren) herein:

☐ Respondent to provide: ☒ Petitioner to provide, excluding Medicaid: ☐ Both Parties to provide:

☒ if available through employer. ☐ shall provide per court order.

☒ Ordered Party(ies) to provide proof of said insurance to the District Attorney's Office, Family Support Division within 90 days of today's date.

☒ CONTEMPT OF COURT ☐ NOT A SHOW CAUSE HEARING

☐ **RESPONDENT ORDERED TO SHOW CAUSE CONCERNING CONTEMPT.**

☒ **ORDER TO SHOW CAUSE CONTINUED TO NEXT COURT DATE.**

☐ Respondent is hereby found in Contempt of Court and sentenced to \_\_\_\_\_ days in the Clark County Detention Center; this sentence shall be stayed until the next court date.

☒ The following sentence(s) shall be stayed/continued to the next court date unless imposed or vacated today:

Sentence of 16 days in the Clark County Detention Center issued 11/21/13 is \_\_\_\_\_ imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

Sentence of 25 days in the Clark County Detention Center issued 03/12/14 is \_\_\_\_\_ imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

Sentence of 25 days in the Clark County Detention Center issued 02/19/15 is \_\_\_\_\_ imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

Sentence of 25 days in the Clark County Detention Center issued 07/09/15 is \_\_\_\_\_ imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

☐ Respondent is recommended for the day arrest program on \_\_\_\_\_.

☐ Respondent to be released from custody on \_\_\_\_\_.

☐ Respondent may be released from the above sentence immediately upon payment of \$\_\_\_\_\_ to be released to Petitioner as child support.

☐ **NO BAIL BENCH WARRANT HEREBY ISSUED FOR THE ARREST OF RESPONDENT. RESPONDENT MAY BE RELEASED UPON PAYMENT OF \$\_\_\_\_\_ TO BE RELEASED TO PETITIONER AS CHILD SUPPORT. Where circumstances justify a sufficient basis, the District Attorney may administratively quash or recall the bench warrant.**

☐ **BENCH WARRANT PREVIOUSLY ISSUED IS HEREBY** ☐ **QUASHED.** ☐ **CONTINUED.**  
☐ **MODIFICATION OF PRIOR ORDER:**

☐ **SUSPENSION OF LICENSES:**

### **PAYMENTS**

All mailed payments MUST be made in the form of a cashier's check, money order or business check ONLY, made payable to State Collection and Disbursement Unit (SCaDU). If payments are made in person, cash or debit card are also accepted.

**Payments can be mailed to:**

**State Collection and Disbursement Unit (SCaDU)**  
**P.O. Box 98950**  
**Las Vegas, Nevada 89193-8950**

**Payments can be made in person at:**

**State Collection and Disbursement Unit (SCaDU)**  
**1900 East Flamingo Road**  
**Las Vegas, Nevada 89119-5168**

Additionally, the following information must be included with each payment: name (first, middle, last) of person responsible for paying child support, social security number of person responsible for paying child support, child support case number, and name of petitioner (first and last name of person receiving child support).

**NOTICE: NO CREDIT WILL BE GIVEN FOR PAYMENTS PAID DIRECTLY TO THE PETITIONER.**

**NOTICE: PRIOR ORDERS NOT SPECIFICALLY MODIFIED HEREIN REMAIN IN FULL FORCE AND EFFECT.**

**NOTICE:** Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040. A 10% penalty will be assessed on each unpaid installment, or portion thereof, of an obligation to pay support for a child, pursuant to NRS 125B.095. If the Respondent pays support through income withholding and the full obligation is not met by the amount withheld by the employer, the Respondent is responsible to pay the difference between the court ordered obligation and the amount withheld by the employer directly to the state disbursement unit. If the Respondent fails to do so, he/she may be subject to assessment of penalties and interest. The Respondent may avoid these additional costs by making current support payments each month. If another state takes jurisdiction and obtains a new order, Nevada interest and penalties will only be calculated to the date of the new order and will be enforced.

**NOTICE:** Pursuant to NRS 125B.145 and federal law, EITHER parent, the legal guardian, and the Division of Welfare and Supportive Services, where there is an assignment of support rights to the State, has the right to request a review of the support provision of this order at least every three (3) years to determine if modification is appropriate; an application for this purpose may be obtained from D.A. Family Support at 1900 E. Flamingo Rd., Suite 100, Las Vegas, Nevada 89119-5168.

**NOTICE:** Objections/Appeals are governed by EDCR1.40(e) and (f). You have ten (10) days from receipt of this Master's Recommendation to serve and file written objections to it. A failure to file and serve written objections will result in a final Order/Judgment being ordered by District Court. However, the Master's Recommendation is not an Order/Judgment unless signed and filed by a Judge.

**NOTICE:** Appeal from a Final Judgment by the Court is governed by NRAP 4 and must be filed within 30 days of written Notice of Entry of Judgment.

**NOTICE:** Respondent is responsible for notifying the District Attorney, Family Support Division, of any change of address, change of employment, health insurance coverage, change of custody, or any order relative to child support within ten (10) days of such change.

Respondent to bring new financial statement and proof of income next date.

This order does not stay collection of support arrears by execution or any other means allowed by law.

\*\*\*\*\*

**MISCELLANEOUS FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS:**

No hearing on the merits today as Respondent has filed an objection to prior master's recommendations from the hearing of 11/16/15. That objection is scheduled to be heard by Judge Burton on 01/20/16 at 10 a.m.

**NEXT HEARING DATE IS July 13, 2016 at 2:15 PM in Courtroom 1 in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.**

**DATED:** JANUARY 15, 2016

*[Signature]*  
MASTER

Respondent/Respondent's Attorney  
Receipt of this document is  
acknowledged by my signature.

**ORDER/JUDGMENT**

☒ The Clerk of the Court having reviewed the District Court's file and having determined that no objection has been filed within the ten day objection period, **the Master's Recommendation is hereby deemed approved by the District Court pursuant to NRS 425.3844.** The affixing of the Clerk of the Court's file stamp to this Master's Recommendation signifies that the ten-day objection period has expired without an objection having been filed and that the District Court deems the Master's Recommendation to be approved as an **ORDER/JUDGMENT** of the District Court, effective with the file stamp date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this Order/Judgment.**

☐ The District Court, having reviewed the above and foregoing Master's Recommendation, and having received and considered the objection thereto, as well as any other papers, testimony and argument related thereto and good cause appearing,

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS affirmed and adopted as an **ORDER/JUDGMENT** of the District Court this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS NOT affirmed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and this matter is remanded to Child Support Court on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M.

\_\_\_\_\_  
District Court Judge, Family Division

1 STEVEN B. WOLFSON, Clark County District Attorney  
Nevada Bar No. 001565

2  
3 By: 

4 DEPUTY DISTRICT ATTORNEY  
FAMILY SUPPORT DIVISION  
1900 East Flamingo Road, Suite 100  
5 Las Vegas, Nevada 89119-5168



1 **NEOJ**

2 STEVEN B. WOLFSON  
3 DISTRICT ATTORNEY  
4 Nevada Bar No. 001565  
5 FAMILY SUPPORT DIVISION  
6 1900 East Flamingo Road, Suite 100  
7 Las Vegas, Nevada 89119-5168  
8 (702) 671-9200 - TDD (702) 385-7486 (for the hearing impaired)  
9 294910200A

5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

8 Patricia Foley,

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Petitioner,

vs.

Michael Foley,

Respondent.)

Case no. R-11-162425-R

Dept. no. C/CHILD SUPPORT  
**AMENDED to include Exhibit 1**

13 **NOTICE OF ENTRY OF ORDER**

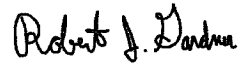
15 TO: PATRICIA FOLEY, Plaintiff

16 TO: MICHAEL FOLEY, Defendant

17 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 22<sup>nd</sup> day of  
18 February, 2016 an Order Following Objection was entered in the above-entitled matter, a copy of  
19 which is attached to this Notice.

20 Dated 24<sup>th</sup> day of February, 2016.

21 Steven B. Wolfson  
22 Clark County District Attorney  
23 Nevada Bar No. 001565

24 


25 Chief Deputy District Attorney  
26  
27  
28

2 **CERTIFICATE OF MAILING**

3 The foregoing Notice of Entry of Order was served upon Michael Anthony Foley by mailing  
4 a copy thereof, first class mail, postage prepaid to:

5  
6 **MICHAEL ANTHONY FOLEY**  
7 **209 S STEPHANIE SUITE B-191 ST**  
8 **HENDERSON NV 89012**

9 on the 24<sup>th</sup> day of February, 2016.

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13 Employee, District Attorney's Office  
14 Family Support Division  
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1 **OFO**

2 STEVEN B. WOLFSON  
3 DISTRICT ATTORNEY  
4 Nevada Bar No. 001565  
5 FAMILY SUPPORT DIVISION  
6 1900 East Flamingo Road, Suite 100  
7 Las Vegas, Nevada 89119-5168  
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10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 Patricia Foley,

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28 )  
Petitioner,

vs.

Michael Foley,

Respondent.)

Case no. R-11-162425-R

Dept. no. C/CHILD SUPPORT

13 **ORDER FOLLOWING OBJECTION**

14 This matter having come on for a hearing this 20<sup>th</sup> day of January, 2016, on the Objection of  
15 the: ☒ Respondent ☐ Petitioner ☐ District Attorney's Office, Family Support Division,  
16 (hereinafter, "DAFS"), to the Master's Recommendations from the Child Support Court hearing  
17 held on the 16<sup>th</sup> day of November, 2015,

18 Respondent being ☒ not present ☐ present in proper person

19 Petitioner being ☐ present ☒ not present and

20 Steven B. Wolfson, District Attorney, being present by and through Deputy District  
21 Attorney, ROBERT J. GARDNER, Esq., whom appeared telephonically,

22 The Court having reviewed the pleadings and papers herein and having heard argument  
23 AND GOOD CAUSE THEREFORE APPEARING, this Court hereby enters the following findings,  
24 conclusions and orders:

25 This Court concludes and orders that Respondent's objections filed on 11/24/2015 and 11-26-  
26 2015 are DENIED, there was no clear error, and the Points and Authorities set forth in the District  
27 Attorney's Opposition to Respondent's Objection filed on December 8, 2015 shall be ADOPTED;  
28

1 additionally the Court noted that the NRS Respondent relied on his notice of non-appearance was  
2 misplaced and not related to child support proceedings, the Respondent has the ability to pay and  
3 there is an indication of possible willful underemployment. Finally, the Court finds in this case there  
4 is no right to an appointed attorney for civil contempt proceedings. A RETURN HEARING IS  
5 already SET for JULY 13, 2016 AT 2:15PM IN DEPT 1. The Masters Recommendation and Order  
6 is attached as **Exhibit 1, and is hereby affirmed.**

7 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

8  
9  
10 REBECCA BURTON, DISTRICT COURT JUDGE

11 Submitted By:

12 Robert J. Gardner

13 ROBERT J. GARDNER, ESQ. 1/25/2016  
14 DEPUTY DISTRICT ATTORNEY  
15 Nevada Bar No. 0006983  
16 FAMILY SUPPORT DIVISION  
17 1900 East Flamingo Rd., Suite 100  
18 Las Vegas, Nevada 89119  
19 (702) 671-9200  
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MRAO  
STEVEN B. WOLFSON  
DISTRICT ATTORNEY  
Nevada Bar No. 001565  
FAMILY SUPPORT DIVISION  
1900 East Flamingo Road, Suite 100  
Las Vegas, Nevada 89119-5168  
(702) 671-9200  
TDD (702) 385-7486 (for the hearing impaired)  
294910200A

## District Court

CLARK COUNTY, NEVADA

Patricia Foley,

Petitioner,

vs.

Michael Foley,

Respondent.

Case No. R-11-162425-R

Department No. CHILD SUPPORT

### MASTER'S RECOMMENDATION

This matter having been heard on NOVEMBER 16, 2015 before the undersigned Hearing Master, having considered all the evidence and having been fully advised in the premises, hereby makes the following Findings and Recommendations:

Parties present: ☒ Respondent ☐ Respondent's attorney ☐ Petitioner ☐ Petitioner's attorney

☐ PATERNITY ☒ PATERNITY PREVIOUSLY DECIDED

☒ FINANCIALS: ☐ CONTINUE PRIOR ORDERS (NO CHANGE TO PRIOR FINANCIAL ORDERS).

Respondent's gross monthly income (GMI) : ; formula amount % of GMI=

Basis for deviation from state formula: \_\_\_\_\_

Respondent is to pay current support for the child(ren), Michael Foley, Elizabeth Foley, Therese Foley.

### CHILD SUPPORT

Respondent is to pay monthly:

\$729.00 child support

\$79.00 medical support (in lieu of health insurance)

spousal support

\$25.00 arrears payment

☐ ARREARAGES ☒ ARREARAGES NOT ADDRESSED AT THIS HEARING

\$ 833.00

TOTAL monthly payment is due on the 1<sup>st</sup> day of each month, and continues thereafter until said child(ren) reach majority, become emancipated or further order of the Court.

Respondent's **INCOME SHALL BE WITHHELD** for the payment of support.

☐ Good cause to stay income withholding is based on: \_\_\_\_\_. Said withholding shall be postponed until Respondent becomes delinquent in an amount equal to 30 days support.

☐ ENFORCEMENT OF CONTROLLING ORDER: The registered order from \_\_\_\_\_, dated \_\_\_\_\_, #\_\_\_\_\_, is hereby confirmed and is the controlling order for the following reasons: ☐ only order \_\_\_\_\_.

☐ ESTABLISHMENT OF CONTROLLING ORDER: This is the first order establishing a child support obligation for this noncustodial parent for the child(ren) listed in this order who reside(s) with this custodian.

☐ Respondent is referred to Employment Services for an appointment on \_\_\_\_\_ at \_\_\_\_\_ AM.

☒ Health insurance coverage for the minor child(ren) herein:

☐ Respondent to provide: ☒ Petitioner to provide, excluding Medicaid: ☐ Both Parties to provide:

☒ if available through employer. ☐ shall provide per court order.

- ☒ Ordered Party(ies) to provide proof of said insurance to the District Attorney's Office, Family Support Division within 90 days of today's date.

☒ CONTEMPT OF COURT ☐ NOT A SHOW CAUSE HEARING

☐ RESPONDENT ORDERED TO SHOW CAUSE CONCERNING CONTEMPT.

☒ ORDER TO SHOW CAUSE CONTINUED TO NEXT COURT DATE.

☐ Respondent is hereby found in Contempt of Court and sentenced to \_\_\_\_\_ days in the Clark County Detention Center; this sentence shall be stayed until the next court date.

☒ The following sentence(s) shall be stayed/continued to the next court date unless imposed or vacated today:

Sentence of 26 days in the Clark County Detention Center issued 11/21/13 is 10 imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

Sentence of 25 days in the Clark County Detention Center issued 03/12/14 is \_\_\_\_\_ imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

Sentence of 25 days in the Clark County Detention Center issued 02/19/15 is \_\_\_\_\_ imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

Sentence of 25 days in the Clark County Detention Center issued 07/09/15 is \_\_\_\_\_ imposed \_\_\_\_\_ vacated \_\_\_\_\_ stayed

☐ Respondent is recommended for the day arrest program on \_\_\_\_\_.

☒ Respondent to be released from custody on 11/22/15.

☒ Respondent may be released from the above sentence immediately upon payment of \$2,000.00 to be released to Petitioner as child support.

☐ NO BAIL BENCH WARRANT HEREBY ISSUED FOR THE ARREST OF RESPONDENT. RESPONDENT MAY BE RELEASED UPON PAYMENT OF \$\_\_\_\_\_ TO BE RELEASED TO PETITIONER AS CHILD SUPPORT. Where circumstances justify a sufficient basis, the District Attorney may administratively quash or recall the bench warrant.

☐ BENCH WARRANT PREVIOUSLY ISSUED IS HEREBY ☐ QUASHED. ☐ CONTINUED.

☐ MODIFICATION OF PRIOR ORDER:

☐ SUSPENSION OF LICENSES:

## PAYMENTS

All mailed payments MUST be made in the form of a cashier's check, money order or business check ONLY, made payable to State Collection and Disbursement Unit (SCaDU). If payments are made in person, cash or debit card are also accepted.

Payments can be mailed to:

State Collection and Disbursement Unit (SCaDU)  
P.O. Box 98950  
Las Vegas, Nevada 89193-8950

Payments can be made in person at:

State Collection and Disbursement Unit (SCaDU)  
1900 East Flamingo Road  
Las Vegas, Nevada 89119-5168

Additionally, the following information must be included with each payment: name (first, middle, last) of person responsible for paying child support, social security number of person responsible for paying child support, child support case number, and name of petitioner (first and last name of person receiving child support).

NOTICE: NO CREDIT WILL BE GIVEN FOR PAYMENTS PAID DIRECTLY TO THE PETITIONER.

NOTICE: PRIOR ORDERS NOT SPECIFICALLY MODIFIED HEREIN REMAIN IN FULL FORCE AND EFFECT.

NOTICE: Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040. A 10% penalty will be assessed on each unpaid installment, or portion thereof, of an obligation to pay support for a child, pursuant to NRS 125B.095. If the Respondent pays support through income withholding and the full

obligation is not met by the amount withheld by the employer, the Respondent is responsible to pay the difference between the court ordered obligation and the amount withheld by the employer directly to the state disbursement unit. If the Respondent fails to do so, he/she may be subject to assessment of penalties and interest. The Respondent may avoid these additional costs by making current support payments each month. If another state takes jurisdiction and obtains a new order, Nevada interest and penalties will only be calculated to the date of the new order and will be enforced.

**NOTICE:** Pursuant to NRS 125B.145 and federal law, EITHER parent, the legal guardian, and the Division of Welfare and Supportive Services, where there is an assignment of support rights to the State, has the right to request a review of the support provision of this order at least every three (3) years to determine if modification is appropriate; an application for this purpose may be obtained from D.A. Family Support at 1900 E. Flamingo Rd., Suite 100, Las Vegas, Nevada 89119-5168.

**NOTICE:** Objections/Appeals are governed by EDCR1.40(e) and (f). You have ten (10) days from receipt of this Master's Recommendation to serve and file written objections to it. A failure to file and serve written objections will result in a final Order/Judgment being ordered by District Court. However, the Master's Recommendation is not an Order/Judgment unless signed and filed by a Judge.

**NOTICE:** Appeal from a Final Judgment by the Court is governed by NRAP 4 and must be filed within 30 days of written Notice of Entry of Judgment.

**NOTICE:** Respondent is responsible for notifying the District Attorney, Family Support Division, of any change of address, change of employment, health insurance coverage, change of custody, or any order relative to child support within ten (10) days of such change.

Respondent to bring new financial statement and proof of income next date.

This order does not stay collection of support arrears by execution or any other means allowed by law.

\*\*\*\*\*

#### MISCELLANEOUS FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS:

DUE – June through October = 5 mo = \$4,165.00. PAY – Last payment was \$200 jail release paid 8/13/14.

DA to verify whether Therese is still in high school.

Pay/stay: R is to pay \$833 for the December pmt next date to avoid contempt.

**NEXT HEARING DATE IS 1/15/2016 at 8:30 AM in Courtroom \_\_ in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.**

**DATED:** NOVEMBER 16, 2015

  
MASTER

**In Custody**  
Respondent/Respondent's Attorney  
Receipt of this document is  
acknowledged by my signature.

#### ORDER/JUDGMENT

☐ The Clerk of the Court having reviewed the District Court's file and having determined that no objection has been filed within the ten day objection period, **the Master's Recommendation is hereby deemed approved by the District Court pursuant to NRS 425.3844.** The affixing of the Clerk of the Court's file stamp to this Master's Recommendation signifies

1 that the ten-day objection period has expired without an objection having been filed and that the District Court deems the  
 2 Master's Recommendation to be approved as an **ORDER/JUDGMENT** of the District Court, effective with the file stamp  
 3 date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this**  
 4 **Order/Judgment.**

5 ☐ The District Court, having reviewed the above and foregoing Master's Recommendation, and having received and  
 6 considered the objection thereto, as well as any other papers, testimony and argument related thereto and good cause  
 7 appearing,

8 ☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS affirmed and adopted as an  
 9 **ORDER/JUDGMENT** of the District Court this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

10 ☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS NOT affirmed and adopted this \_\_\_\_\_ day of  
 11 \_\_\_\_\_, 20\_\_\_\_ and this matter is remanded to Child Support Court on \_\_\_\_\_, 20\_\_\_\_ at  
 12 \_\_\_\_\_M.

13 **District Court Judge, Family Division**

14 **STEVEN B. WOLFSON, Clark County District Attorney**  
 15 Nevada Bar No. 001565

16 By: 

17 **DEPUTY DISTRICT ATTORNEY**  
 18 **FAMILY SUPPORT DIVISION**  
 19 **1900 East Flamingo Road, Suite 100**  
 20 **Las Vegas, Nevada 89119-5168**