

FILED**FEB -7 2017***Ann L. Williams*
CLERK OF COURT**COPY**1 **TRANS**

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EIGHTH JUDICIAL DISTRICT COURT

6

FAMILY DIVISION

7

CLARK COUNTY, NEVADA

8

9	PATRICIA FOLEY,	)	CASE NO. R-11-162425-R
	Petitioner,)	DEPT. C
10)	
	vs.)	
11)	APPEAL NO. 69997
	MICHAEL A. FOLEY,)	
12	Respondent.)	
13	_____		

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BEFORE THE HONORABLE LYNN CONANT

15

TRANSCRIPT RE: ORDER TO SHOW CAUSE - PAY OR STAY

16

WEDNESDAY, JUNE 17, 2015

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1 APPEARANCES:

2 For the Public by DAFS PATRICIA A. ROSS, ESQ.
3 Chief Deputy D.A. - Family Support
4 1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner: PATRICIA FOLEY (Not present)
6 For the Petitioner: Pro se

7 The Respondent: MICHAEL FOLEY (Not present)
8 For the Respondent: Pro se

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1 LAS VEGAS, NEVADA

WEDNESDAY, JUNE 17, 2015

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

3 (THE PROCEEDING BEGAN AT 11:34:59.)

4 THE COURT: Okay. This is the matter of Foley versus Foley. And
5 that's R162425.

6 I'll hear from the D.A.

7 MS. ROSS: Your Honor, this is on for a pay or stay review. The last
8 hearing was April 15th, 2015. The Respondent was to pay or bring \$1666.
9 That has not been paid. At the last hearing the Respondent was
10 belligerent, argumentative, was very, very difficult and rude to this
11 Court. He kind of indicated he had no intentions of complying with this
12 Court's order. I am asking for a finding of contempt and am asking for a
13 bench warrant of \$2000.

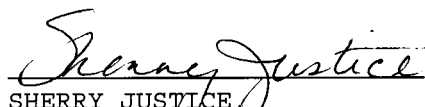
14 THE COURT: All right. The Court finds the Respondent in contempt of
15 court for failing to appear and failing to pay; sentences him to 25 days
16 stay jail time in the Clark County Detention Center. The Court will take
17 the recommendation of the district attorney and a bench warrant will issue
18 at the release amount of \$2000.

19 MS. ROSS: Thank you.

20 (THE PROCEEDING ENDED AT 11:36:18.)

21 * * * * *

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

25 
SHERRY JUSTICE
Transcriber II

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FILED**FEB 7 2017***Am. J. H. ...*
CLERK OF COURT1 **TRANS**2
3 **COPY**4
5 **EIGHTH JUDICIAL DISTRICT COURT**6 **FAMILY DIVISION**7 **CLARK COUNTY, NEVADA**8
9 PATRICIA FOLEY,) CASE NO. R-11-162425-R
10 Petitioner,) DEPT. C
11 vs.)
12 MICHAEL A. FOLEY,) **APPEAL NO. 69997**
13 Respondent.)
1415 **BEFORE THE HONORABLE MERLE K. LOK**16 **TRANSCRIPT RE: IN CUSTODY HEARING**17 **MONDAY, NOVEMBER 16, 2015**

1 APPEARANCES:

2 For the Public by DAFS

EDWARD W. EWERT, ESQ.
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner:

PATRICIA FOLEY (Not present)

6 For the Petitioner:

Pro se

7 The Respondent:

MICHAEL FOLEY
(Present via video conference
from the Clark County Detention

8 Center)

9 For the Respondent:

Pro se

1 LAS VEGAS, NEVADA

MONDAY, NOVEMBER 16, 2015

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

3 (THE PROCEEDING BEGAN AT 13:41:37.)

4 THE COURT: We're calling Case R162425.

5 MR. EWERT: All right. For Mr. Foley, our information is that he
6 was arrested on November 12.

7 Is that correct, sir?

8 MR. FOLEY: At my daughter's elementary school. That's correct.

9 MR. EWERT: And you -- it looks like you had several traffic
10 offenses. Have those been resolved?

11 MR. FOLEY: I wouldn't say they were several. They have been
12 resolved.

13 MR. EWERT: Well, what's your status? Are you free on those or
14 what?

15 MR. FOLEY: I am.

16 MR. EWERT: So you're only being held on this child support case?

17 MR. FOLEY: Correct.

18 MR. EWERT: All right. It looks like it involves three children.
19 But Therese turns 18 later this month on the 23rd. Do you know if Therese
20 is gonna graduate in June or...

21 MR. FOLEY: From my information it seems as though she's dropped out
22 of high school and is -- is attending school on line, which is a great
23 disappointment because I've done a lot to be involved in her education and
24 I was denied by the Petitioner, Patricia Foley, as well as her high
25 school, unjustifiably I would say.

1 MR. EWERT: Okay. Let's -- let's take a look at your financial
2 responsibilities here. Your prior hearing was June 17. You didn't show
3 up. So a bench warrant issued for \$2000. What's falling due under your
4 order for June through October, that's five months, 4165 fell due. The
5 last payment we received was -- looks like \$200 jail release in August of
6 2014. So we're looking at, what, 15, 16 months without a payment? Mr.
7 Foley, when was the last time you worked?

8 MR. FOLEY: I would say Wednesday.

9 MR. EWERT: What do you do?

10 MR. FOLEY: I do technical support.

11 MR. EWERT: Software, computer, that's what you're talking about?

12 MR. FOLEY: Generally, that kind of stuff, yes.

13 MR. EWERT: Is that on your own?

14 MR. FOLEY: Yes.

15 MR. EWERT: When was the last time you were -- well, let me ask. If
16 you do that on your own, how much -- are you still doing that?

17 MR. FOLEY: Yes.

18 MR. EWERT: And what do you on average earn through that per month?

19 MR. FOLEY: Generally about \$275 a week.

20 MR. EWERT: 275 a week?

21 MR. FOLEY: Yes.

22 MR. EWERT: Do you have any other source of income?

23 MR. FOLEY: No.

24 MR. EWERT: How do you survive on 275 a week?

25 MR. FOLEY: I don't gamble. I go by -- live within my means on a

1 budget; and I just keep a low, you know, consumption footprint.

2 MR. EWERT: What about...

3 MR. FOLEY: I don't buy (indiscernible)...

4 MR. EWERT: ...taking care of -- what about taking care of your
5 three children financially?

6 MR. FOLEY: I take care of them every time I see them.

7 MR. EWERT: Well, you're under an order to pay through the D.A.'s
8 office, why aren't you obeying that?

9 MR. FOLEY: I cannot afford. My budget, my income does not allow
10 for it.

11 MR. EWERT: Did anybody ever tell you, you should pay something even
12 if you can't pay the full amount of your order?

13 MR. FOLEY: Nope.

14 MR. EWERT: You've assumed all this time, if you can't pay the full
15 amount just pay nothing?

16 MR. FOLEY: I'm always -- sir, I'm always behind in my rent. I'm
17 always behind in my bills and my obligations. It's a real struggle. I no
18 longer...

19 MR. EWERT: The...

20 MR. FOLEY: ...have the love or support of my wife. I no longer
21 have the company of my children. And it's very difficult. I make less
22 money now that I have less support...

23 MR. EWERT: Then why...

24 MR. FOLEY: ...as when I was...

25 MR. EWERT: Why...

1 MR. FOLEY: ...when I was a -- when I was -- as when I was married.

2 MR. EWERT: If you're not making enough, why aren't you out there
3 lookin' for work in your field?

4 MR. FOLEY: Well, I'm only allowed to see my children, twice a week
5 on Tuesdays and Thursdays between 12:00 and 7:00; and there are not very
6 many employers who are willing to -- to work with that schedule. And
7 therefore, it's better for me to just work for my clients and -- and serve
8 them when they need me.

9 MR. EWERT: So you're foregoing higher pay and income so that you
10 can see your children on those days. Is that correct?

11 MR. FOLEY: Well, I would say yes and no. And the reason why is
12 because I had to file a lawsuit in federal court against Clark County and
13 its Department of Family Services because they maliciously and unlawfully
14 put my name in a child abuser database. I was in federal court on
15 September 21st, when the County tried to get the case dismissed, the
16 federal judge, Judge Boulware, denied their motion to dismiss. The case
17 is going on. Discovery is set to begin. I have a November 20th date by
18 which I must file a certain petition that I took an electronic filing
19 class. I have a lot of obligations related to me in proving my job -- job
20 prospects. And one of the issues that inspired the federal judge was that
21 I was de- denied due process. My name was stigmatized by...

22 MR. EWERT: Mis- Mr. Foley...

23 MR. FOLEY: ...being put into the child abuse database.

24 MR. EWERT: ...that -- that all sounds very interesting. But we're
25 -- we're talking about a child support order here that you're supposed to

1 pay. It's a local order out of family court here, correct, Clark County
2 Divorce Decree. Have you not filed in family court to modify...

3 MR. FOLEY: I have.

4 MR. EWERT: ...to lower it?

5 MR. FOLEY: I have, Your Honor. But the judges are very biased for
6 Patricia because she's a female. And I produced all kinds of evidence
7 (indiscernible) know Patricia's a pathological gambler. I have bank
8 records up the wazoo that show that she spends thousands of dollars in the
9 casinos...

10 MR. EWERT: So -- so you're not...

11 MR. FOLEY: ...while my children are (indiscernible).

12 MR. EWERT: You're not obeying this order because you think the
13 mother's going to squander the money on gambling?

14 MR. FOLEY: No, that's not what I said. It's strictly inability to
15 pay.

16 MR. EWERT: All right. I've heard enough, Your Honor.

17 MR. FOLEY: What -- what I'm saying is that the family court does
18 not regard any evidence that I produce to show -- and as a matter of fact,
19 I have video...

20 THE COURT: Sir...

21 MR. FOLEY: ...from (indiscernible) 3rd...

22 THE COURT: ...this is child support court. We defer to the family
23 court rulings and findings. So right now I have an order to enforce at
24 \$833 per month. So is there anything else related to the issues of child
25 support before I make my ruling?

1 MR. FOLEY: Yes, there is. And I have \$119 on the books. That was
2 going to go towards paying my rent. This Court wants to take \$100. So
3 I'll have \$19 to get home, and release me today. That would be just fine.
4 I'll forego legal argument. If the Court doesn't -- is not inclined to
5 take the \$100 I have on the book, then I'd like to make my legal argument
6 and put it on the record.

7 THE COURT: All right. Go ahead. We'll accept your legal argument.
8 Go ahead.

9 MR. FOLEY: The Eighth District Court has exclusive jurisdiction
10 over custody and child support. I've never been served with an order
11 referring child support to a hearing master. Under -- and under Nevada
12 case law, matters cannot be tried under more than one action. This is
13 know as the one-action rule.

14 The separate action R-11-162425 runs afoul of the one-action
15 rule because it is a second action trying the issue of child support
16 already decided and under the jurisdiction of the District Court,
17 Department C.

18 Moreover, NRCP dictates that for every action, there shall be
19 a complaint and an answer. I've never been served with a complaint in
20 this action, R-11-162425. And therefore, I'm unable to properly respond
21 to this action.

22 In or about July of this year, I was granted in former
23 pauperis status in this case. This means that the Court has found me to
24 be indigent, too poor to pay even a filing fee in this action. Because
25 this Court has found me to be too poor to pay an initial appearance fee of

1 approximately \$200, this tribubal [sic] -- this tribunal must necessarily
2 find that I am unable to pay the proposed \$2000 to secure my release.

3 Under well-established U.S. Supreme Court case law, Hicks
4 versus Feiock and Turner versus Rogers, decided in 2011, a person who is
5 subjected to contempt proceedings cannot be deprived of liberty unless he
6 is allowed to have his -- the keys to his prison in his own pocket. This
7 means that a Court cannot hold a person in contempt and confine that
8 person if he doesn't have the ability to pay to be released.

9 At present, I am under a federal court order to complete
10 electronic filing training by November 20th, 2015, and also to -- to
11 commence discovery in a civil action that I filed to have my name removed
12 from the child abuser registry.

13 MR. EWERT: Mr. Foley...

14 MR. FOLEY: I am not able to...

15 MR. EWERT: Mr. Foley...

16 MR. FOLEY: ...(indiscernible) to...

17 MR. EWERT: Sorry to interrupt. I just have a question. How many
18 more pages are you going to read?

19 MR. FOLEY: Just the half.

20 MR. EWERT: All right. Thank you.

21 MR. FOLEY: I have not been able to return to my former employment
22 or have a good job because of this injustice.

23 Finally, the Petitioner, Patricia Foley, has been frustrating
24 my custody rights by having certain individuals show up on my visitation
25 days and preventing me from being with my children. On November 3rd, I

1 was assaulted with a stun gun and prevented from being with my children.
2 Every time violence like this is used against me, it makes my children
3 cry.

4 I will object to the Master's recommendation if I cannot be
5 released today. And of course, the Master's recommendation is not an
6 order or a judgment unless it's signed by a district court judge. With my
7 objection that I'm gonna file, the -- the Master's recommendation will not
8 be an order until the matter is heard by the district court.

9 THE COURT: All right.

10 MR. FOLEY: That concludes my argument, Your Honor. Thank you.

11 THE COURT: All right. Thank you.

12 So based on what I'm hearing, this is what the Court will do.
13 I will recommend ten days be imposed. So can I get a release date with
14 credit for time served?

15 THE CLERK: November 22nd, 2015.

16 THE COURT: All right. And I will go ahead and set the jail release
17 at the bench warrant amount of \$2000. And let's come back on a pay stay
18 calendar in January.

19 THE CLERK: That will be January 15, 2016, at 8:30.

20 THE COURT: And, sir, when you come back for the January 15th date,
21 I want you to pay \$833 for the December payment to avoid contempt. All
22 right. Thank you. You can be seated.

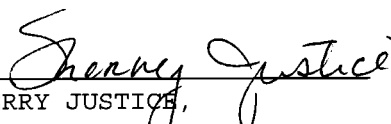
23 (THE PROCEEDING ENDED AT 13:51:50.)

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

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6 SHERRY JUSTICE,
7 Transcriber II

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11/24/2015

Heather S. Amin

CLERK OF THE COURT

Michael Foley
 209 S. Stephanie St Ste B-191
 Henderson, NV 89012

Patricia Foley,
 Petitioner

v.

Michael Foley
 Respondent

Case No. R-11-162425
 Dept. "Child Support"

2/17/16 @ 3:00 PM
 Dept "C"

OBJECTION TO MASTER'S RECOMMENDATION

Comes now, Respondent Michael Foley, and hereby files this OBJECTION to the Master's Recommendation presumably filed on 11-16-2015. This objection is filed on the following grounds:

The Respondent has been found to be indigent and unable to pay expenses and costs in this action because he is too poor. Because the Court has not found that the respondent has an ability to pay the alleged child support money demanded, it is UNCONSTITUTIONAL to deprive him of liberty, or to punish him with confinement. See *Turner v. Rogers* (2011)
 DATED THIS 17th day of November, 2015

Michael Foley
 RESPONDENT

RECEIVED

NOV 23 2015

CLERK OF THE COURT

Electronically Filed
11/24/2015

Howard H. Himm
CLERK OF THE COURT

Michael Foley
209 S. Stephanie St. Ste B-191
Henderson, NV 89012

Patricia Foley
Petitioner

v.
Michael Foley
Respondent

Case No. R-11-162425
Dept. "Child Support"

CERTIFICATE OF SERVICE

The Undersigned hereby certifies that the
OBJECTION TO MASTER'S RECOMMENDATION was
Filed and served via U.S. Postal Service, a copy
of which was mailed to:

Patricia Foley c/o Deputy District Attorney
1900 E. Flamingo Rd.
Las Vegas, NV 89121

SIGNED,

Michael Foley

Michael Foley

BT

22

22


CLERK OF THE COURT

1 **OBJ**
2 MICHAEL FOLEY
3 209 S. Stephanie St. Ste B-191
4 Henderson, NV 89012
5 Telephone: (702) 771-9725
6 Defendant in Proper Person

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 PATRICIA FOLEY

11 Petitioner,

12 vs.

13 MICHAEL FOLEY,

14 Respondent.

Case No. R-11-162425
Dept. No. "Child Support"

Date of Hearing: November 16, 2015

2/17/16 @ 3:00PM

DEPT C

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17 **OBJECTION TO HEARING MASTER'S RECOMMENDATION**
18

19 COMES NOW, Respondent Michael Foley, in Proper Person, and hereby files this
20 OBJECTION to the Hearing Master's RECOMMENDATION, presumably filed on
21 November 16, 2015. Because the clerk has not served via email, as requested, a copy of the
22 OBJECTION the Respondent filed by mail from confinement at Clark County Detention
23 Center on or about November 17, 2015, and out of an abundance of caution, the
24 Respondent hereby files this OBJECTION electronically.

25 This objection is filed on the following grounds:

26 The Petitioner FAILED to appear, and has repeatedly expressed to the Respondent
27 denial of want, need or entitlement of child support;
28

1 The Respondent was NOT furnished the MASTER'S RECOMMENDATION at the
2 conclusion of the hearing, as required by E.D.C.R. 1.40;

3 The Respondent was deprived of the required procedural safeguards as required by
4 the 14th Amendment, as defined by the U.S. Supreme Court in Turner v. Rogers, 564 U.S.
5 __ (2011), namely:

6 The Respondent was NOT given that his "ability to pay" is a critical issue in the
7 contempt proceeding;

8 The hearing master did NOT make an express finding that the respondent has the
9 ability to pay;

10 The Respondent was deprived of personal liberty and confined in a prison in
11 violation of NRS 22.140, and therefore not afforded the opportunity to call witnesses or
12 present relevant evidence;

13 The Respondent was NOT appointed counsel as required by the 6th and 14th
14 Amendments to the U.S. Constitution.

15 DATED this 26th day of November, 2015.

17 // Michael Foley //

18 Michael Foley, Respondent in Pro Per

23

23


CLERK OF THE COURT

1 **NOTC**
2 MICHAEL FOLEY
3 209 S. Stephanie St. Ste B-191
4 Henderson, NV 89012
5 Telephone: (702) 771-9725
6 Defendant in Proper Person

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 PATRICIA FOLEY

11 Petitioner,

Case No. R-11-162425

12 vs.

Dept. No. "Child Support"

13 MICHAEL FOLEY,

14 Respondent.

15
16
17 **NOTICE**

18
19 To: The Court

20 PLEASE TAKE NOTICE that the pending hearing scheduled by the District Court
21 Clerk in the above-referenced action was placed on the calendar without a request for a
22 hearing by any party to this action. In the absence of a summons or order to appear, signed
23 by a judge, and in the absence of a motion, notice of motion, and memorandum of points
24 and authorities, pursuant to Eighth District Court Rule 2.20, and proof of service thereof,
25 the Respondent Michael Foley will *not* personally, voluntarily or willingly appear before
26 the Court to argue in this action, as such a voluntary appearance would violate the one-
27 action rule, NRS 40.430, as well as the 6th and 14th Amendments to the U.S. Constitution,
28 as interpreted by the U.S. Supreme Court in Turner v. Rogers, 131 S.Ct. 2507 (2011),

1 which require the appointment of counsel to an indigent litigant when the State acts to take
2 the life or liberty of such a citizen, or represents a party who seeks to incarcerate the
3 adverse indigent party in a civil contempt proceeding. The individual attorney Edward
4 Ewert, who represents the State (which is NOT a party to this or the original dissolution
5 action), is being *sued* by the Respondent in Federal Court, because he clearly does not
6 understand or intend to observe fundamental constitutional doctrine, namely those
7 supported by the 4th, 6th, 9th, and 14th Amendments to the Constitution for the United States,
8 and aforementioned case law, and therefore should be barred from appearing in this action,
9 as he acts to represent the subject children without the consent of the Respondent, who is
10 the children's natural parent, and who necessarily decides what is in the best interest of his
11 children. See IN RE: PARENTAL RIGHTS as to A.G. Washoe County Department of
12 Social Services, Appellant, v. Kory L.G., Respondent, 129 Nev. Adv. Op. 13 (parents have
13 a fundamental liberty interest in the care, custody, and control of their children; the
14 fundamental constitutional right to make decisions concerning the rearing of [their] own
15 [children].” See Troxel v. Granville, 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49
16 (2000); Stanley v. Illinois, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972)). The
17 State's and the County's interest in collecting \$19 million in annual “child support”
18 incentives from the U.S. taxpayers' Social Security fund, under Title IV-D of the Social
19 Security Act, should not prevail over the Respondent's reasonable, rightful, and proper will
20 to protect his children's need to be supervised, and not left alone or in the custody of an
21 illegal alien, which is what happens when the State incarcerates the indigent Respondent,
22 and seizes his very limited assets, and transfers such funds to the Petitioner, who is
23 hopelessly addicted to gambling.

24
25 DATED this 13th day of January, 2016.

26
27 // Michael Foley /

28 Michael Foley, Respondent in Pro Per



24

24

FILED**FEB -7 2017***Ann L. Williams*
CLERK OF COURT**COPY**1 **TRANS**5 **EIGHTH JUDICIAL DISTRICT COURT**6 **FAMILY DIVISION**7 **CLARK COUNTY, NEVADA**

9 PATRICIA FOLEY,) CASE NO. R-11-162425-R
 10 Petitioner,) DEPT. C
 11 vs.)
 12 MICHAEL A. FOLEY,)
 Respondent.)
 13

11 **APPEAL NO. 69997**14 **BEFORE THE HONORABLE SYLVIA TEUTON**15 **TRANSCRIPT RE: AM PAY STAYS**16 **FRIDAY, JANUARY 15, 2016**

1 APPEARANCES:

2 For the Public by DAFS EDWARD W. EWERT, ESQ.
3 Chief Deputy D.A. - Family Support
4 1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner: PATRICIA FOLEY (Not present)
6 For the Petitioner: Pro se

7 The Respondent: MICHAEL FOLEY
8 For the Respondent: Pro se

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1 LAS VEGAS, NEVADA

FRIDAY, JANUARY 15, 2016

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

3 (THE PROCEEDING BEGAN AT 11:37:28.)

4 THE MARSHAL: 22 is Foley.

5 MR. EWERT: Well, this one, we shouldn't hear. He filed an
6 objection. That's set for a hearing before Judge Hughes on January 20th --
7 Bur- Burton, I mean. Judge Burton.

8 THE COURT: Should we just continue it?

9 MR. EWERT: Well, let's see. How did we get on calendar? Was that
10 -- that was the prior order, correct?

11 THE COURT: Right.

12 MR. EWERT: Okay. Then -- so somehow we should've been -- this
13 hearing should have been...

14 THE COURT: He -- how much -- he was supposed to pay 833 by today,
15 right? Has he paid?

16 MR. EWERT: Frankly, Your Honor, I don't want to get into the merits
17 since he did file an objection.

18 THE COURT: All right. We'll continue this, regular calendar, six
19 months.

20 THE CLERK: (Indiscernible) July 13th, 2016, at 2:15.

21 THE COURT: At what time?

22 THE CLERK: At 2:15, Your Honor.

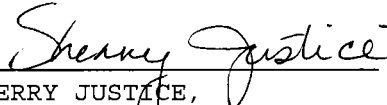
23 (THE PROCEEDING ENDED AT 11:38:43.)

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

5 
6 SHERRY JUSTICE,
7 Transcriber II

25

25

FILED

FEB -7 2017


 CLERK OF COURT

COPY

1 TRANS

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

9	PATRICIA FOLEY,	)	CASE NO. R-11-162425-R
	Petitioner,	)	DEPT. C
10)	
	vs.)	
11		)	APPEAL NO. 69997
	MICHAEL A. FOLEY,)	
12	Respondent.)	
)	

BEFORE THE HONORABLE REBECCA L. BURTON

TRANSCRIPT RE: OBJECTION - UIFSA

WEDNESDAY, JANUARY 20, 2016

1 APPEARANCES:

2 For the Public by DAFS

ROBERT GARDNER, ESQ.
(Telephonic appearance)
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner:

PATRICIA FOLEY (Not present)

6 For the Petitioner:

Pro se

7 The Respondent:

MICHAEL FOLEY (Not present)

8 For the Respondent:

Pro se

1 LAS VEGAS, NEVADA

WEDNESDAY, JANUARY 20, 2016

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

3 (THE PROCEEDING BEGAN AT 10:45:04.)

4 THE CLERK: Mr. Gardner, can you hear me?

5 MR. GARDNER: Yes, thank you.

6 THE COURT: Hi, Mr. Gardner. This is Judge Burton in the courtroom.

7 Can you hear me?

8 MR. GARDNER: Yes, Judge. Thank you.

9 THE COURT: All right.

10 This is Case R-11-162425-R. It is Patricia Foley versus
11 Michael Foley. And it's the case arising out of the child support action
12 in the R Case. And I see that -- that there was a Master's Recommendation
13 that was from Novem- a hearing held November 16th, 2015. I see that there
14 was a Notice of Entry of Master's Recommendation that was filed November
15 17th, 2015. And it indicates that both parties were served with a copy of
16 the Master's Recommendation as required by the rules. I know that -- well,
17 Mr. Foley -- Michael Foley filed a -- it was -- it's a handwritten
18 Objection to Master's Recommendation. I'm not certain why it says February
19 17th at 3:00 p.m.

20 Mr. Gardner, do you have anything on your calendar for that
21 date?

22 MR. GARDNER: I think that was the original date scheduled, Judge.
23 And then the Court did a Notice of Change of Hearing. And that was filed
24 on December 9th.

25 THE COURT: Oh okay. So we changed it then. All right.

1 All right. And in the objection, it's a little difficult
2 because there's not much. It's a one-page handwritten objection, so there
3 isn't a whole lot on here. But it looks like that -- and on...

4 And for the record, Mr. Foley is not present. He's provided a
5 notice. And I'll get to that in a minute. Mr. Foley indicates that he's
6 found to be indigent, and so he's unable to pay child support. And because
7 of that, it's unconstitutional basically to incarcerate him. That's the
8 gist I'm getting from his objection.

9 He -- he's filed a typed objection, November 26th, 2015. And
10 it says, he's -- objects on a few more grounds. He says that Patricia
11 failed to appear in child support court. So that means the action
12 should've been just simply not heard, that he was not furnished the
13 Master's Recommendation because his interpretation of the statute EDCR 1.40
14 means he's supposed to receive it at the end of the hearing. And that's
15 not true. He did receive Notice of Entry. So he did receive notice.

16 He said that he was deprived of the required procedural
17 safeguards pursuant to the U.S. Supreme Court in Turner versus Rogers, that
18 he was not given his ability to pay is a critical issue in the contempt
19 proceeding.

20 I think with a proceeding that goes back -- in fact, I've
21 printed off the case summary. It goes some nine pages. There's been
22 numerous hearings. There's been several bench warrants and Order to Show
23 Causes. And he's been in front of the Court on many, many occasions. It's
24 absurd to say his ability to pay is not at issue. And to even make that
25 argument is absurd.

1 The Hearing Master did not make an express finding that he has
2 the ability to pay. You know, it isn't just -- it's -- it's ability to
3 pay. We also take into consideration willful unemployment or
4 underemployment. And I'll let the D.A. speak in a minute. But I know that
5 that's taken into consideration as well.

6 So someone can't not be working and say, well, you didn't find
7 that I -- that I don't have the -- I don't have the ability to pay because
8 I don't have an income. I -- I -- that's contrary to what Nevada law
9 allows under cases such as Minnear versus Minnear that we can take into
10 consideration willful underemployment or unemployment.

11 He also argues that the -- that he was deprived of personal
12 liberty and confined in prison in violation of NRS 22.140 and therefore,
13 not afforded the opportunity to call witnesses or present relevant
14 evidence. He was not appointed counsel. And this is civil contempt not
15 criminal contempt. And there's -- I think that his request for counsel in
16 a civil contempt proceeding is not well founded under the law. He knew
17 what was going on.

18 He filed a notice January 13, 2016, saying he wasn't going to
19 be present here. He says that a voluntary appearance would violate the
20 one-action rule. And he cites NRS 40.430, which the Court looked up, which
21 has to do with actions for foreclosure of real mortgage -- of real
22 mortgages. So I'm not really certain why he cited that statute. And then
23 once again, he reflects Turner versus Rogers.

24 And basically he says that the State's interest in collecting
25 child support under IV-D should not prevail; that his reasonable, rightful

1 and proper will to protect his children's need to be supervised and not
2 left alone or in the custody of an illegal alien, which is what happens
3 when the State incarcerates him and seizes his assets and gives those
4 monies to - to mom, who is helplessly addicted to gambling.

5 So there's a lot of little leaps there, I guess, in logic that
6 seems to take away responsibility that should be directed to him about
7 child support and what is - what's -- he's doing to look for work and
8 whether he is or isn't paying his child support obligation. Again, I see
9 that there's been quite a few times that he's been brought before the
10 Court.

11 So, Mr. D.A., go ahead.

12 MR. GARDNER: Thank you, Judge. I would refer the Court to the
13 district attorney's opposition that was filed on December 8th, 2015, by a
14 seasoned attorney in our office, Mr. Ed Ewert. I think he addresses all of
15 those issues, as well.

16 THE COURT: He does.

17 MR. GARDNER: And we would ask...

18 THE COURT: I did see that, yes.

19 MR. GARDNER: Thank you, Judge. We'd ask the Court to deny
20 Respondent's objections, both of them, since he did file the two separate
21 objections. And we do have a return court date set in July, I believe, in
22 the child support court.

23 THE COURT: All right. Well, based upon the points and authorities
24 that are set forth in great detail in the response filed by the D.A.'s
25 office, those shall be adopted by the Court. And Mr. Foley's two

1 objections, the ones that was filed on November 24th, as well as the
2 objection that was filed on November 26th, are both denied. Okay.

3 And, Mr. D.A., you'll be submitting paperwork to this Court?

4 MR. GARDNER: Judge, we would ask you to sign the -- the order if you
5 have it there available. If not, we can prepare an order.

6 THE COURT: Yeah, you need to send it. I don't have one.

7 MR. GARDNER: Okay. We will prepare that and send it for the Court's
8 signature.

9 THE COURT: All right. Thank you.

10 THE CLERK: You should've (indiscernible).

11 MR. GARDNER: Thank you, Judge.

12 THE CLERK: Your JEA should have sent...

13 THE COURT: Oh you -- you know what? I could have it. It could be
14 on my desk or something. I just haven't seen it. 'Cause, you know what?
15 It probably is because Donna is on vacation...

16 THE CLERK: Okay.

17 THE COURT: ...for a couple of -- or yesterday.

18 THE CLERK: (Indiscernible).

19 THE COURT: And probably...

20 (THE PROCEEDING ENDED AT 10:52:52.)

21 ////

22 ////

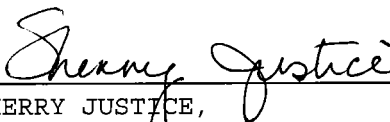
23 ////

24 ////

25 ////

* * * * *

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

5 
6 SHERRY JUSTICE,
7 Transcriber II

26

26


 CLERK OF THE COURT

1 **NOAS**
 2 **MICHAEL FOLEY**
 3 209 S. Stephanie St. Ste B-191
 4 Henderson, NV 89012
 5 Telephone: (702) 771-9725
 6 Defendant in Proper Person

Electronically Filed
 Mar 17 2016 02:27 p.m.
 Tracie K. Lindeman
 Clerk of Supreme Court

7 **DISTRICT COURT**
 8 **FAMILY DIVISION**
 9 **CLARK COUNTY, NEVADA**

10 **PATRICIA FOLEY**

11 Petitioner,

Case No. R-11-162425

12 vs.

Dept. No. "Child Support"

13 **MICHAEL FOLEY,**


14 Respondent.

15 **NOTICE OF APPEAL**

16
 17
 18
 19 The Respondent hereby APPEALS the orders and/or judgments entered in the
 20 above-referenced action on or about February 8, 2016 and February 22, 2016.

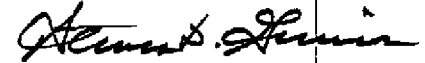
21
 22 DATED this 9th day of March, 2016.

23
 24 SIGNED,



25
 26 /Michael Foley /

27 Michael Foley, Respondent in Pro Per


 CLERK OF THE COURT

ASTA

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

PATRICIA FOLEY,

Petitioner(s)

Case No: R-11-162425-R

Dept No: C

vs.

MICHAEL A. FOLEY,

Adverse Party(ies),

CASE APPEAL STATEMENT

1. Appellant(s): Michael Foley

2. Judge: Rebecca L. Burton

3. Appellant(s): Michael Foley

Counsel:

Michael Foley
209 S. Stephanie St., Ste. B-191
Henderson, NV 89012

4. Respondent (s): Patricia Foley

Counsel:

Patricia Foley
8937 Austin Ridge Ave.
Las Vegas, NV 89178

1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: N/A
4 Permission Granted: N/A

5 6. Appellant Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis: Yes, July 14, 2015

8 Appellant Filed Application to Proceed in Forma Pauperis: N/A
9 Date Application(s) filed: N/A

10 9. Date Commenced in District Court: May 9, 2011

11 10. Brief Description of the Nature of the Action: DOMESTIC - Miscellaneous

12 Type of Judgment or Order Being Appealed: Misc. Order

13 11. Previous Appeal: No

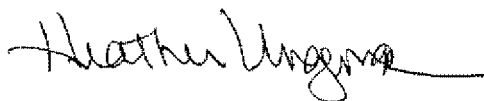
14 Supreme Court Docket Number(s): N/A

15 12. Child Custody or Visitation: N/A

16 13. Possibility of Settlement: Unknown

17 Dated This 17 day of March 2016.

18 Steven D. Grierson, Clerk of the Court

19
20 

21
22 Heather Ungermann, Deputy Clerk
23 200 Lewis Ave
24 PO Box 551601
25 Las Vegas, Nevada 89155-1601
26 (702) 671-0512

27 cc: Michael Foley
28

1 II. CONCLUSION

2 Defendant SHERA BRADLEY respectfully requests that this Honorable Court take
3 judicial notice of the documents herein described and attached as Exhibit A at any
4 hearing or trial of this matter.

5 DATED this 7th day of June, 2012

6 Respectfully submitted,

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8
9
10 By 

JOSH COLE AICKLEN

Nevada Bar No. 007254

DAVID B. AVAKIAN

Nevada Bar No. 009502

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Tel. 702.893.3383

Attorneys for Defendant SHERA BRADLEY

CERTIFICATE OF SERVICE

I hereby certify that on this 11 day of June, 2012, a true and correct copy of DEFENDANT SHERA BRADLEY'S REQUEST FOR JUDICIAL NOTICE PURSUANT TO FRE 201 was placed in an envelope, postage prepaid, addressed as stated below, in the basket for outgoing mail before 4:00 p.m. at LEWIS BRISBOIS BISGAARD & SMITH LLP. The firm has established procedures so that all mail placed in the basket before 4:00 p.m. is taken that same day by an employee and deposited in a U.S. Mail box.

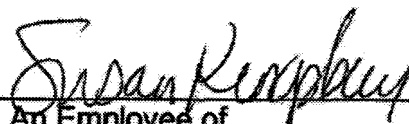
The following parties or persons were served via U.S. mail only:

Michael Foley
3300 S. Decatur Blvd., #10172
Las Vegas, NV 89102
Tel: 702.771.9725
Plaintiff in Proper Person

Patricia Foley
2120 Crestline Falls Place
Las Vegas, NV 89134
Defendant in Proper Person

Michael and Brenda Dorantes
5574 San Florentine Ave.
Las Vegas, NV 89141
Tel: 702.876.3500
Defendants in Proper Person

By



An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

SERVICE LIST

1		
2	Michael Foley	Patricia Foley
3	3300 S. Decatur Blvd., #10172	2120 Crestline Falls Place
4	Las Vegas, NV 89102	Las Vegas, NV 89134
5	Tel: 702.771.9725	Defendant in Proper Person
6	Plaintiff in Proper Person	
7	Michael and Brenda Dorantes	Milford W. Dahl, Jr., Esq. (Pro Hac)
8	5574 San Florentine Ave.	Lisa N. Neal, Esq. (Pro Hac)
9	Las Vegas, NV 89141	Taylor R. Dalton, Esq. (Pro Hac)
10	Tel: 702.876.3500	RUTAN & TUCKER, LLP
11	Defendants in Proper Person	611 Anton Blvd., 14 th Flr.
12		Costa Mesa, CA 92626
13		Tel: 714.641.3438
14		Fax: 714.546.9035
15		Email: mdahl@rutan.com
16		Email: lneal@rutan.com
17		Email: tdalton@rutan.com
18		Attorneys for Defendants
19		AP EXPRESS, AP EXPRESS
20		WORLDWIDE and JEFFREY PONT
21	J. Stephen Peek, Esq.	Leah A. Martin, Esq.
22	Leslie M. Nino, Esq.	Leah A. Martin, Esq., P.C.
23	HOLLAND & HART LLP	319 S. 3 rd St., Suite 1
24	9555 Hillwood Dr., 2 nd Flr.	Las Vegas, NV 89101
25	Las Vegas, NV 89134	Tel: 702.518.2121
26	Tel: 702.669.4600	Fax: 702.330.3235
27	Fax: 702.669.4650	Email: leahmartinlv@gmail.com
28	Email: speek@hollandhart.com	Attorneys for Defendants
	Email: lmnino@hollandhart.com	DINO IANTUONO and TONI ANN
	Attorneys for Defendants	IAN TUONO
	AP EXPRESS, AP EXPRESS	
	WORLDWIDE and JEFFREY PONT	
	Edward D. Boyack, Esq.	Lisa J. Zastrow, Esq.
	Colby D. Beck, Esq.	KAEMPFER CROWELL RENSHAW
	BOYACK & BECK	GRONAUER & FIORENTINO
	401 N. Buffalo Dr., Suite 202	8345 W. Sunset Rd., Suite 250
	Las Vegas, NV 89145	Las Vegas, NV 89113
	Tel: 702.562.3415	Tel: 702.792.7000
	Fax: 702.562.3570	Fax: 702.796.7181
	Attorneys for Defendant	Email: lzastrow@kcnvlaw.com
	MICHELLE PONT	Attorneys for Defendant
		MANUEL CARRANZA

EXHIBIT A

COPY

FILED

Dec 10 5 19 PM '08

DAVID ROGER
DISTRICT ATTORNEY
NEVADA STATE BAR NO. 002781
JENNIFER MEISELMAN TITUS
Deputy District Attorney
Nevada State Bar No. 9625
601 N. Pecos Road, Ste. 470
Las Vegas, NV 89101
(702) 455-5320

DISTRICT COURT
JUVENILE DIVISION
CLARK COUNTY, NEVADA

Chaf
CLERK OF THE COURT

In the Matter of:

[REDACTED] DOB: [REDACTED]

[REDACTED] FOLEY DOB: [REDACTED]

[REDACTED] FOLEY DOB: [REDACTED]

Minors.

) Case No. J313094
) Dept No. G
) Courtroom No. 19

**ORDER FOR NATURAL FATHER TO UNDERGO A PSYCHOLOGICAL
EVALUATION**

This matter came before this Court on November 24, 2008, at 10:00 a.m. for a Plea Hearing. Present at the hearing was the Clark County Department of Family Services represented by GEORGINA STUART. The natural mother, PATRICIA FOLEY, was not present represented by NIKKI DUPREE, ESQ. The natural father, MICHAEL FOLEY, SR. was present, represented by his attorney, NATHAN GIBBS, ESQ. The Clark County District Attorney's office represented by DAVID ROGER, by and through JENNIFER MEISELMAN TITUS, Deputy District Attorney.

Based on the allegations in the petition, pursuant to NRS 432B.560, it is hereby recommended that the natural father, MICHAEL FOLEY, SR. undergo a psychological evaluation.

IT IS HEREBY ORDERED that pursuant to NRS 432B.560, that MICHAEL FOLEY, SR. undergo a psychological evaluation.

1 IT IS FURTHER ORDERED that the Contested Hearing scheduled for January 12, 20
2 at 1:30 p.m., in Courtroom 19, stands.

3 DATED this _____ day of DEC 09 2008, 2008.
4
5

6 FERNANDO GUZMAN
7 HEARING MASTER
8

9 CYNTHIA DIANNE-STEEL
10 DISTRICT COURT JUDGE

11 Submitted By:

12 Jennifer Meiselman Titus
13 JENNIFER MEISELMAN TITUS
14 Deputy District Attorney
15 Nevada State Bar No. 9625
16
17
18
19
20
21
22
23
24
25
26
27
28

1 MICHAEL FOLEY
 2 3300 S. Decatur Blvd. #10172
 3 Las Vegas, NV 89102
 4 Telephone: (702) 771-9725
 5 Plaintiff in Proper Person
 6
 7
 8
 9

FILED
 2012 JUN 11 P 3:17

7 UNITED STATES DISTRICT COURT
 8 DISTRICT OF NEVADA
 9

10 MICHAEL FOLEY,

Case No. 2:11-cv-01769-ECR-vcf

11 Plaintiff

12 vs.

14 Michelle Pont, an individual; Jeffrey
 15 Pont, an individual; AP Express, a
 16 California Limited Liability Company;
 17 AP Express Worldwide, a California
 18 Limited Liability Company; Georgina
 19 Stuart, an individual; John T. Kelleher,
 20 an individual; Nikki Dupree, an
 21 individual; Kelleher & Kelleher, a
 22 Nevada Limited Liability Company;
 23 Shera Bradley, an individual; Joan Coe,
 24 an individual; Juan Carlos Valdes, a
 25 citizen of Mexico; Manuel Carranza, a
 26 citizen of Mexico; Michael Dorantes, an
 27 individual; Brenda Dorantes, an
 28 individual; Viva Productions Las Vegas,
 LLC (a.k.a. "Viva Productions"), a
 business entity; Toni Ann Iantuono, an
 individual; Dino Iantuono, an individual;
 Patricia Foley, an individual, DOEs 1-10;
 ROEs 11-20,

Defendants

NOTICE OF FORGED DOCUMENT
FILED BY DEFENDANT SHERA
BRADLEY

1 PLEASE TAKE NOTICE that the document presented to this Court styled as a
2 Juvenile Court Order filed as "Exhibit A" within DEFENDANT SHERA BRADLEY'S
3 REQUEST FOR JUDICIAL NOTICE PURSUANT TO FRE 201 filed on June 7, 2012, is
4 a *forgery*, and was originally filed under false pretenses. Plaintiff hereby advises the Court
5 that said document does not contain the signature or handwriting of either the judge or
6 hearing master, but mere rubber stamped signatures *and dates*, although it does appear that
7 it was in fact filed with the Clerk of the District Court, Clark County Nevada, but done so
8 in contravention of Hearing Master David S. Gibson Sr.'s finding and recommendation on
9 November 24, 2008, who decreed that "no [psychological] evaluation [was] needed." See
10 Plaintiff's Exhibit "1," COURT MINUTES of the District Court, Clark County Nevada,
11 Juvenile Division, case number 08J313094. One of the rubber stamps even bears the name
12 of the wrong Hearing Master, Fernando Guzman, who did NOT preside over the November
13 24, 2008 hearing. An authentic Order entered by Judge Steel is attached as Exhibit "2."

14 The Court should also note that the document lacks a NOTICE OF ENTRY OF
15 ORDER, which explains to the Plaintiff why he has never seen this document before. The
16 only logical explanation why this false Order was filed without notice is that production of
17 the false document was necessary to comply with Clark County's fiscal policy, which
18 *required a COURT ORDER or COURT MINUTES* in order to authorize payment to
19 Defendant Shera Bradley, who was *contracted* by DFS to perform the *false* psychological
20 evaluation on the Plaintiff. See Plaintiff's Exhibit "3," pg. 3 of UNITY (CPS) case notes,
21 which records an email sent from Clark County's Fiscal Department to Defendant Stuart:

22 Dear Ms. Stuart:

23 FCS received your referral requesting a psychological evaluation. FCS will
24 need a copy of the *court order or minutes* before the client [Plaintiff] can be
25 referred to a *contracted* provider. The county fiscal department requires a
26 copy of the *order* otherwise the doctor [Holland or Bradley] will not be
27 paid. Please fax the court order to 455-7961. Once I receive the order, I can
28 begin to facilitate the referral. Also the county only pays for *contract*
psychological evaluations for parents if they do not have any insurance
benefits. Thus I need to know the status of the client's insurance. Also, all
prior mental health records need to be provided to assist with the
evaluation. (Emphasis added.)

1 Apparently Defendant Stuart, who only months before admitted to committing fraud
2 in connection with obtaining her license as a social worker, had no qualms about
3 committing fraud against the County by causing the production of a false Court Order to
4 pay for a psychological evaluation that the Court had decreed was unnecessary, in order to
5 carry out her plan to force Plaintiff to submit to a psychological evaluation that was not
6 required by the Court, which now more than ever appears to be completely *bogus*. The
7 forged Order was never noticed to the Plaintiff or his defense counsel because such a notice
8 would have tipped off Plaintiff and his counsel that the forged Order had been filed, and a
9 fraud had been committed against the Juvenile Court, which would have likely entered an
10 outright dismissal of the Abuse and Neglect Petition, and imposed sanctions against the
11 fraud-perpetrating parties, namely Defendant Georgina Stuart and apparently Deputy
12 District Attorney Jennifer Meiselman Titus, who has since left the jurisdiction, and whom
13 Plaintiff has not named as a Defendant knowing that she, as well as other prosecutors
14 involved, are sworn to uphold the integrity of the Court while they enjoy absolute
15 immunity from civil suit. Moreover, such documents and filings are not normally
16 accessible or available for inspection by the general public pursuant to NRS 62H.030:

17 2. Except as otherwise provided in this section and NRS 217.110, records
18 of any case brought before the juvenile court may be opened to inspection
19 only by court order to persons who have a legitimate interest in the records.

19 Plaintiff or his counsel would not have been automatically noticed of this false
20 Court Order as one would be noticed using the County Court's Odyssey or Federal Court's
21 CM/ECF systems. The Court should also note that according to the UNITY (CPS) case
22 notes dated November 26, 2008, that Defendant Stuart proceeded to order a psychological
23 evaluation only *two days after* the Juvenile Court decreed that "no evaluation [was]
24 needed." See exhibit "2," page 2, Contact Date: 11-26-2008, Time: 7:25. The version of
25 these notes provided to Plaintiff's court-appointed attorney (in the abuse and neglect
26 matter) Stephanie MacKeen, pursuant to the Court's discovery order, was *redacted*,
27 blacking out the text where Defendant Georgina Stuart recorded her false statement, "Court
28 ordered psychological testing of the [Plaintiff]." See exhibit "4," page 2. Plaintiff believes

1 that this notation was made to mislead officials in the County Fiscal Department (who may
2 have reviewed UNITY) to believe that there was indeed an Order for psychological
3 evaluation of the Plaintiff, when the Juvenile Court Minutes (which were probably not
4 accessible to the Fiscal Department) reflected otherwise.

5 The forged Order in question was prepared for and obtained by Defendant Stuart to
6 finance the Psychological Report that Stuart arranged to be performed *originally* by
7 Psychologist Stephanie Holland, a close associate of co-conspirator and Defendant John
8 Kelleher, as alleged in Plaintiff's First Amended Complaint, pg. 44, ¶ 76, lines 6-13:

9 But in or about January, 2009, Stuart made an appointment for Michael to
10 be evaluated by a subordinate of Holland, who told Michael and his
11 attorney Amy Mastin that Holland would be writing the final report. Mastin
12 advised Michael to comply with the Court order and not submit to the
13 evaluation. This infuriated Stuart, who then sought out Defendant Shera
14 Bradley to administer the evaluation. Stuart enlisted Bradley because she
15 knew that Bradley was an unfair evaluator, and would give her a negative
16 report about Michael, regardless of how well he scored on his Personality
17 Assessment Inventory and interview with Bradley.

18 How Defendant's counsel was able to obtain this confidential Juvenile Court Order
19 is a question that will be asked as discovery continues. Plaintiff will later inform the Court
20 if the document was in fact obtained illegally, without a Court Order authorizing its release.

21 THEREFORE, Plaintiff desires that this Court be advised that a fraud was
22 committed in the production and entry of this forged document, attached as Exhibit "A"
23 within DEFENDANT SHERA BRADLEY'S REQUEST FOR JUDICIAL NOTICE
24 PURSUANT TO FRE 201, which was *apparently* prepared by a co-conspiring Deputy
25 District Attorney, and entered into the Juvenile Court record for the use and benefit of
26 conspiring Defendant Georgina Stuart and psychological evaluator and Defendant Shera
27 Bradley, *contrary to the finding and recommendation* of the Judicial Official, the
28 Honorable David S. Gibson, Sr., who presided over the subject matter.

DATED THIS 10th day of June, 2012.

SIGNED,



Michael Foley, Plaintiff in Proper Person

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of June, 2012, I caused service of NOTICE OF FORGED DOCUMENT FILED BY DEFENDANT SHERA BRADLEY by mailing a true and correct copy of the same 1st Class via the U.S. Postal Service, postage prepaid, addressed to the following:

J. Stephen Peek, Leslie Nino
Holland & Hart

Attorneys for Jeffrey Pont, AP Express,
and AP Express Worldwide
9555 Hillwood Drive, 2nd floor
Las Vegas, NV 89134

Josh Cole Aicklen, David Avaikian
Lewis Brisbois Bisgaard & Smith, LLP
Attorneys for Shera Bradley
6385 S. Rainbow Boulevard
Suite 600
Las Vegas, NV 89118

Leah A. Martin, Esq., P.C.
Attorney for Dino and Toni Ann Iuantuono
319 S. 3rd St., Suite 1
Las Vegas, NV 89101

Edward Boyack
Attorney for Jeffrey Pont
401 N Buffalo Dr # 202
Las Vegas, NV 89145

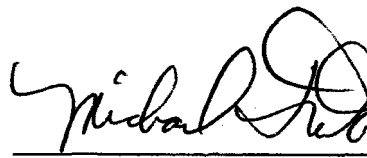
Patricia Foley
2120 Crestline Falls Pl
Las Vegas, NV 89134

Michael and Brenda Dorantes, and
Viva Productions Las Vegas LLC
5574 San Florentine Ave
Las Vegas NV 89141

Timothy Baldwin, Deputy D.A.
500 South Grand Central Pkwy, 5th Floor
P.O. Box 552215
Las Vegas, NV 89155-2215

Lisa Zastrow
Attorney for Manuel Carranza
8345 West Sunset Rd. Ste 250
Las Vegas, NV 89113

SIGNED,



Michael Foley, Plaintiff in Proper Person

Exhibit “1”

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Juvenile Neglect

COURT MINUTES

November 24, 2008

08J313094

Patricia Foley, Mother

November 24, 2008	10:00 AM	Entry of Plea
-------------------	----------	---------------

HEARD BY:		COURTROOM:	No Location
-----------	--	------------	-------------

PARTIES:	<table style="width: 100%;"> <tr> <td style="width: 50%;">Foley Sr., Michael</td> <td style="width: 50%;">Father</td> </tr> <tr> <td>Gibbs, R. Nathan</td> <td>Attorney</td> </tr> <tr> <td>Lobello, Michele</td> <td>Attorney</td> </tr> <tr> <td>Touby</td> <td></td> </tr> <tr> <td>Meiselman Titus,</td> <td>Attorney</td> </tr> <tr> <td>Jennifer R.</td> <td></td> </tr> <tr> <td>Roger, David J</td> <td>Attorney</td> </tr> <tr> <td>State of Nevada</td> <td>State of Nevada</td> </tr> </table>	Foley Sr., Michael	Father	Gibbs, R. Nathan	Attorney	Lobello, Michele	Attorney	Touby		Meiselman Titus,	Attorney	Jennifer R.		Roger, David J	Attorney	State of Nevada	State of Nevada
Foley Sr., Michael	Father																
Gibbs, R. Nathan	Attorney																
Lobello, Michele	Attorney																
Touby																	
Meiselman Titus,	Attorney																
Jennifer R.																	
Roger, David J	Attorney																
State of Nevada	State of Nevada																

COURT CLERK:	
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JOURNAL ENTRIES

- (T. . ., M. . . and E. . . Foley) Department of Family Services (DFS) represented by Georgina Stuart. Counsel, Nicki Dupree present on behalf of the mother.

Attorney Gibbs appearing in an unbundled capacity entered a DENIAL on behalf of the father as to petn 1. COURT RECOMMENDED, matter set for TRIAL.

Attorney Gibbs requested the evaluation be completed before the trial.

Statements made as to the relevancy of the evaluations as to the mother's mental health, issues as to gambling and guardianship as to T. . . .

Court noted the only allegations in the petn is as to physical abuse, therefore, no evaluation is needed. COURT RECOMMENDED, State to provide a witness list to counsel as well as full discovery. Reciprocal discovery to the State.

1-12-09 1:30 PM TRIAL/PETN 1 "19"

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Juvenile Neglect

COURT MINUTES

February 24, 2009

08J313094

Patricia Foley, Mother

February 24, 2009	1:30 PM	Trial
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HEARD BY:	Steel, Cynthia Dianne	COURTROOM:	Courtroom 21
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PARTIES:	<table style="width: 100%;"> <tr> <td style="width: 50%;">Cordes, Ronald L.</td> <td style="width: 50%;">Attorney</td> </tr> <tr> <td>Foley Sr., Michael</td> <td>Father</td> </tr> <tr> <td>Lobello, Michele</td> <td>Attorney</td> </tr> <tr> <td>Touby</td> <td></td> </tr> <tr> <td>Roger, David J</td> <td>Attorney</td> </tr> <tr> <td>State of Nevada</td> <td>State of Nevada</td> </tr> </table>	Cordes, Ronald L.	Attorney	Foley Sr., Michael	Father	Lobello, Michele	Attorney	Touby		Roger, David J	Attorney	State of Nevada	State of Nevada
Cordes, Ronald L.	Attorney												
Foley Sr., Michael	Father												
Lobello, Michele	Attorney												
Touby													
Roger, David J	Attorney												
State of Nevada	State of Nevada												

COURT CLERK:	
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JOURNAL ENTRIES

- (T, M and E Foley) Department of Family Services (DFS) represented by Georgina Stuart.

Pursuant to negotiations, State requested matter be set for further proceedings in 60 days. During that time, Dad agrees to complete a Psychological evaluation regarding domestic violence. If he completes the assessment and follows the recommendations with that time, State will be in a position to recommend dismissal of Petition 1.

COURT ORDERED, matter is set for further proceedings.

04-30-09 10:00 AM FURTHER PROCEEDINGS: POSSIBLE DISMISSAL P1 (DAD)

FUTURE HEARINGS:

Exhibit “2”

COPY

ORDR

Michele Touby LoBello

Nevada Bar No. 5527

Stephanie B. MacKeen

Nevada State Bar No. 9854

BLACK & LOBELLO

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

(702) 869-8801

Attorneys for Father,

MICHAEL FOLEY, SR.

FILED

MAR 11 4 32 PM '09

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Minor Children:

Case No.: J313094

T FOLEY

Date of Birth:

Dept. G

M FOLEY

Date of Birth:

E FOLEY

Date of Birth:

Minor Children

ORDER APPOINTING COUNSEL FOR FATHER, MICHAEL FOLEY, SR.

This matter having come before this Court upon the Petition of the above-named minors,
and good cause appearing,

IT IS HEREBY ORDERED that as of January 20, 2009, STEPHANIE B. MACKEEN,
and the law firm of BLACK & LOBELLO, is hereby appointed by this Court to represent
Father, MICHAEL FOLEY, SR., with regard to this matter.

...

...

...

...

...

1 FOLEY / FOLEY CASE NO. J313094

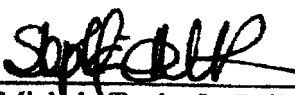
2 IT IS FURTHER ORDERED that all fees and costs associated with this matter be
3 waived.

4 Dated this 9 day of March, 2009.

6
7 HEARING MASTER

8
9 DIANNE STEEL
10 DISTRICT JUDGE

11 Respectfully Submitted by:

12
13
14 
15 Michele Touby LoBello
16 Nevada State Bar No. 5527
17 Stephanie B. MacKeen
18 Nevada State Bar No. 9854
19 **BLACK & LOBELLO**
20 10777 West Twain Avenue, Suite 300
21 Las Vegas, Nevada 89135
22 (702) 869-8801
23 Attorneys for Father,
24 MICHAEL FOLEY, SR.
25
26
27
28

Electronically Filed
03/16/2009 10:02:19 AM

Emil A. Fink
CLERK OF THE COURT

1 **NOE**
Michele Touby LoBello, Esq.
2 Nevada Bar No. 5527
Stephanie B. MacKeen
3 Nevada State Bar No. 9854
BLACK & LOBELLO
4 10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
5 (702) 869-8801
Attorneys for Father,
6 **MICHAEL FOLEY, SR.**

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
CLARK COUNTY, NEVADA

9 In the Matter of the Minor Children:

Case No.: J313094

10 T FOLEY
Date of Birth:

Dept. G

11 M FOLEY
12 Date of Birth:

13 E FOLEY
14 Date of Birth:

15 Minor Children

16
17 **NOTICE OF ENTRY OF ORDER APPOINTING COUNSEL**
FOR FATHER, MICHAEL FOLEY, SR.

18 PLEASE TAKE NOTICE that an ORDER APPOINTING COUNSEL FOR FATHER,
19 MICHAEL FOLEY, SR., was entered in the above-entitled matter on March 11, 2009. A copy
20 of said Order Appointing Counsel is attached hereto.

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 DATED this 13th day of MARCH, 2009.

2 Respectfully Submitted by:

3
4 

5 Michele Tobby LoBello
6 Nevada State Bar No. 5527
7 Stephanie B. MacKeen
8 Nevada State Bar No. 9854
9 **BLACK & LOBELLO**
10 10777 West Twain Avenue, Suite 300
11 Las Vegas, Nevada 89135
12 (702) 869-8801
13 Attorneys for Father,
14 MICHAEL FOLEY, SR.

15 **CERTIFICATE OF MAILING**

16 I HEREBY CERTIFY that on the 16th day of March 2009, I served a copy of the
17 Notice of Entry of Order Appointing Counsel For Father, MICHAEL FOLEY, SR., upon each of
18 the parties by depositing a copy of the same in a sealed envelope in the United States Mail,
19 Postage Pre-Paid, addressed as follows:

20 Ron Cordes, Esq.
21 Office of the District Attorney, Juvenile Division
22 601 North Pecos Road, North Building, Room 470
23 Las Vegas, Nevada 89101-2408

24 Ms. Georgina Stuart
25 Department of Family Services
26 701 K North Pecos Road
27 Las Vegas, Nevada 89101

28 and that there is regular communication by mail between the place of mailing and the place(s) so
addressed.

29 
30 An Employee of Black & LoBello

Exhibit “3”

FAMILY SERVICES SPEC II

000144
Attended Plea Hearing at 10am. Present was the n/f, Nathan Gibbs (fathers attorney), John Kehllet the n/m, this specialist, DDA Titus and Hearing Master Gibson. Matter set for a contested trial on 01/12/2008 at 1:30pm. Court ordered psychological testing for the n/f. Visitation schedule to remain the same.

Father will have E and M from Friday at 4pm to Sunday at 4pm.

Contact Date: 11-25-2008

Time: 12:15

Note Type: COURTHEARING

In Placement Contact: NO

Contact Type: OTHER

Contact With

Contact About

FOLEY, -
FOLEY
FOLEY, PATRICIA
FOLEY,

Author: STUART, GEORGINA

Title: FAMILY SERVICES SPEC II

Received a voice message from the TPO commissioners office, Vicky, @ 455-2434. Referred her to Julie Shook at 455-1594. TPO hearing schedule for 11/26/2008 at 2:30pm.

Contact Date: 11-26-2008

Time: 07:25

Note Type: COLLATERAL

In Placement Contact: NO

Contact Type: E-MAIL

Contact With

FOLEY, MICHAEL

Contact About

FOLEY, MICHAEL

Author: STUART, GEORGINA

Title: FAMILY SERVICES SPEC II

DPS clinical referral made for the psychological testing for the n/f, Michael Foley.

Contact Date: 11-26-2008

Time: 08:00

Note Type: COURTHEARING

In Placement Contact: NO

Contact Type: PHONE

Contact With

Contact About

FOLEY, E.
FOLEY, M.
FOLEY, PATRICIA
FOLEY, T

Author: STUART, GEORGINA

Title: FAMILY SERVICES SPEC II

poke with the TPO commissioners office at 455-2434.

Matter scheduled for custody court on 01/09/2009 at 11am in Department D.

Will address CPS issues, TPO and custody at this time.

TPO removed as to the mother, Patricia Foley.

Mother still has an active TPO against Michael Foley.

Contact Date: 11-26-2008

Time: 10:55

Note Type: CRB LEVEL 1

Attachment Contact With

Contact About
FOLEY, MICHAEL

Contact With

Author: APPLEGATE-ESPINOZA, TAMI

Title: CHILD & FAMILY INTERVENT SPEC II

FCS received a referral from the DFS worker requesting a contracted psychological evaluation. The email below was sent to the worker requesting a copy of the court order and info on the father's insurance status:

Dear Ms. Stuart:

FCS received your referral requesting a psychological evaluation. FCS will need a copy of the court order or minutes before the client can be referred to a contracted provider. The county fiscal department requires a copy of the order otherwise the doctor will not be paid. Please fax the court order to 455-7961. Once I receive the order, I can begin to facilitate the referral. Also the county only pays for contract psychological evaluations for parents if they do not have any insurance benefits. Thus I need to know the status of the client's insurance. Also all prior mental health records need to be provided to assist with the evaluation..

000145

Exhibit “4”

Title: FAMILY SERVICES SPEC II

Attended Plea Hearing at 10am. Present was the [redacted] Nathan Gibbs (fathers attorney), John Kenner [redacted] the n/m, this specialist, DDA Titus and Hearing Master Gibson. Matter set for a contested trial on 01/12/2008 at 1:30pm [redacted]
Visitation schedule to remain the same.

Father will have E [redacted] and M [redacted] from Friday at 4pm to Sunday at 4pm.

Contact Date: 11-25-2008

Time: 12:15

Note Type: COURTHEARING

In Placement Contact: NO

Contact Type: OTHER

Contact With

Contact About

FOLEY, F
FOLEY,
FOLEY, PATRICIA
FOLEY, T.

Author: STUART, GEORGINA

Title: FAMILY SERVICES SPEC II

Received a voice message from the TPO commissioners office, Vicky, @ 455-2434. Referred her to Julie Shook at 455-1594. TPO hearing schedule for 11/26/2008 at 2:30pm.

Contact Date: 11-26-2008

Time: 07:25

Note Type: COLLATERAL

In Placement Contact: NO

Contact Type: E-MAIL

Contact With

FOLEY, MICHAEL

Contact About

FOLEY, MICHAEL

Author: STUART, GEORGINA

Title: FAMILY SERVICES SPEC II

DFS clinical referral made for the psychological testing for the n/f, Michael Foley.

Contact Date: 11-26-2008

Time: 08:00

Note Type: COURTHEARING

In Placement Contact: NO

Contact Type: PHONE

Contact With

Contact About

FOLEY, E
FOLEY, M
FOLEY, PATRICIA
FOLEY, T

Author: STUART, GEORGINA

Title: FAMILY SERVICES SPEC II

Spoke with the TPO commissioners office at 455-2434.

Matter scheduled for custody court on 01/09/2009 at 11am in Department D.

Will address CPS issues, TPO and custody at this time.

TPO removed as to the mother, Patricia Foley.

Contact Date: 11-26-2008

Time: 10:55

Note Type: CRB LEVEL 1

Contact With**Contact About**
FOLEY, MICHAEL**Author: APPLEGATE-ESPINOZA, TAMI****Title: CHILD & FAMILY INTERVENT SPEC II**

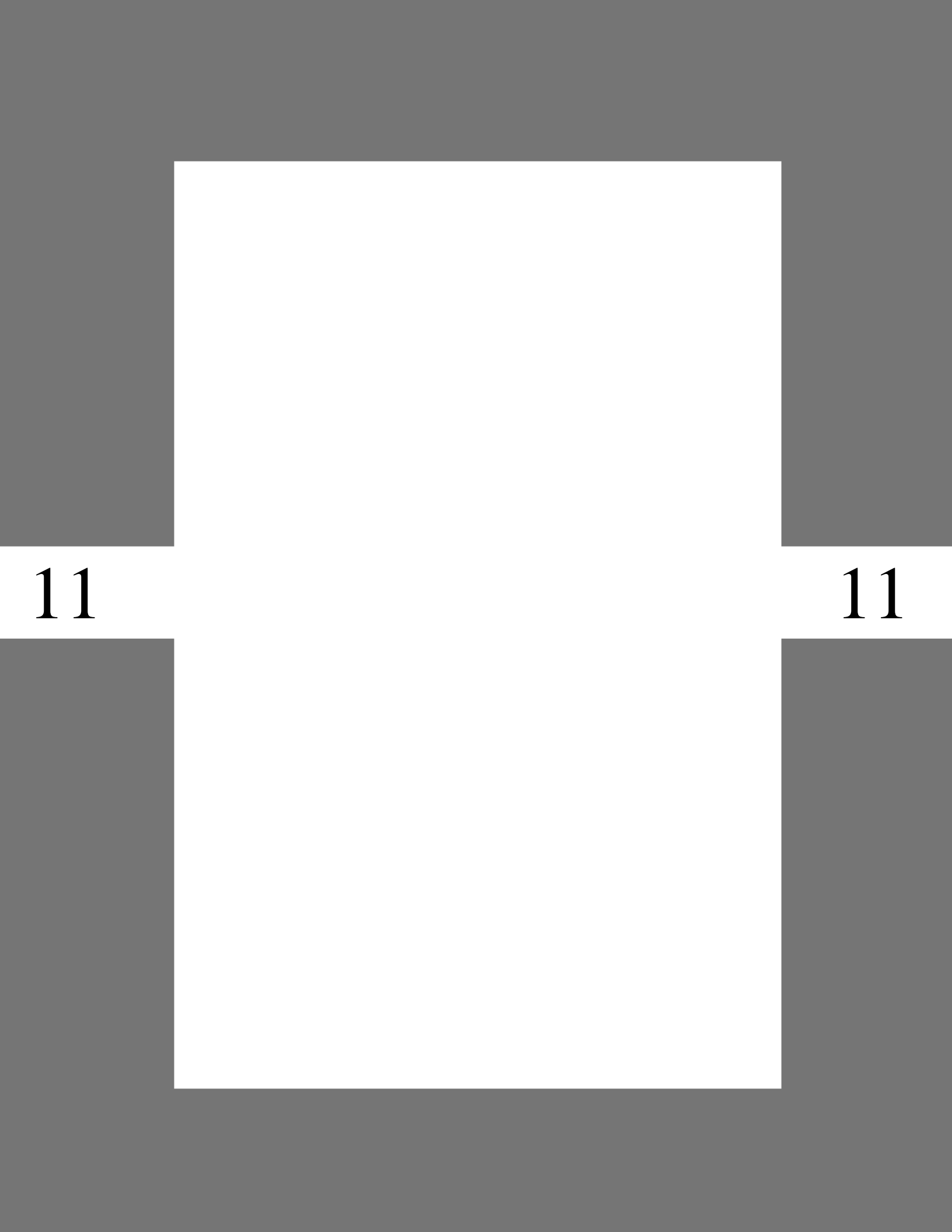
FCS received a referral from the DFS worker requesting a contracted psychological evaluation. The email below was sent to the worker requesting a copy of the court order and info on the father's insurance status:

Dear Ms. Stuart:

FCS received your referral requesting a psychological evaluation. FCS will need a copy of the court order or minutes before the client can be referred to a contracted provider. The county fiscal department requires a copy of the order otherwise the doctor will not be paid. Please fax the court order to 455-7961. Once I receive the order, I can begin to facilitate the referral. Also the county only pays for contract psychological evaluations for parents if they do not have any insurance benefits. Thus I need to know the status of the client's insurance. Also all prior mental health records need to be provided to assist with the evaluation..

000148

EXHIBIT “3”



11

11

1 MICHAEL FOLEY
 2 209 S. Stephanie St. Ste B-191
 3 Henderson, NV 89012
 4 Telephone: (702) 771-9725
 5 Email: Foley64351@live.com
 6 Petitioner in Proper Person

7
 8 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

9 MICHAEL FOLEY

10 Petitioner,

11 vs.

Case No. 64351

12 DOUGLAS C. GILLESPIE, CLARK
 13 COUNTY SHERIFF; CLARK COUNTY
 14 DETENTION CENTER; STEVEN B.
 15 WOLFSON, CLARK COUNTY
 16 DISTRICT ATTORNEY; STEVEN D.
 17 GRIERSON, CLERK OF THE EIGHTH
 18 DISTRICT COURT; THE EIGHTH
 19 DISTRICT COURT

20 Respondents.

FILED

MAY 14 2014

TRACIE K. LINDEMAN
 CLERK OF SUPREME COURT
 BY S. Young
 DEPUTY CLERK

21 **SUPPLEMENT TO PETITION FOR EXTRAORDINARY RELIEF**

22 COMES NOW, Petitioner Michael Foley, in Proper Person, and hereby supplements
 23 his Petition for Extraordinary Relief, originally filed on November 6, 2013. This Petition is
 24 filed in order to fully advise the Court of the facts that justify the relief requested, now that
 25 the Petitioner is no longer confined and much better able to utilize litigation resources that
 26 were unavailable while he was confined and restrained by Respondents Gillespie and Clark
 27 County Detention Center ("CCDC"). Petitioner hereby realleges the facts set forth within
 28 his Original EMERGENCY EX PARTE MOTION FOR EXTRAORDINARY RELIEF
 14-15720
 and incorporates the same into this Supplement.

Detached from proper person motion filed 1 000150
 and filed separately per order 5-14-14.

BACKGROUND

On October 27, 2013, Petitioner was arrested by two deputies under the command of Respondent Sheriff Douglas C. Gillespie, following a report made by the Petitioner when he was physically attacked by an individual named Juan Carlos Valdes ("Valdes") who the Petitioner has already successfully sued for damages stemming from his involvement in the wrongful interference with the Petitioner's parental rights. Just three days prior to the attack, on October 24, 2013, Petitioner's former wife, Patricia Foley (herein, "Patricia") was served legal process by the Sheriff's Deputy James Childs. The action is entitled *Foley v. Kelleher*, 8th Dist. Ct. Case No. A-13-684605-C, and names Patricia, as well as her "friend," Valdes, as defendants. For some time, Patricia has been the receiver of child support money seized from Petitioner by District Attorney Steven Wolfson's "Family Support" Division. Petitioner has been pursuing more than one civil action against Patricia and Valdes since he learned, in or about the year 2011, that an enormous fraud was orchestrated and perpetrated against him throughout the underlying dissolution action, in order to deprive him of his fundamental constitutional right to equal custody of his children, and to "legally" entitle Patricia to child support payments. In short, Petitioner was falsely accused by his malicious and menacing sister of being "abusive" to his eldest child, only one day after he refused his (child-deficient) sister's request to grant her legal guardianship (NRS 159) of the niece that she envied and wanted as her own. The menacing relative very much wanted legal custody of Petitioner's daughter, and invested nearly \$100,000, with her (then) husband to finance a divorce action on Patricia's behalf, hoping to acquire legal and physical custody of the child pursuant to NRS 125.480(3)(c). An attorney (Kelleher) was paid \$60,000 to prosecute the champertous dissolution action, and Patricia was paid approximately \$40,000 (with cash, gift cards and gambling debt relief) for her cooperation in the scheme. As a result of the prosecution of these civil actions, the Petitioner has discovered that a number of deputies who work for the District Attorney's office, as well as officials working for Clark County's Department of Family Services routinely fabricate records, and even *doctor* documents to appear as though they are valid

1 and enforceable *court orders*. These unlawful acts are carried out by rogue County officials
2 so that they might realize a variety of personal and vindictive objectives designed to
3 deprive fathers of their money and children. Were it not for this personal judicial
4 experience and knowledge, the Petitioner probably would not have known to question the
5 September 19, 2012 document that purports to be a valid and enforceable
6 "order/judgment," which is the focus of this controversy.

8 RELEVANT FACTS

9 SUPPLEMENTAL FACTS pertinent to Respondent Sheriff Gillespie

10 On October 27, 2013, Gillespie's deputies Fernando Pacchiega and Chaz Mikalonis
11 responded to the Petitioner's report that he was physically attacked by Valdes. Rather than
12 make an earnest effort to investigate the assault and battery, the deputies heeded Patricia's
13 report that there was an outstanding warrant for the arrest of the Petitioner. Just a few
14 weeks prior, Petitioner had requested assistance from the Sheriff when he encountered two
15 trespassers at his home. The incident was handled professionally by the deputies who
16 responded, and the Petitioner was not arrested or detained. However, on the date in
17 question, because the Petitioner was making a complaint concerning an incident at the
18 abode of his children and their mother (Patricia), the deputies were informed by Patricia via
19 telephone that the Petitioner, who was awaiting their assistance, was "wanted" by law
20 enforcement for the alleged child support arrears and contempt.

21 The Petitioner has known for approximately one year that the Master's
22 Recommendation that purports to be an "order/judgment," calling for the arrest and
23 confinement of the Petitioner was *never* presented to the 8th District Court's Presiding
24 Judge, nor signed by her, and therefore was *never* valid or enforceable. See RA 005, lines
25 6-7, and RA 006, lines 2-8. "[T]he Master's Recommendation is not an Order/Judgment
26 unless signed and filed by a judge." (Citing E.D.C.R. 1.40(e) and (f).) The Petitioner is
27 reasonable to conclude that such "Recommendations" would *never* be signed by any judge
28 because they are "clearly erroneous." See E.D.C.R. 1.40(d); Turner v. Rogers, 564 U.S. __

1 (2011). (A judge must make an express finding that a person has the ability to pay before
2 finding one in contempt for child support arrearage.); Nev. Const. Art. I, Sec. 14. "[T]here
3 shall be no imprisonment for debt, except in cases of fraud, libel, or slander."
4

5 **INACCURACIES REPORTED BY THE ARRESTING OFFICERS**

6 Within the report filed by officers Pacchiega and Mikalonis, they reported that the
7 Petitioner had "no visible marks" when he was arrested. Immediately after the Petitioner
8 was attacked, the assailant fled as a passenger in Patricia's vehicle. Petitioner then made a
9 telephone call to 911 (LVMPD) dispatch and reported what happened. After he concluded
10 the emergency call, he placed a call to one of his friends who urged him to take a picture of
11 his neck. Petitioner did take a photograph, which shows redness where he was choked.
12 Because the Petitioner opted to protect himself, rather than retaliate or engage in combat,
13 he had no visible bruises on his face, and no broken bones. Nevertheless, his shirt was torn,
14 and his neck, back, right arm, right leg and head were sore and strained. The contusion
15 suffered on his head was not visible because it was covered by the Petitioner's hair.

16 The deputies did correctly report that Petitioner went to see his children at their
17 mother's apartment. This visit, although within his court-ordered time frame, was not
18 welcomed by the children's mother Patricia. Since she was served a summons and
19 complaint on October 24, 2013, authorized by the 8th District Court for the Petitioner, she
20 had ceased all communications, and intentionally prevented the Petitioner from exercising
21 his visitation rights, as she has done many, many times in the past, especially when
22 angered, which is *very often*. Mrs. Foley apparently persuaded officer Pacchiega, through a
23 second-hand report taken by his partner officer Mikalonis, that Petitioner posted a picture
24 of his "daughter and a gun pointed at her." The officers were also quick to believe that her
25 friend, Valdes, who resides in Clark County in violation of U.S. Immigration law, suffered
26 injuries allegedly inflicted by the Petitioner. There is simply no credible proof of such
27 nonsense, however, these officers are not the first, or the last to be deceived and/or
28 manipulated by Mrs. Foley.

1 The officers' description of the Petitioners' demeanor is also inaccurate. The
2 Petitioner was not, and could not be "scratching himself" because his hands were restrained
3 behind his back within thirty seconds of their arrival. Within ten seconds of their arrival,
4 the Petitioner was ordered to raise his hands and spread his legs. When the Petitioner was
5 informed by officer Pacchiega that he was being arrested for contempt of court, Petitioner
6 responded by informing the officer that he had a copy of the purported "arrest warrant,"
7 and that it was not valid or enforceable because it was not signed by a judge. If the
8 Petitioner appeared to be "figity," (RA 0007) it was because he had *never* been arrested or
9 put in hand-cuffs before. Pacchiega's speculation that Petitioner was "on narcotics" or had
10 a "mental issue" demonstrates that he is not accustomed to handling arrestees who are
11 telling the truth about being physically attacked and who *know their rights* under State and
12 Federal Law. Rightfully invoking one's civil rights is *never* a "mental issue."

13 Moreover, the Petitioner's right arm was very sore from the attack, but the arresting
14 officers did not seem to care about the Petitioner's injuries. The Petitioner Michael Foley
15 asked at least twice to be allowed to show the officers his copy of the purported "warrant"
16 that he told them was the actual document filed in the Court record that was misleading
17 Metro Police dispatch to report that a warrant was "active." Officer Pacchiega was told by
18 the Petitioner that the language contained on page 3, lines 6-7 would reveal that the order
19 was not valid because it was not signed by a judge. See RA 008. Pacchiega refused to
20 examine Petitioner's copy, but did communicate with dispatch about it, however dispatch
21 obviously did *not* read the document that was filed on September 19, 2012, nor could the
22 dispatcher read the (future) *October* 28, 2013 filing of the fugitive, rubber-stamped "bench
23 warrant" because it had not yet been filed or even seen by Judge Gloria O'Malley (RA
24 011). The "bench warrant" was rubber-stamped by someone who squiggled his or her
25 initials below the rubber-stamped signature. The "return of service" (at the bottom) is
26 signed by a third police officer (P6343) who did NOT even serve the "warrant" OR arrest
27 the Petitioner Michael Foley (another example of routine falsification of records by County
28 officials). Even if the document was signed or stamped by Judge Sanchez-O'Malley

1 herself, it was not bona fide *due process* because it was left unfiled, and off the record for
2 more than a year, apparently since September 28, 2012. (Even the date is rubber-stamped,
3 eluding any possible hand-writing analysis of the real judge's signature.) The arresting
4 deputies violated NRS 22.140 when they put the Petitioner in hand-cuffs. The Sheriff's
5 corrections officers who confined the Petitioner violated the same statute because they
6 booked him, finger-printed him, took a "mug shot" of him, strip-searched him, and put him
7 in the general population of the detention facility CCDC for *three days*, prior to allowing
8 him to be heard by the 8th District Court. None of these demeaning impositions were at all
9 necessary to secure the Petitioner's personal attendance before the Court¹, which is what a
10 valid "bench warrant" would presume to effect. Respondents Gillespie and CCDC took the
11 Petitioner's mobile phone from him when they took him into custody, and would not allow
12 him to retrieve telephone numbers that were stored therein. While in custody, the
13 Petitioner requested of three different corrections officers that they produce the "arrest
14 warrant" upon which he was seized and held. Each of Gillespie's officers refused to even
15 attempt to produce the warrant that was the purported justification of his arrest and
16 confinement. Gillespie, as well as all other respondents have the ability, technology, and
17 wherewithal (but not the *will*) to review any document filed in any Court within the 8th
18 District, including the Child Support ("R") Court. Gillespie has the duty to ensure that
19 citizens, like the Petitioner, are not unnecessarily restrained, confined, or isolated from
20 communicating with friends, family or counsel when the only offense in question is
21 "contempt of court." This duty is created under NRS 22, and by the Sheriff's oath to
22 "support, protect and defend the Constitution and government of the United States, and the
23 Constitution and government of the State of Nevada." NRS 282.020.

24
25
26
27
28 ¹ According to the purported bench warrant, "court is held Monday through Friday." RA 011. Petitioner
was confined for three (3) week days before he was allowed to appear before a tribunal.

FACTS pertaining to Respondents 8th District Court, Clerk Steven D. Grierson, and District Attorney Steven Wolfson.

Hearing Master Sylvia Beller Teuton held two hearings to which the Petitioner was noticed and summoned to appear in order to address child support controversies brought by District Attorney Steven B. Wolfson at the request of Patricia Foley. On April 24, 2012, Hearing Master Beller-Teuton “found” the Petitioner in “contempt” and “sentenced” him to serve twenty-five (25) days in the Clark County Detention Center. This “sentence” was “suspended” by the hearing master pending another hearing that she scheduled for August 28, 2012. Respondent Steven B. Wolfson was represented at the April 24 hearing by his deputy Ed Ewert.

Eighth District Court Hearing Master Sylvia Beller Teuton acted outside the power bestowed upon her by “sentencing” the Petitioner to confinement in jail, rather than refer her findings and report to the presiding judge as required by E.D.C.R. 1.40(d),(e). She also presumed that her findings would not have to be reported or referred to the Presiding Judge, as though she was a hearing master *outside* the jurisdiction of the Eighth District Court, where E.D.C.R. 1.40 would not apply.

Hearing Master Beller-Teuton, James Davis, as well as other “child support” hearing masters carelessly follow NRS 425.382(2)(b)(7), and intentionally ignore the limitations imposed by E.D.C.R. 1.40, as well as Nevada Const. Art. I, Sec. 14, which prohibits imprisonment for debts *other than for fraud, libel and slander*.

Eighth District Court Clerk Steven D. Grierson accommodates and enables this ongoing abuse of judicial power, which exceeds the bounds of the Eighth District Court Rules by accepting and filing the masters’ “recommendations” without verifying that the documents are properly endorsed by the appropriate District Court Judge. Respondent Grierson is responsible for the orderly and accurate recording and archiving of all official documents and records that are placed on the docket by litigants, attorneys, prosecutors, and judicial officials. Very strict rules govern the how, when and where documents may be filed, accessed and reviewed among the vast number of cases that comprise the official

1 Court record. Respondent Grierson has the authority and wherewithal to accept or reject
2 pleadings, papers and records presented for filing according to the local court rules, Nevada
3 Rules of Civil Procedure, and State Law.

4 With the adoption of modern electronic filing, Respondent Grierson has accepted
5 the responsibility to ensure that documents are properly endorsed and conform to the
6 applicable rules that govern their filing and accessibility. For example, if one wishes to
7 access records filed within the Family Division of the Eighth District Court, the task may
8 be accomplished by purchasing the downloadable documents through the online resource
9 known as Wiznet, found at <http://wiznet.wiznet.com/clarknv/pages/login.jsp>, or by visiting
10 the Clerk's office within the Family Court Complex located at 601 N. Pecos Rd in Las
11 Vegas, County of Clark. Likewise, original pleadings, motions, and other documents may
12 be electronically filed remotely or at the Clerk's office using the kiosks provided by
13 Respondent Grierson. These resources are available to the District Attorney, and his
14 deputies, however there are weaknesses within the electronic filing system that are being
15 exploited with or without the Clerk's knowledge or consent, by District Attorney Steven B.
16 Wolfson, and the deputies and staff he employs within his Family Support Division.

17 For example, when a child support hearing master makes a recommendation, and
18 the District Court Presiding Judge accepts and endorses the order, it may be filed by the
19 judge or Respondent Wolfson, and accepted by Respondent Grierson electronically as a
20 "Master's Report and Order." See PA 001. However, the Master's Recommendation may
21 also be filed by the DA *without* the knowledge of the District Court Judge and filed under
22 the document code "BNCH," which designates the "Master's Recommendation and Order"
23 as a "bench warrant" (PA 002), which in turn automatically notifies Respondent Gillespie
24 so that his deputies may arrest mothers and fathers who are found in contempt by the
25 hearing masters, *regardless* of whether said documents are properly endorsed "Court
26 Orders." Respondent Grierson has the duty to ensure that documents, such as the one now
27 under scrutiny, are actually signed by a District Court Judge, as required by E.D.C.R. 1.40.
28 Questionable, contradictory and ambiguous fugitive documents such as the September 19,

1 2012 document that caused the Petitioner to be arrested and confined for eight days should
2 ALWAYS be rejected by Respondent Grierson so that no person is unnecessarily deprived
3 of liberty or due process within the Eighth Judicial District of Nevada, as the Petitioner was
4 throughout the week of October 27, 2013. The Petitioner has researched and found records
5 of other alleged "child support contemnors" and has found that the documents contained
6 within their case records are just as defective. See PA 003-007; 008-012. Reviewing the
7 entire record of alleged child support contemnor Delphin Flores, the Petitioner's former
8 fellow inmate, one would find that when Flores was arrested in or about 2007, the order
9 calling for his arrest was signed (by hand) with District Court Judge Stephanie Miley's
10 official signature. *Since then*, the U.S. Supreme Court, in *Turner*, has held that a State must
11 provide safeguards to reduce the risk of erroneous deprivation of liberty in civil contempt
12 cases such as child support enforcement proceedings. One of those safeguards is a
13 requirement that the Court make an express finding of fact that the child support obligor
14 has the "ability to pay" before he or she is held in contempt, and deprived of his or her
15 liberty. Because this new requirement imposed by the U.S. Supreme Court hinders the
16 District Attorney's and Hearing Masters' ability to "enforce" child support orders, and
17 collect maximum federal reimbursement monies, these constitutional protections are
18 routinely ignored and denied. See RA 003-006; PA 003-014.


19 Because of the current status quo, the Nevada Supreme Court should issue a writ of
20 prohibition barring the 8th District Court's "child support" hearing masters from
21 independently issuing "bench warrants" and imposing jail sentences and other adverse
22 orders that deprive parents of liberty, property and due process of law, and formally declare
23 such practices as *unconstitutional*. (Nev. Const. Art. I Sec. 14) The Nevada Constitution
24 has ***not been amended by the People*** to allow the legislature to enact Statutes, or authorize
25 Courts to imprison citizens for debts arising from child support obligations. Of course the
26 legislature and the people are *still free to amend* the Constitution as prescribed by Article
27 16, Section 1 of the Constitution of the State of Nevada, so that debts in cases of child
28

1 support obligations and awards *may* be included as another exception to Nevada's *debtor's*
2 *prison* prohibition.

3 Furthermore, the hearing masters of the Eighth District should no longer use
4 Respondent Wolfson's "Recommendation" form, which is designed to terrify parents who
5 struggle to meet their obligations of support. Moreover, the Court should also prohibit the
6 8th District Court Clerk Steven D. Grierson from allowing documents that purport to be
7 "bench warrants" and other "orders" to be filed onto the 8th District Court record without
8 bona fide and verified judicial endorsement. *Rubber-stamp* signatures are just *too easy to*
9 *falsify*, and too many innocent citizens are being unjustly harmed. Finally, the Court should
10 issue a writ of mandamus requiring Respondents Gillespie and CCDC to allow the subjects
11 of "child support" bench warrants to maintain their personal liberty, and not be handcuffed,
12 restrained, strip-searched, deprived of their communications devices, or unnecessarily
13 isolated from the outside world when they are detained pursuant to authentic and properly
14 endorsed "bench warrants" that are issued for "contempt" (NRS 22.040). Although the
15 Petitioner is currently not confined, he remains subject to future rulings, recommendations,
16 and *unsigned orders*, and without a writ of extraordinary relief, future violations of
17 Petitioner's rights under the Nevada and U.S. Constitutions are capable of repetition and
18 evasion of review.

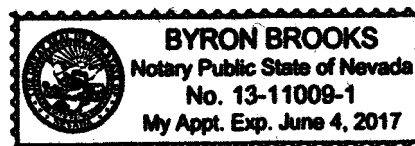
19 I, Michael Foley, under penalties of perjury, being first duly sworn, depose and say:
20 That I am the Petitioner in the above-entitled action; that I have read the foregoing
21 SUPPLEMENT TO PETITION FOR EXTRAORDINARY RELIEF and know the
22 contents thereof; that the same is true of my own knowledge, except for those matters
23 contained stated upon information and belief, and as to those matters, I believe them to be
24 true.

25 DATED this 13 day of December, 2013.

26 
27 Michael Foley
28 Petitioner in Proper Person
209 S. Stephanie St. Ste. B-191
Henderson, NV 89012

1 SUBSCRIBED and SWORN to before me

2 This 13 day of DECEMBER, 2013.



3 Byron Brooks

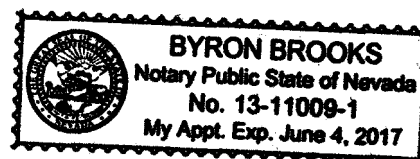
4 NOTARY PUBLIC

5 ACKNOWLEDGEMENT

6 STATE OF NEVADA)
7 COUNTY OF CLARK) ss:

8
9 On this 13 day of DECEMBER, 2013, before me, the undersigned Notary
10 Public in and for the said County and State, personally appeared Michael Foley known to
11 me or proven to be the person described in and who executed the foregoing
12 SUPPLEMENT TO PETITION FOR EXTRAORDINARY RELIEF, and who
13 acknowledged to me that he did so freely and voluntarily and for the uses and purposes
14 therein mentioned.

15
16 WITNESS my hand and official seal.



17 Byron Brooks
18 NOTARY PUBLIC

19 ARGUMENT

20
21 Assuming *arguendo* that the September 19, 2012 document that purports to be a
22 bench warrant *was* duly authorized and endorsed by a District Court Judge, and in fact
23 enforceable, Respondent Gillespies' deputies should have *never* put the Petitioner in hand-
24 cuffs, or otherwise restrained his personal liberty, as NRS 22.140 prohibits unnecessary
25 restraint when executing a warrant of attachment for contempt of court.

26 Had they fulfilled their duty to produce, serve, or at least examine the supposed
27 "warrant" when they arrested and confined the Petitioner, Respondent Gillespie's deputies
28 would have *easily* seen that it was "not valid" for lack of a judge's signature. Gillespie's

1 officers were informed that the Petitioner was being arrested for “contempt of court” (RA
2 009), and from the very moment that they knew or were informed that the Petitioner was
3 “wanted” for “contempt,” should have followed the proper procedure that should have
4 already been prescribed by the Sheriff and followed whenever a deputy detains a subject
5 pursuant to NRS 22, the Statute that provides safeguards to guarantee the “personal liberty”
6 of citizens who are detained to secure their presence before the Court. Moreover, Gillespie
7 should be required to allow such persons to make arrangements via any reasonable method
8 of communication so as to ensure the right to post bail by surety (rather than “cash only” or
9 “no bail”) pursuant to Court Orders and NRS 22.070. The Supreme Court should *prohibit*
10 the hearing masters and the Eighth District Court from *routinely* imposing “cash bail only”
11 and “no bail” conditions within the warrants of attachment so as to minimize the risk of
12 contemnors’ loss of earnings and/or employment. See RA 004, 009.

13 The 8th District Court is empowered to designate and appoint hearing masters to
14 receive and report evidence, and carry out other functions under the close supervision of
15 the Court. See NRCP 53; NRS 425.381. However, E.D.C.R. 1 prescribes specific
16 provisions and regulations for the various hearing masters who serve the 8th District Court.
17 Some hearing masters have more powers and authority than others. The powers vested in
18 hearing masters who serve the Family Division of the 8th District Court are relatively
19 limited by Court Rule, namely E.D.C.R. 1.40.

20 Although a hearing master like Sylvia Beller Teuton *may* request that a District
21 Court judge issue an “immediate” order finding a litigant in contempt for an alleged child
22 support arrearage, such a request is very likely to be denied as that option and remedy, to
23 immediately hold a litigant in contempt, is generally reserved for defiant or disrespectful
24 behavior exhibited in the presence of the hearing master. Although she independently
25 “suspended” the “jail sentence” at the same hearing, Hearing Master Beller Teuton did so
26 in violation of E.D.C.R. 1.40, which requires her to make a report to the presiding judge, or
27 “*request* a district court judge serving in the family division to make an immediate
28 determination of appropriate sanctions for contemptuous behavior.”

1 Finally, Respondent Steven B. Wolfson should be prohibited and barred from
2 authoring contradictory forms that regularly confuse and deceive litigants who might be
3 persuaded by the misleading language contained therein purporting that they may be
4 lawfully incarcerated for debts related to child support obligations. As much as Wolfson
5 would like to have his cake and eat it too, he cannot lawfully continue in his practice of
6 drafting and filing documents that falsely purport to be "court orders" and "bench
7 warrants," especially when he makes the disclaimer that they are not valid order/judgments
8 "unless signed by a judge." Wolfson, as well as his deputies, must also be compelled to
9 surrender the *rubber stamps* that falsify the seals and signatures of various District Court
10 judges, as he and his staff *routinely* use these instruments to create and fabricate the false
11 court orders and bench warrants (e.g., RA 011) that impugn the civil rights of the people of
12 Nevada. Finally, Respondent Wolfson, as well as the 8th District Court, must be compelled
13 to provide and appoint legal counsel to the Petitioner, as well as all indigent respondents in
14 child support enforcement actions when incarceration is the remedy proposed by the State.
15 Although the U.S. Supreme Court stopped short of deciding whether the South Carolina
16 State Court was absolutely obligated to appoint counsel for Michael D. Turner (*Id.*), whose
17 opponent was *not* represented by counsel, the Court did vaguely suggest that appointment
18 of counsel would conform to the equal protection guarantee provided by the 14th
19 Amendment to the U.S. Constitution in some situations:

20 In particular, that Clause does not require the provision of counsel
21 where the opposing parent or other custodian (to whom support
22 funds are owed) is not represented by counsel and the State provides
23 alternative procedural safeguards equivalent to those we have
mentioned (adequate notice of the importance of ability to pay, fair
opportunity to present, and to dispute, relevant information, and
court findings).

24 We do not address civil contempt proceedings where the underlying
25 child support payment is owed to the State, for example, for
26 reimbursement of welfare funds paid to the parent with custody. See
27 *supra*, at 10. Those proceedings more closely resemble debt-
28 collection proceedings. The government is likely to have counsel or
some other competent representative. Cf. *Johnson v. Zerbst*, 304 U.
S. 458, 462–463 (1938) ("[T]he average defendant does not have the
professional legal skill to protect himself when brought before a
tribunal with power to take his life or liberty, wherein the
prosecution is presented by experienced and learned counsel")

1 (emphasis added)). And this kind of proceeding is not before us.
2 Neither do we address what due process requires in an unusually
3 complex case where a defendant "can fairly be represented only by a
4 trained advocate." Gagnon, 411 U. S., at 788; see also Reply Brief
5 for Petitioner 18-20 (not claiming that Turner's case is especially
6 complex).

7 NRS 125B.150(3) declares the District Attorney as the representative of the *State*,
8 and not the parent. The DA might claim that this Petitioner is not entitled to counsel due to
9 the fact that the petitioner in the child support enforcement action, Mrs. Foley, did not have
10 her own counsel appear on her behalf. However, the *Turner* Court upheld its previous
11 ruling in Johnson v. Zerbst, 304 U.S. 458 462-463(1938), that "the average defendant does
12 not have the professional legal skill to protect himself when brought before a tribunal with
13 power to take his life or liberty, wherein the prosecution is presented by experienced and
14 learned counsel." For purposes of this controversy, this Supreme Court of Nevada ought to
15 recognize that the due process protections provided by both the Nevada and U.S.
16 Constitutions require the appointment of counsel, *especially* when indigent citizens are
17 brought before the Court by a State or County prosecutor, or a master is seeking or
18 considering the imposition of a "jail" sentence or imprisonment as punishment for
19 contempt of court. *However*, the Supreme Court may *pass* on this question of Federal Law
20 because the Nevada Constitution already prohibits imprisonment for debt, and makes *no*
21 *exception for child support debt or arrearage*. Article I, Section 14, Constitution of the
22 State of Nevada.

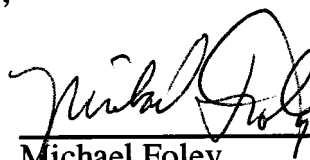
23 CONCLUSION

24 Because these very serious violations of Nevada Law, as well as 8th District Court
25 Rules continue with wanton disregard and impunity, the Supreme Court should issue writs
26 of mandamus, prohibition, and any other extraordinary writ to extinguish these open and
27 notorious abuses against the Petitioner, and all citizens who are subject to the jurisdiction
28 of the 8th District Court and its hearing masters. Moreover, the court should fully engage
the full scope of this controversy, and issue the writs requested because (1) without such
relief, further violations of the Petitioner's rights to due process and equal protection under

1 the law are capable of repetition and evasion of review (*Turner*, citing Southern Pacific
2 Terminal Co. v. ICC, 219 U. S. 498, 515 (1911)), and (2) there is practically no other plain,
3 speedy and adequate remedy in the ordinary course of law. NRS 34.170.

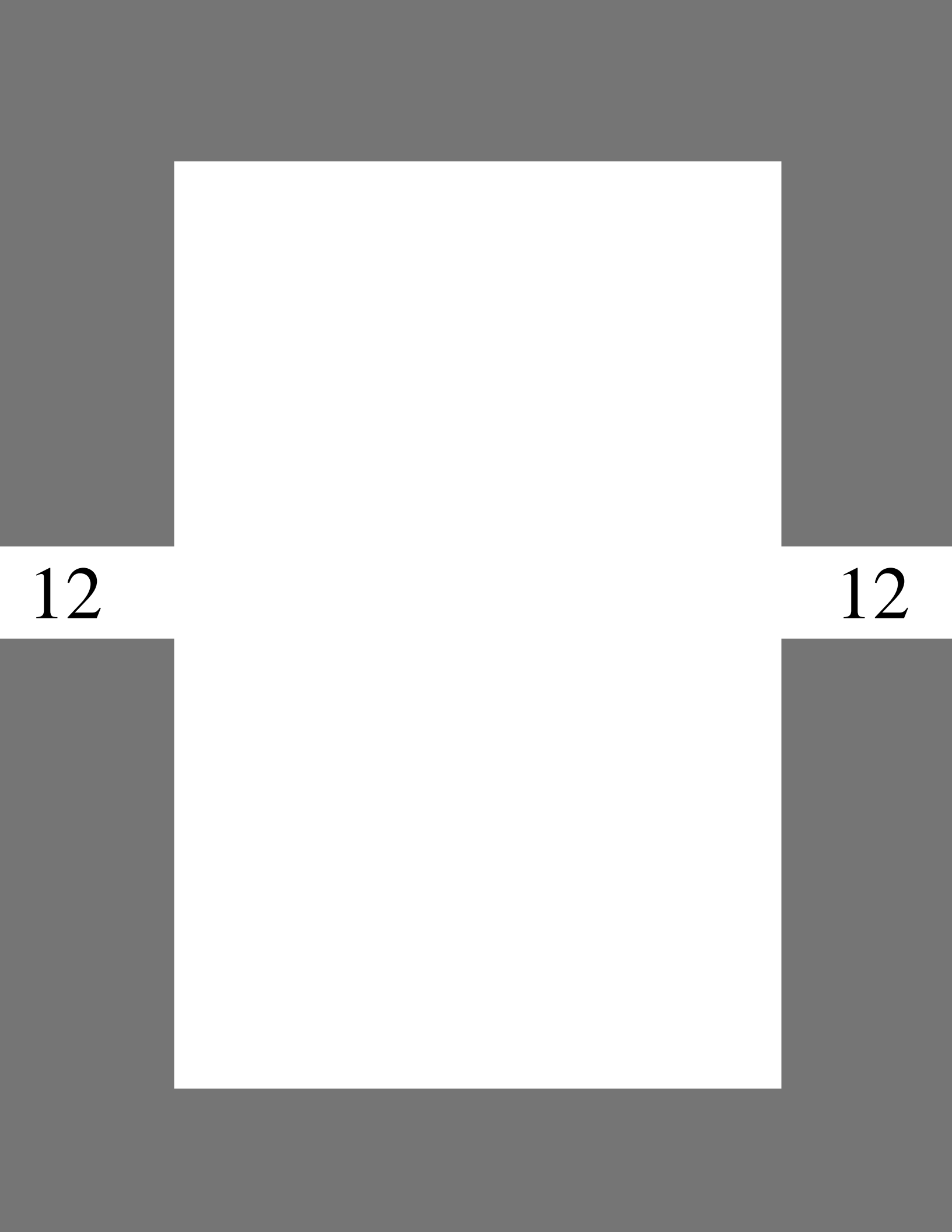
4
5 DATED this 13th day of December, 2013.

6
7 SIGNED,

8
9 

10 Michael Foley
11 Petitioner in Proper Person
12 209 S. Stephanie St. Ste. B-191
13 Henderson, NV 89012
14 702-771-9725

EXHIBIT “4”



12

12

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
 Petitioner,
 vs.
 DOUGLAS C. GILLESPIE, CLARK
 COUNTY SHERIFF; AND CLARK
 COUNTY DETENTION CENTER,
 Respondents.

No. 64351

FILED**MAY 14 2014**

TRACIE K. LINDEMAN
 CLERK OF SUPREME COURT
 BY S. Young
 DEPUTY CLERK

ORDER DENYING PETITION FOR EXTRAORDINARY WRIT RELIEF

This is an original proper person petition for extraordinary relief challenging an order of contempt and seeking petitioner's release from confinement in the Clark County Detention Center.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. *See* NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is within this court's sole discretion to determine if a writ petition will be considered. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition, answer, supplement, and supporting documents,¹ we conclude that our intervention by extraordinary writ relief is not warranted. See NRS 34.160; NRS 34.320; *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner challenges the order holding him in contempt on the basis that it was not signed by a district judge.² NRS 425.3844 provides that when no objection to a master's recommendation is filed within ten days, the order is deemed approved by the district court, the clerk of the court can file the recommendation, and the recommendation has the force and effect of an order or decree of the district court. See NRS 425.3844(3)(a), (9). Here, petitioner has not demonstrated that he timely objected to the master's recommendation to hold him in contempt. Thus, the order was deemed approved by the

¹We direct the clerk of this court to file petitioner's motion to supplement and certificate of service, provisionally received in this court on December 19, 2013. Having considered petitioner's motion and the opposition thereto, we grant the motion in part and direct the clerk of this court to detach from the motion and file petitioner's supplemental petition and appendix. We, however, deny the motion in part regarding petitioner's request for leave to add additional respondents to this writ petition and to file a reply brief.

²To the extent that petitioner challenges the legality of his confinement, NRAP 22 requires that an original petition for a writ of habeas corpus be filed in the district court in the first instance. Moreover, we note that any such challenge may have been rendered moot upon petitioner's release from confinement. See *Ex parte Shepley*, 66 Nev. 33, 41, 202 P.2d 882, 886 (1949) (explaining that a writ of habeas corpus is unavailable unless the petitioner is presently restrained).

district court. Petitioner has therefore not demonstrated that this court's intervention by extraordinary writ relief is warranted. *See Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we

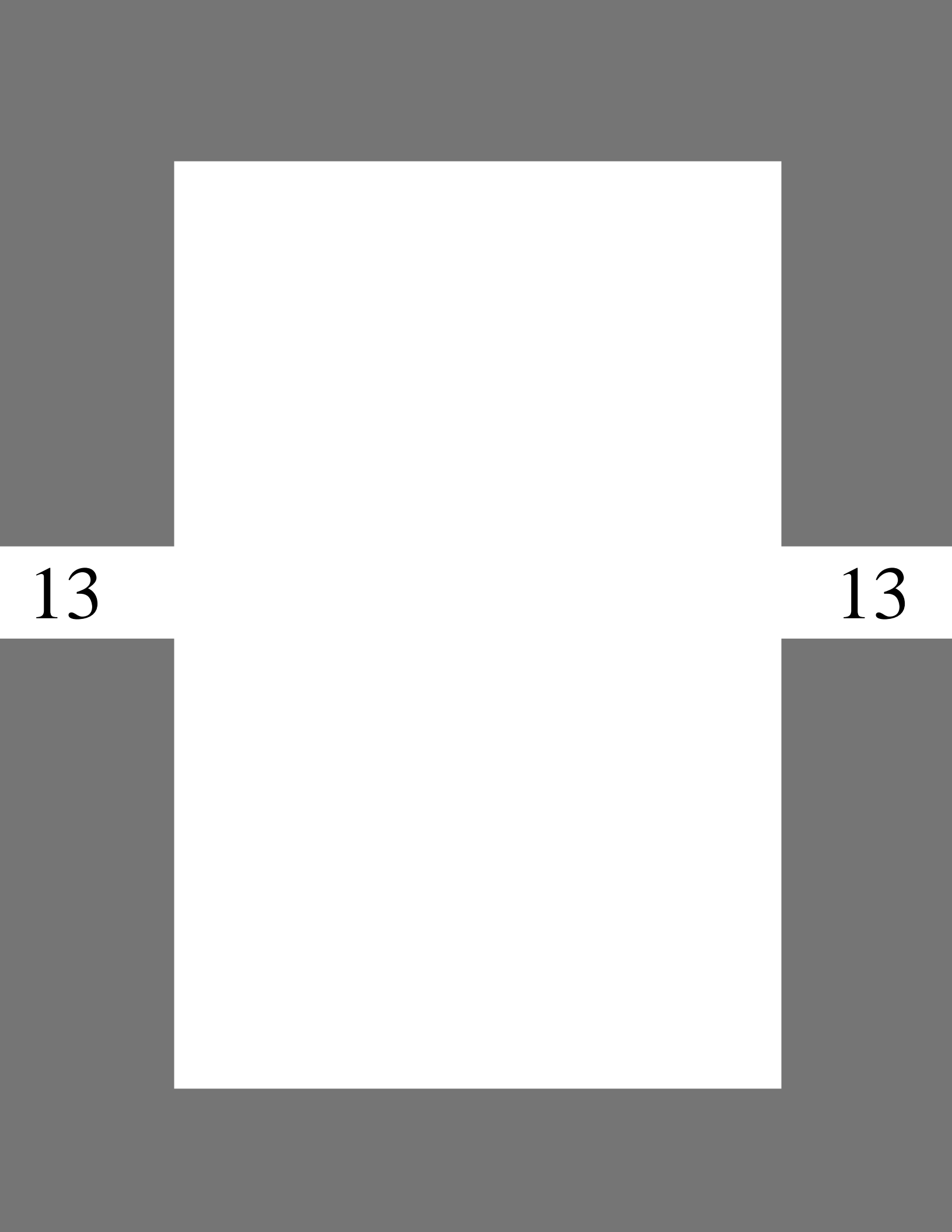
ORDER the petition DENIED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Michael Foley
Marquis Aurbach Coffing
Liesl K. Freedman
Eighth District Court Clerk



13

13

FILED

FEB -7 2017

Ann L. Johnson
CLERK OF COURT

1 TRANS

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

9 PATRICIA FOLEY,) CASE NO. R-11-162425-R
 10 Petitioner,) DEPT. C
 11 vs.)
 12) APPEAL NO. 69997
 13 MICHAEL A. FOLEY,)
 14 Respondent.)
 15 _____)

BEFORE THE HONORABLE SYLVIA TEUTON

TRANSCRIPT RE: IN CUSTODY HEARING

FRIDAY, AUGUST 08, 2014

1 APPEARANCES:

2 For the Public by DAFS

ALEC JASON RAPHAEL, ESQ.
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner:

PATRICIA FOLEY (Not present)

6 For the Petitioner:

Pro se

7 The Respondent:

MICHAEL FOLEY (Not present)

8 For the Respondent:

Pro se

1 LAS VEGAS, NEVADA

FRIDAY, AUGUST 08, 2014

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

3 (THE PROCEEDING BEGAN AT 14:06:25.)

4 THE COURT: Yeah, but can he be back on Monday or not?

5 UNIDENTIFIED SPEAKER: If you make the order (indiscernible).

6 THE COURT: Okay. We'll -- we'll continue it.

7 Is that all right with the D.A.?

8 MR. RAPHAEL: Absolutely.

9 THE COURT: I'll just find, he's in custody and not produced. So
10 we'll continue it to Monday. That will be -- is that the 11th?

11 THE CLERK: Yes, August 11th, 2014...

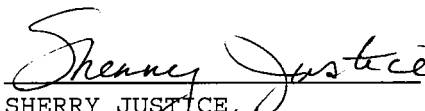
12 THE COURT: At 1:15.

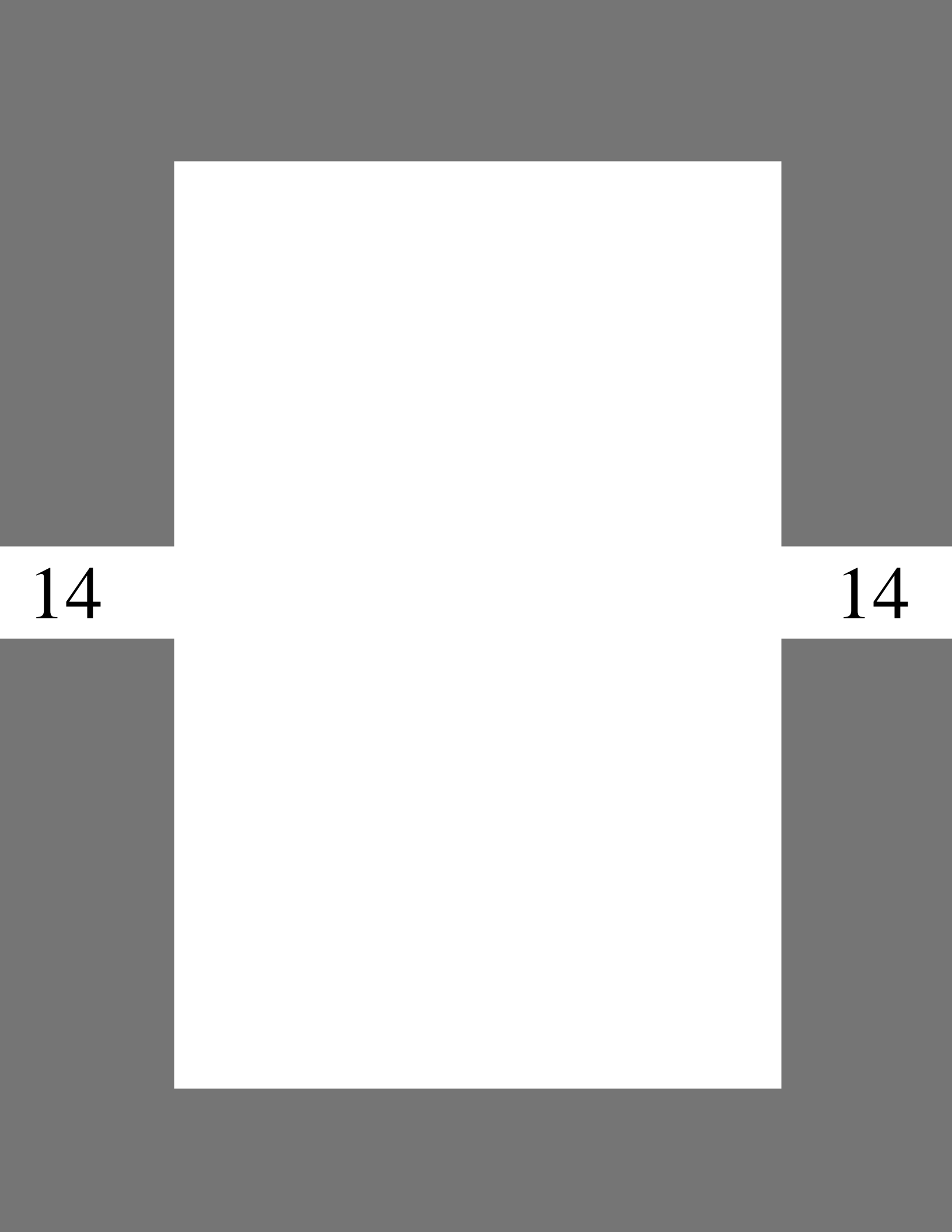
13 THE CLERK: ...at 1:15.

14 (THE PROCEEDING ENDED AT 14:07:23.)

15
16 * * * * *

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

19 
20 SHERRY JUSTICE,
21 Transcriber II



14

14

1 TRANS

FILED
FEB -7 2017

Alvin L. Williams
CLERK OF COURT

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

9 PATRICIA FOLEY,) CASE NO. R-11-162425-R
Petitioner,) DEPT. C
10 vs.)
11) APPEAL NO. 69997
MICHAEL A. FOLEY,)
12 Respondent.)
_____)

14 BEFORE THE HONORABLE SYLVIA TEUTON

15 TRANSCRIPT RE: IN CUSTODY HEARING

16 MONDAY, AUGUST 11, 2014

1 APPEARANCES:

2 For the Public by DAFS

VIVECA MONET WOODS, ESQ.
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner:

PATRICIA FOLEY (Not present)

6 For the Petitioner:

Pro se

7 The Respondent:

MICHAEL FOLEY
(Present via video conference
from Clark County Detention Center)
AURORA MARIE MASKALL, ESQ.
Lee, Hernandez, Landrum & Garofalo,
Attorneys at Law
7575 Vegas Dr., #150
Las Vegas, Nevada 89128

9 For the Respondent:

1 LAS VEGAS, NEVADA

MONDAY, AUGUST 11, 2014

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

3 (THE PROCEEDING BEGAN AT 13:29:11.)

4 UNIDENTIFIED SPEAKER: Go ahead (indiscernible) step over here
5 (indiscernible) not you (indiscernible). Step over here, please. The
6 marshal's (indiscernible).

7 THE CLERK: Please raise your right hand. You do solemnly swear the
8 testimony you're about to give in this action shall be the truth, the whole
9 truth and nothing but the truth, so help you God?

10 UNIDENTIFIED SPEAKER: Yes, Your Honor.

11 UNIDENTIFIED SPEAKER: Yes.

12 UNIDENTIFIED SPEAKER: I swear.

13 THE CLERK: Thank you.

14 THE MARSHAL: Okay. Mr. Foley, go ahead and remain at the
15 microphone.

16 Everybody else have a seat.

17 Let's start with seven two, Your Honor, Foley v Foley. Foley
18 only is present with his attorney, Ms. Maskall, Bar Number 6410.

19 MS. MASKALL: Your Honor, Ms. Marie Maskall, Bar Number 6410, on
20 behalf of Mr. Foley.

21 THE COURT: This is Case Number R-11-162425.

22 You missed a court date on February 19th. The Petitioner was
23 here on that date. Let me hear from the D.A. first, and I'll hear from
24 your attorney.

25 MS. WOODS: The Respondent was present October 30th, 2013, in custody

1 and was given the February 19th, 2014, date in which he failed to appear.

2 THE COURT: And this is the second time I've seen him in custody. Is
3 that what you're saying?

4 MS. WOODS: It may have been more but just the most recent two times.
5 The Respondent has an order for \$700 out of the Clark County Family Court.
6 And from 11/1 of 2013 through today, with the med cash and the child
7 support order and the \$25 on arrears, \$7236 became due. \$3000 was an
8 execution. And that's the only payment that's been made since the
9 Respondent's last wage withholding payment, July 12th, 2013. So the last
10 payment has been dated June 6th, 2014. Then the Respondent was told to
11 return to court. He was told to bring \$500 for the February 19th, 2014,
12 court date that he failed to appear in. There is numerous sanctions stayed
13 from prior dates. And the bench warrant was for \$804.

14 MS. MASKALL: Your Honor, my client doesn't have any money.
15 Unfortunately, I think that he's been going about this the wrong way and
16 has been attempting to avoid coming to court to tell you that he didn't
17 have any money. I've been retained at the very last second and not yet met
18 him except through this video. I'm acting unbundled and in a pro bono
19 capacity right now. I would like the opportunity to speak with Mr. Foley
20 once he's out of jail in order to sort this out and to get him on the right
21 track. If he can't afford it, we'll go back in the D Case and request that
22 his child support obligation be reduced.

23 THE COURT: It can be done now. It's a temporary order, which means
24 I'm free to reset it at any time.

25 MS. MASKALL: Well, then we'd ask that you -- that you invest it or

1 that we -- that you lower his child support payment at this point. I'm not
2 sure that...

3 THE COURT: Does he work?

4 MS. MASKALL: ...he has the financial disclosure...

5 THE COURT: Does he work? I don't have a -- what -- on what basis?
6 Is he unemployed?

7 MS. MASKALL: Your Honor, I believe that he has his own business; and
8 that it's -- the money fluctuates; and he's not steady. He doesn't have a
9 steady flow of income at this particular moment. Obviously, I'll let him
10 address that with you.

11 THE COURT: Well, what's his income every month? What -- what should
12 we reduce it to?

13 MS. MASKALL: Mr. Foley, what is your current monthly income?

14 MR. FOLEY: It's 800 to \$1000 a month.

15 THE COURT: All right. How would he be able to prove that, if he had
16 to bring documents to court?

17 MS. MASKALL: Oh I'm gonna have to defer to him again, Your Honor.

18 Mr. Foley, how could you prove that you earned 800 to \$1000 a
19 month?

20 MR. FOLEY: I can bring my records.

21 THE COURT: What -- what kind of records is the D.A. looking for?

22 MS. WOODS: Well, Your Honor, the -- the custodian was present
23 February 19th, 2014, because that was supposed to be the modification or
24 considerate -- a Consideration of a Modification. And now that she's not
25 present, I would feel that it would be unfair to modify an order when he

1 didn't appear when she was here. And he would need to bring tax returns,
2 profit and loss statements...

3 THE COURT: For la- for -- for which years?

4 MS. WOODS: He -- it would be appropriate, according to statute for
5 the last three years. But for R and A's sake, we just need 2013 and...

6 MS. MASKALL: When...

7 MS. WOODS: ...so far for 2014.

8 MS. MASKALL: When was the decree entered?

9 MS. WOODS: The decree was entered in 2009, September 25th, 2009.

10 MS. MASKALL: Okay. So there's no objection to the last three years,
11 Your Honor.

12 THE COURT: The last two would be fine.

13 MS. MASKALL: Okay.

14 THE COURT: But we -- I think what the -- we look at, what seems to
15 be more relevant for current income is a profit and loss statement. If
16 it's certified by his accountants, that would be acceptable as well. So he
17 needs 2012, 2013 IRS tax returns and a recent profit and loss statement.
18 What can he pay to get out?

19 MS. MASKALL: Your Honor, as far as I --and again, I --I'll have to
20 defer to him. I believe that he did have some money in his pocket when
21 they arrested him. We'd like to apply that. I'm not sure that he has any
22 other money because I know that he was looking at -- at asking people to
23 gather up money to release him from bail and -- or from jail and nothing
24 happened.

25 Mr. Foley, do you have any additional money other than the \$50

1 that was in your pocket?

2 MR. FOLEY: \$17 in the bank.

3 MS. MASKALL: \$17...

4 MR. FOLEY: In the bank.

5 MS. MASKALL: ...in the bank.

6 THE COURT: What's the D.A.'s request?

7 MS. WOODS: Your Honor, the Respondent was allowed to pay \$500 for
8 the February 19th, 2014, court date, which is less than the bench warrant
9 of 804. So my position is, at the very least, half of the pay or stay
10 amount that he was supposed to bring. His arrest date was the 6th of
11 August.

12 MS. MASKALL: And, Your Honor, it's my understanding that my client
13 had filed a -- an appeal with the supreme court because of this particular
14 case. That appeal was denied. And I'm just asking that he be released so
15 that I can explain to him how to get what he wants from the Court, i.e., a
16 reduction in his child support. And I don't believe -- if he's got \$17 in
17 his -- in his bank account right now, \$50 on him, he didn't have the \$500
18 to come to court in February. I don't know why he didn't make it to court
19 in February.

20 THE COURT: This is the problem. You don't pay. Not only do you not
21 come to court month after month after month goes by, and the only -- I
22 heard the D.A. just tell me that the only payment in 2014 was...

23 What, Ms. D.A.?

24 MS. WOODS: It was...

25 THE COURT: An involuntary payment, right?

1 MS. WOODS: Yes, it was an involuntary payment.

2 THE COURT: Something the D.A. had to snatch from your bank account.

3 And how much did they snatch?

4 MS. WOODS: \$3000 and it...

5 THE COURT: So he did have some money to pay, but he chose not to.

6 And the D.A. had to go get it.

7 I mean, that's -- that's what it looks like, sir. So January
8 came by. You paid zero child support. February came by. You paid zero.
9 You could've paid \$100 a month. You could've paid \$50 a month. And if you
10 were struggling, we would have accepted that. I would've accepted that.
11 But deciding to pay zero, waiting to get arrested, it's not helping your
12 case at all, sir. These are three children that you have.

13 MR. FOLEY: I'm sup-...

14 THE COURT: They do deserve...

15 MR. FOLEY: ...my children tomorrow.

16 THE COURT: your financial support. Three children.

17 MR. FOLEY: I'm supposed to see...

18 THE COURT: All right.

19 MR. FOLEY: ...my children tomorrow. And I've been denied my
20 visitation consistently.

21 THE COURT: All right. You have a good lawyer...

22 MR. FOLEY: Last month...

23 THE COURT: ...here. She can advise you on that. But just because
24 you don't see your kids, sir, it's not a reason to decide you're not gonna
25 pay child support. All right? But if you're not paying, it's not a reason

1 for the mother to say you can't see the kids either. But that's...

2 MR. FOLEY: That's what's happening.

3 THE COURT: ...one thing that has to be taken up in a different
4 court.

5 (UNIDENTIFIED BACKGROUND MULTI-SPEAKING)

6 THE COURT: All right?

7 All right. What I'm gonna do today over the D.A.'s objection
8 because we have a temporary order, I'm gonna reduce it to \$300 a month.
9 That's the minimum for three children. This is temporary. All right? And
10 the effective date will be this month.

11 MS. WOODS: Your Honor...

12 THE COURT: I see that the Petitioner is also providing health
13 insurance, and you were contributing an amount to that. When we come back
14 next date, I am gonna ask the D.A. to contact her and bring an updated
15 information on how much she pays for the children's health insurance; and
16 that will be addressed.

17 MS. WOODS: Your Honor, the involuntary payment was actually a split.
18 The Respondent was to receive \$3000 and Clark County \$3000. The most
19 recent letter referring to that settlement was June 2nd, 2014. So I'm
20 assuming the Respondent had \$3000 at some point after June 2nd.

21 MS. MASKALL: I'm not sure that I even understand that. So...

22 MS. WOODS: It was -- it was something that Hennepin County,
23 Minnesota -- it was a lawsuit apparently or...

24 MS. MASKALL: Your Honor, we'll do an accounting. Is that good?
25 We'll do an accounting of the money.

1 THE COURT: I'm not sure that's what the D.A.'s stating.

2 MS. WOODS: What -- I'm saying that he received \$3000 following the
3 court matter in Minnesota, but didn't pay any child support, except...

4 MS. MASKALL: Well, and...

5 MS. WOODS: ...for what was taken.

6 MS. MASKALL: We have no -- well, I don't have any proof then he
7 actually received it. So what I'm saying is, we will provide the Court
8 with an accounting. If he did receive it, we'll provide the Court with an
9 accounting as to where the money went if he received it; or if he didn't
10 receive it...

11 THE COURT: I thought that was...

12 MS. MASKALL: ...we'll explain that.

13 THE COURT: ...the money the D.A. got. I don't know.

14 MS. WOODS: We received three -- one-half. So we received 3000. He
15 would've receive 3000, so.

16 THE COURT: Oh I see.

17 MS. WOODS: Oh.

18 THE COURT: I gotcha. Okay.

19 MS. WOODS: Okay. That's...

20 THE COURT: All right. Gotcha.

21 MS. WOODS: ...why I'm saying that.

22 THE COURT: So you're saying -- the D.A.'s saying, he got his
23 settlement; and the D.A. got three -- half of it.

24 MS. WOODS: Yes.

25 MS. MASKALL: Now I understand.

1 THE COURT: Okay.

2 MS. MASKALL: Okay.

3 THE COURT: I didn't understand either. Okay. So it's -- going
4 forward, it's 300 current; 25 on arrears; the \$79 contribution towards the
5 medical, stays at 79. It's 404. We'll come back in a few months to
6 address your request to modify. You need to, you know, bring your
7 documents. I am asking that five more days be served unless you come up
8 with \$200. It's a minimal amount of money, 200. 200 will get you out
9 today, sir; otherwise, you won't be released until...

10 THE CLERK: August 16th, 2014.

11 THE COURT: All right. The 200 is from 9/19 of 2012, stay jail time.
12 The rest is stay. Just so his attorney knows, he has a total of, excluding
13 the five days from today, he has six- 70 -- sev- 70 days of stay jail time
14 hanging over his head.

15 MS. MASKALL: 70?

16 THE COURT: 70.

17 MS. MASKALL: Okay.

18 (UNIDENTIFIED BACKGROUND MULTI-SPEAKING)

19 MS. MASKALL: Thank you, Your Honor.

20 THE COURT: And the return date will be?

21 THE CLERK: December 9th, 2014, 9:15 a.m.

22 THE COURT: All right. December 9. At what time?

23 THE CLERK: 9:15 a.m., Your Honor.

24 THE COURT: Okay.

25 All right. Thank you.

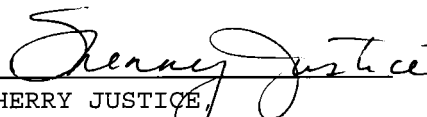
1 MS. MASKALL: Thank you, Your Honor.

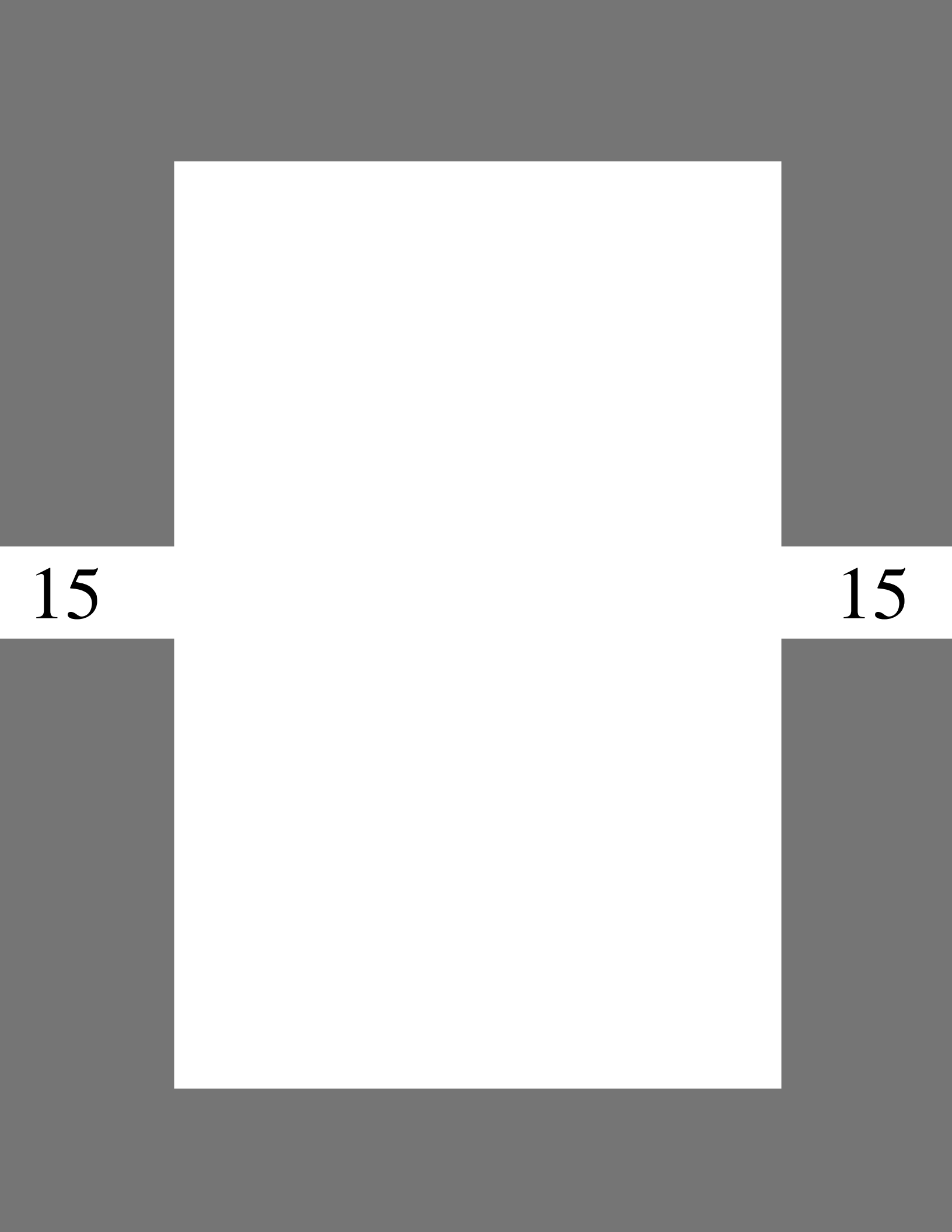
2 MR. FOLEY: Thank you, Ms. Maskall, and, Your Honor.

3 (THE PROCEEDING ENDED AT 13:40:29.)

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5 * * * * *

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

9 
10 SHERRY JUSTICE
11 Transcriber II
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CLERK OF THE COURT

1 **RSPN**
2 MICHAEL FOLEY
3 209 S. Stephanie St. Ste B-191
4 Henderson, NV 89012
5 Telephone: (702) 771-9725
6 Defendant in Proper Person

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 PATRICIA FOLEY

11 Petitioner,

12 vs.

13 MICHAEL FOLEY,

14 Respondent.

Case No. R-11-162425
Dept. No. "C" / Child Support

Date of Hearing: December 9, 2014
Time of Hearing: 9:00 a.m.

15
16
17 **RESPONDENT'S RESPONSE TO THE DISTRICT ATTORNEY'S MOTION TO**
18 **MODIFY CHILD SUPPORT**

19
20 COMES NOW, Respondent Michael Foley, in Proper Person, and hereby files this
21 RESPONSE to the pending MOTION. Due to circumstances beyond the his control,
22 Respondent respectfully requests a waiver of personal attendance due to his required
23 presence in the U.S. District Court.

24
25 **FACTS**

26 The Respondent's monthly income and necessary expenses, as reflected within
27 Exhibit "A," show that his current net income is at or near the Federal poverty measure. He
28

1 has been granted in forma pauperis status in not just the 8th District Court, but also the U.S.
2 District Court, as evidenced by Exhibit "B."

3 The Respondent is required to be present at a hearing scheduled by a U.S.
4 Magistrate Judge, at practically the same time as this hearing, concerning an action he has
5 filed to obtain injunctive and other relief arising from a claim he has brought against
6 certain Clark County agents who have substantially hindered his ability to have fair
7 employment opportunities by unjustly entering his name into the Nevada Central Registry
8 for the Collection of Information Concerning the Abuse or Neglect of a Child established
9 by NRS 432.100. In the year 2012, the Respondent's name was entered into the registry in
10 retaliation for having sued the Clark County DFS agent who maliciously and falsely
11 prosecuted the Respondent so that the Petitioner, Patricia Foley, would win the underlying
12 divorce and child custody litigation. Said action is now before the 9th Circuit Court of
13 Appeals, and the action for retaliation is just beginning in the U.S. District Court. The
14 Respondent is hopeful that Clark County and its officials will soon remove his name from
15 the registry so that he may become eligible for any and all employment opportunities for
16 which he is qualified. In the mean time, the Respondent works very hard serving various
17 private and individual employers who retain him for technical support and tutoring
18 services. Because the District Attorney has suspended the Respondent's driver's license, he
19 is extremely burdened and bears higher than normal transportation expenses, and is still
20 unable to utilize any professional license having been denied equal custody, and a fair and
21 favorable child support award.

22 23 **ARGUMENT**

24 **The Court should not impose a child support burden greater than the statutory**
25 **minimum.**

26
27 Although the Plaintiff's gross income is currently in excess of \$1200 per month, this
28 amount is only slightly above what he has been earning throughout the year. As the number

1 of individuals who are willing to hire him has increased, so has his cost of transportation,
2 and other expenses related to his self-employment. This year, 2014, will be the first year
3 that the Respondent will be required to file a Federal Tax return as his earned income since
4 2007 has been well below the minimum required by the IRS and statutory reporting
5 requirements. The Respondent is currently using borrowed money to meet his monthly
6 expenses, but hopes to find a way to reduce costs. Moreover, there has been a change in
7 circumstances that warrants a change in custody, and the Respondent expects to have no
8 less than equal custody, once a motion or other action can be entertained by the new judge
9 elected to Department "C."

10
11 **CONCLUSION**

12 Because the Respondent is a pauper, the Court should either maintain or lower the
13 Respondent's child support burden to the minimal amount that is just.

14
15 DATED this 8th day of December, 2014.

16
17 / *Michael Foley* /

18 Michael Foley, Respondent in Pro Per

19
20 **CERTIFICATE OF MAILING**

21
22 The foregoing RESPONSE TO THE DISTRICT ATTORNEY'S MOTION TO
23 MODIFY CHILD SUPPORT was served upon Respondent Patricia Foley by and through
24 her attorney, Steven B. Wolfson and/or his deputy, via first class mail, postage prepaid to:

25
26 Patricia Foley, c/o Steven B. Wolfson and deputies

27 1900 East Flamingo Rd. Ste. 100

28 Las Vegas, Nevada 89119

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Income/Expense by Category
10/1/2014 through 12/8/2014 (Cash Basis)

12/8/2014

Category	10/1/2014- 12/8/2014
INCOME	
Service Calls	2,512.95
TOTAL INCOME	2,512.95
EXPENSES	
Entertainment	26.00
Fees & Charges	32.00
Food & Dining	341.83
Gifts & Donations	13.00
Housing	1,403.69
Interest Exp	70.27
Kids	124.86
Litigation	13.79
Misc.	77.01
Misc. Expense (Work)	96.80
Personal Care	20.00
Postage and Delivery (Legal)	10.22
Prof and Legal Fees	53.65
Shopping	100.24
Supplies (Work)	12.96
Transportation	1,009.56
Utilities	349.37
Utilities (Work)	214.00
TOTAL EXPENSES	3,969.25
OVERALL TOTAL	-1,456.30

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL FOLEY,

Plaintiff(s),

vs.

LOREA AROSTEGUI, et al.,

Defendant(s).

Case No. 2:14-cv-00094-RFB-NJK

ORDER SETTING HEARING

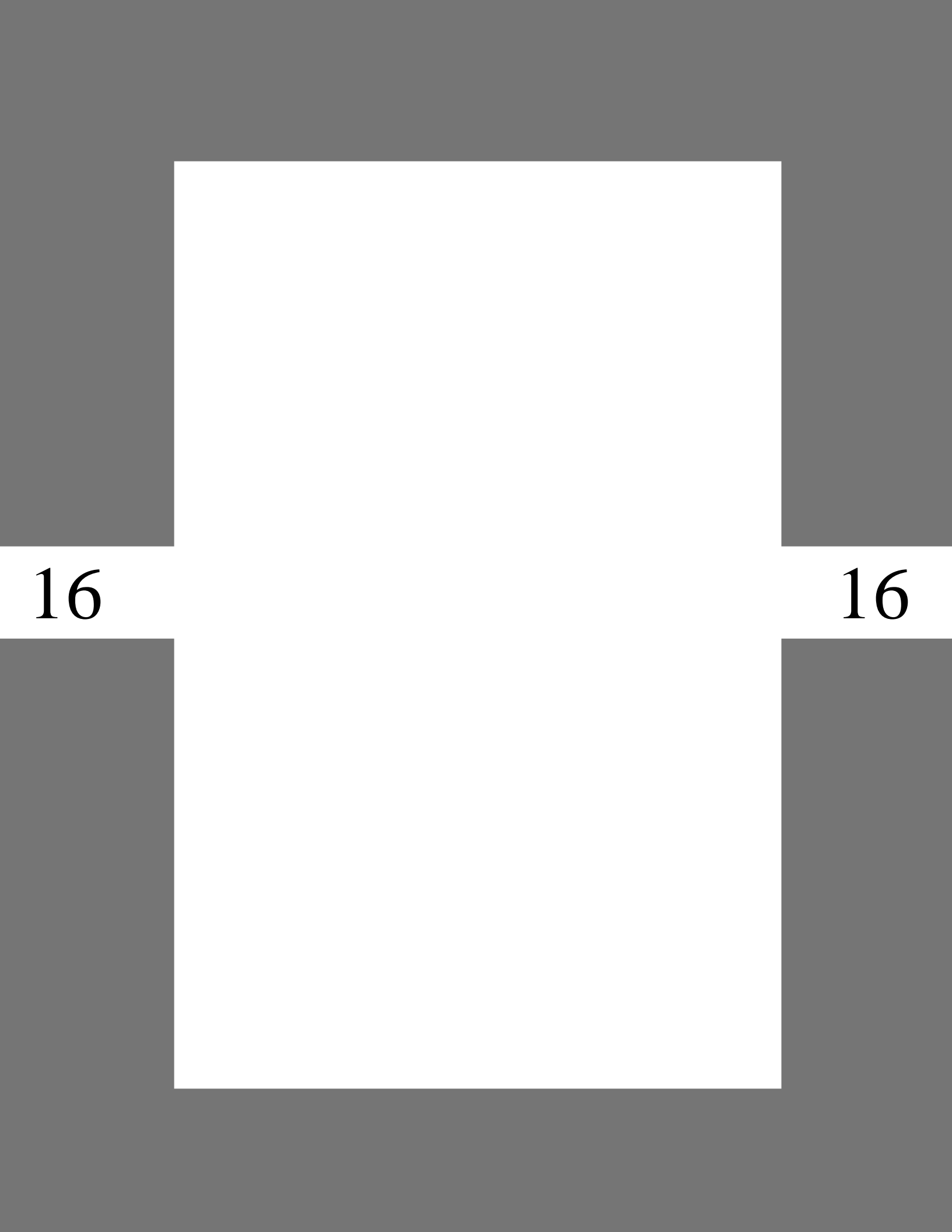
(Docket No. 6)

Plaintiff Michael Foley is proceeding in this action *pro se*. On March 10, 2014, the Court granted Plaintiff's request pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*. Docket No. 4. The Court further screened the complaint pursuant to 28 U.S.C. § 1915(a) and dismissed all claims without prejudice, except for Plaintiff's First Amendment right to petition the government for redress of grievances claim. *Id.*, at 5. The Court allowed Plaintiff an opportunity to amend his complaint, and that amended complaint has now been filed. Docket No. 6. The Court hereby **SETS** a hearing on Plaintiff's amended complaint for December 9, 2014, at 10:00 a.m. in Courtroom 3B. Plaintiff shall attend the hearing. THERE WILL BE NO EXCEPTIONS TO THIS APPEARANCE REQUIREMENT.

IT IS SO ORDERED.

DATED: November 24, 2014


 NANCY J. KOPPE
 United States Magistrate Judge



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FILED
FEB -7 2017
Ann L. Johnson
 CLERK OF COURT

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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

PATRICIA FOLEY,)	CASE NO. R-11-162425-R
Petitioner,	)	DEPT. C
)	
vs.)	
	)	APPEAL NO. 69997
MICHAEL A. FOLEY,)	
Respondent.)	

BEFORE THE HONORABLE SYLVIA TEUTON

TRANSCRIPT RE: MOTION FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT

TUESDAY, DECEMBER 09, 2014

1 APPEARANCES:

2 For the Public by DAFS ALEC JASON RAPHAEL, ESQ.
3 Chief Deputy D.A. - Family Support
4 1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner: PATRICIA FOLEY
6 For the Petitioner: Pro se

7 The Respondent: MICHAEL FOLEY (Not present)
8 For the Respondent: Pro se

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1 LAS VEGAS, NEVADA

TUESDAY, DECEMBER 09, 2014

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

3 (THE PROCEEDING BEGAN AT 09:53:18.)

4 THE MARSHAL: Just go ahead and have a seat right there.

5 THE CLERK: Please raise your right hand. Do you solemnly swear the
6 testimony you're 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. FOLEY: Yes.

9 THE CLERK: Okay.

10 THE COURT: This is Case Number R-11-162425.

11 Let me ask the D.A. It looks like Mr. Foley did file a
12 response to the request to modify and said he had to appear in U.S.
13 District Court. Let me hear from the D.A.

14 MR. RAPHAEL: Thank you for coming to court, ma'am. You can have a
15 seat.

16 MS. FOLEY: Okay. Thank you.

17 MR. RAPHAEL: The Respondent's unbundled attorney withdrew. The
18 Court initiated this modification. He's self-employed. He filed a
19 response yesterday pro per. He did request a continuance.

20 THE COURT: He attached the notice from district court...

21 MR. RAPHAEL: He...

22 THE COURT: ...that did...

23 MR. RAPHAEL: He did.

24 THE COURT: ...say he was due there...

25 MR. RAPHAEL: He -- he -- he did.

1 THE COURT: ...today.

2 MR. RAPHAEL: He did wait till yesterday to tell us but that...

3 THE COURT: Yes, he did.

4 MR. RAPHAEL: That's a separate matter on -- okay. Two -- two
5 issues. One, we're here on a modification.

6 THE COURT: 30 days. (Indiscernible).

7 MR. RAPHAEL: He self-reported his gross monthly income. But I don't
8 mind continuing it.

9 THE COURT: Well, do you have any independently verified...

10 MR. RAPHAEL: No.

11 THE COURT: ...income? Why? Is he self-employed?

12 MR. RAPHAEL: Yes, he is.

13 THE COURT: Is he self-employed, ma'am?

14 MS. FOLEY: I do have a ad he put in on Craigslist. That's where
15 he's working.

16 THE COURT: Did you give that to your caseworker yet?

17 MS. FOLEY: No.

18 THE COURT: All right. Do you have it with you to give to the D.A.?

19 MS. FOLEY: I can give him the copy I printed from Craigslist.

20 THE COURT: Okay. Because he has to be in district court. And that
21 will su- that supersedes this court.

22 MS. FOLEY: So is district court today is for child support also?

23 THE COURT: It's probably a criminal or a civil matter. I have no
24 idea what that's for.

25 MR. RAPHAEL: He -- he's suing DFS.

1 THE COURT: Oh is that what he's doing?

2 MR. RAPHAEL: Yeah.

3 THE COURT: Okay. Well, I'll print out -- I don't think you got a
4 copy. He mailed a copy to the D.A. for you. But I'll print it out so you
5 can read it.

6 MS. FOLEY: Okay.

7 THE COURT: Okay. He just filed it yesterday. And he did file an
8 income and an expense report.

9 MS. FOLEY: Thank you.

10 THE COURT: (Indiscernible) put it on the conflict calendar
11 (indiscernible).

12 THE CLERK: In 30 days?

13 THE COURT: Mm-hm.

14 THE CLERK: Okay.

15 THE COURT: He hasn't been paying, huh? Are you gonna...

16 MR. RAPHAEL: No.

17 THE COURT: ...start a contempt show cause or...

18 MR. RAPHAEL: He is under an order to show cause.

19 THE COURT: He is? All right.

20 MR. RAPHAEL: So I -- I...

21 THE COURT: Okay.

22 MR. RAPHAEL: ...was gonna -- so I'm gonna request the contempt and a
23 bench warrant.

24 THE COURT: Well, I'm not, Mr. D.A. Otherwise, if he didn't have
25 that appearance in district court, I absolutely...

1 MR. RAPHAEL: Okay.

2 THE COURT: ...would.

3 MR. RAPHAEL: That's fine.

4 THE COURT: But I'll find that he needs to pay monthly or face
5 imposition of contempt; continue, as he has a documented appearance in U.S.
6 District Court on another matter scheduled for today at 10:00 - 10:00 a.m.
7 Okay. Respondent is self-employed, you said?

8 MR. RAPHAEL: That's his self -- that's his self-report. I don't
9 have...

10 THE COURT: He is.

11 MR. RAPHAEL: ...the other info.

12 THE COURT: What type of work does he do?

13 MS. FOLEY: He's do computer repairs.

14 THE COURT: Okay. He is to bring copies of filed tax returns next
15 court date for years 2012 and 2013, per 125B.080 -- NRS 125B.080. Okay.
16 Return date is...

17 THE CLERK: January 28, 2015, at 1:45 p.m.

18 THE COURT: Okay. We will proceed on that date. Thank you.

19 THE MARSHAL: You can...

20 (THE PROCEEDING ENDED AT 09:59:06.)

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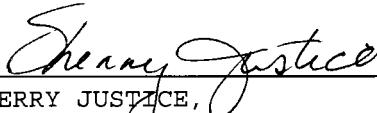
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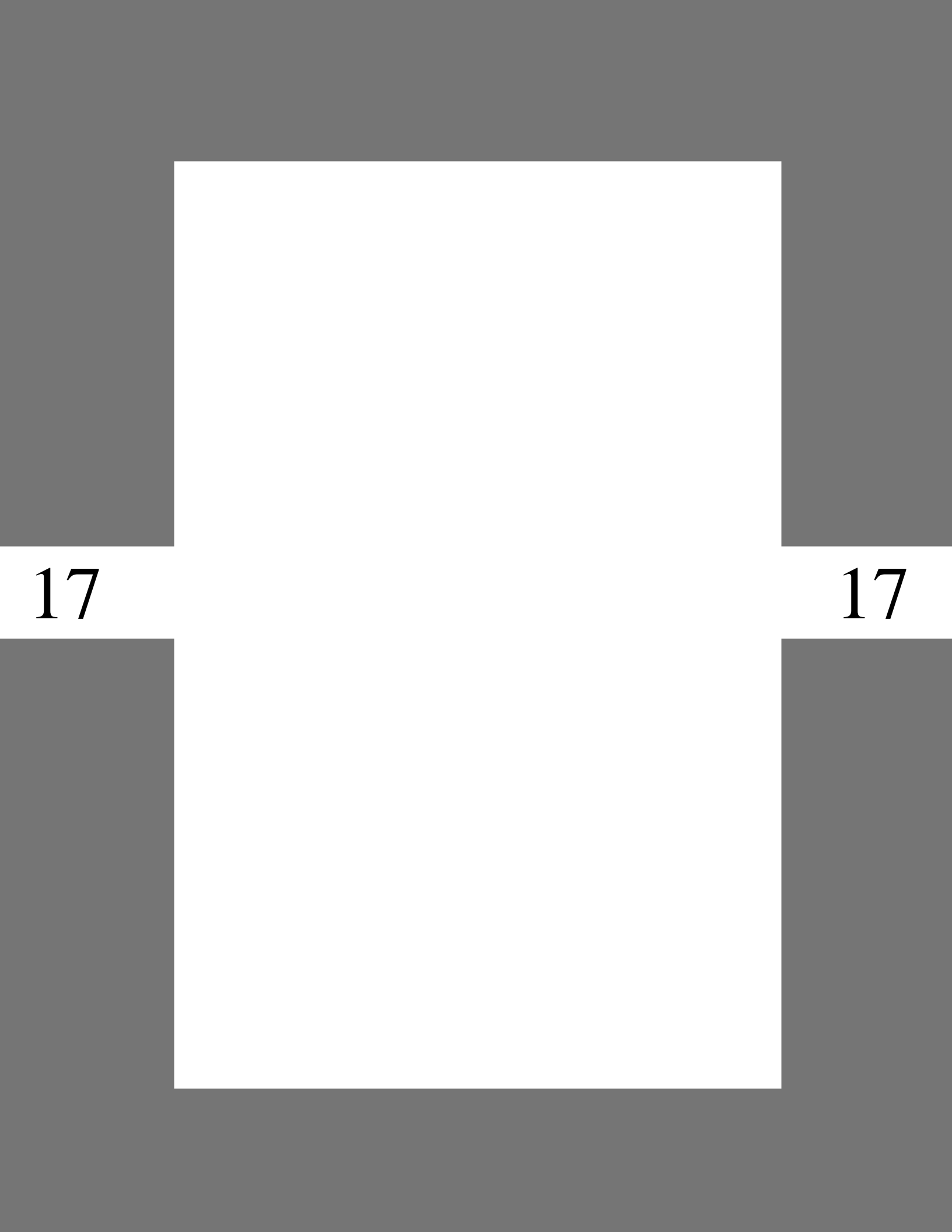
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2 ATTEST: I do hereby certify that I have truly and correctly
3 transcribed the digital proceedings in the above-entitled case to the best
4 of my ability.

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6 SHERRY JUSTICE,
7 Transcriber II



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Ann L. Johnson
CLERK OF COURT

1 TRANS

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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

9	PATRICIA FOLEY,)	CASE NO. R-11-162425-R
	Petitioner,	)	DEPT. C
10)	
	vs.)	
11		)	APPEAL NO. 69997
	MICHAEL A. FOLEY,)	
12	Respondent.)	
)	

BEFORE THE HONORABLE JAMES DAVIS

TRANSCRIPT RE: MOTION FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT

WEDNESDAY, JANUARY 28, 2015

1 APPEARANCES:

2 For the Public by DAFS ALEC JASON RAPHAEL, ESQ.
3 Chief Deputy D.A. - Family Support
4 1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner: PATRICIA FOLEY
6 For the Petitioner: Pro se

7 The Respondent: MICHAEL FOLEY (Not present)
8 For the Respondent: Pro se

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1 LAS VEGAS, NEVADA

WEDNESDAY, JANUARY 28, 2015

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

3 (THE PROCEEDING BEGAN AT 14:06:28.)

4 THE COURT: We'll call R162425, Resp- or Petitioner only.

5 THE CLERK: Please raise your right hand. You solemnly swear the
6 testimony you're 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. FOLEY: Yes.

9 THE CLERK: Thank you. You may be seated.

10 THE COURT: Mr. District Attorney.

11 MR. RAPHAEL: Okay. This is actually -- it's -- it's -- it's a
12 review and adjustment and an enforcement review. And we have enough
13 information to proceed.

14 Last hearing, the Respondent requested a continuance of his
15 review and adjustment because he -- he -- he had submitted proof that he
16 had a -- a hearing in federal court that day. So the Court granted that.
17 However, in the response that he filed on December 8th, he self-reported
18 his gross monthly income.

19 UNIDENTIFIED SPEAKER: Yeah.

20 MR. RAPHAEL: So we are able to proceed with the modification today.

21 THE COURT: And his gross monthly income was?

22 MR. RAPHAEL: \$2,512.95. We're gonna request 29 percent of that for
23 the support of the three children in this case.

24 And, Ms. Clerk, this is not a conflict case.

25 THE CLERK: Thank you.

1 THE COURT: Okay. And it says child support at 729. A round up
2 there.

3 MR. RAPHAEL: And, Your Honor, previously medical cash in lieu of
4 health insurance was set at \$79.

5 Ma'am, do you still have health insurance for your children?

6 MS. FOLEY: Yes, I do.

7 MR. RAPHAEL: And is it approximately the same cost?

8 MS. FOLEY: Correct.

9 MR. RAPHAEL: Okay. Your Honor, we're gonna ask that that \$79 a
10 month continue as medical cash in lieu of health insurance.

11 THE COURT: Very well.

12 MR. RAPHAEL: In addition, this was already found that it was going
13 to be effective August 1st. So that's our request for today. Modification
14 effective 8/1/14. And it was pre- it was pre-filled in on the next page.

15 Getting to the enforcement part of this case, last hearing, the
16 Respondent was admonished in writing by the Court to start making monthly
17 payments or face contempt. He bailed out two hearings ago on August 13th,
18 but he's not paid anything since. So he's made his choice. Now there was
19 a review hearing already set for February 18th, but giving him another
20 month really isn't gonna make a difference. I'm gonna ask that that be
21 vacated and that a bench warrant be issued. Thank you.

22 THE COURT: Okay. Madam clerk, we're gonna go ahead and vacate the
23 February 18th hearing and issue a bench warrant for his nonappearance.

24 Okay. I find the Respondent in contempt of court for failing
25 to pay his child support; therefore, sentence him to the 25 days in the

1 Clark County Detention Center. That sentence will be stayed until the next
2 court hearing. Issue a no-bail bench warrant, whereby the Respondent can
3 be released upon the payment of \$1000. We'll vacate the February hearing.

4 Anything else, ma'am?

5 MS. FOLEY: No, Your Honor.

6 THE COURT: All right. Thank you for coming in. You're always
7 welcome, but you don't have to come if you don't want to.

8 MS. FOLEY: Okay.

9 THE COURT: All right. Thank you.

10 MS. FOLEY: Thank you.

11 (THE PROCEEDING ENDED AT 14:11:48.)

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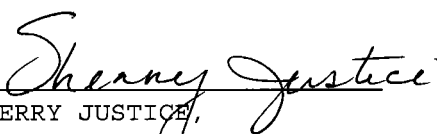
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15 ATTEST: I do hereby certify that I have truly and correctly
transcribed the digital proceedings in the above-entitled case to the best
of my ability.

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SHERRY JUSTICE,
Transcriber III

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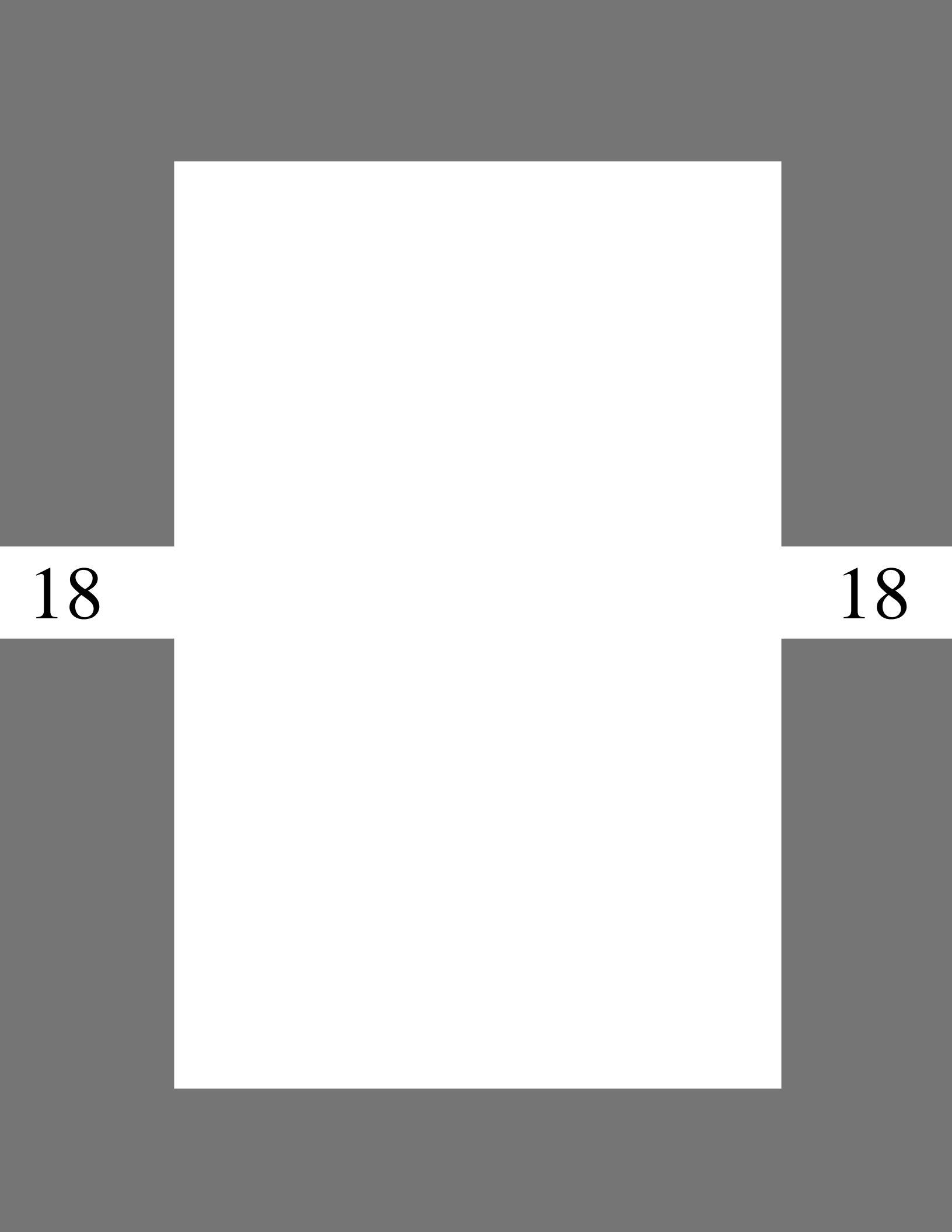
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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

PATRICIA FOLEY,)	CASE NO. R-11-162425-R
Petitioner,	)	DEPT. C
)	
vs.)	
	)	APPEAL NO. 69997
MICHAEL A. FOLEY,)	
Respondent.)	
)	

BEFORE THE HONORABLE SYLVIA TEUTON

TRANSCRIPT RE: IN CUSTODY HEARING

WEDNESDAY, APRIL 15, 2015

1 APPEARANCES:

2 For the Public by DAFS PATRICIA A. ROSS, ESQ.
3 Chief Deputy D.A. - Family Support
4 1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner: PATRICIA FOLEY (Not present)
6 For the Petitioner: Pro se

7 The Respondent: MICHAEL FOLEY
8 (Present via video conference
from Clark County Detention Center)
9 For the Respondent: Pro se

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1 LAS VEGAS, NEVADA

WEDNESDAY, APRIL 15, 2015

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

3 (THE PROCEEDING BEGAN AT 13:38:10.)

4 THE COURT: This is R-11-162425.

5 You're still under oath, sir. This is for your children
6 Michael, Elizabeth and Therese. And it looks like you missed a court date
7 a couple months ago, January 28. Now Patricia, she was here. All right.
8 We -- it was a motion to modify your child support. It looks like we used
9 your self-reported monthly income, and we set it at 729 temporarily. Is
10 there a reason why you weren't here?

11 MR. FOLEY: On the 28th, I never received a summons, Your Honor, or
12 an order to appear. And I did try to file a -- an objection after I
13 received the notice that -- of the Master's Recommendation. And the court
14 clerk would not let me file it. The court clerk refused the filing of my
15 objection saying that I needed to fi- pay a \$240 filing fee, an initial
16 appearance fee; and I don't find anywhere in NRS that says I have to file a
17 -- an initial appearance, file...

18 THE COURT: It's not in NRS. It's in -- in the Civil Rules of Civil
19 Procedure. It's a...

20 MR. FOLEY: I didn't find anything in...

21 THE COURT: All right.

22 MR. FOLEY: ...NRCP either, Your Honor that requires...

23 THE COURT: So -- well, there is a...

24 MR. FOLEY: ...a filing fee.

25 THE COURT: ...filing fee. And each -- each -- every county has a

1 right to set their own fees. And that's what Clark County's fees are.

2 MR. FOLEY: And I don't...

3 THE COURT: All right. I do -- I'm looking at a notice of hearing.

4 It was filed December 24th of 2014. And it is a certificate of mailing.

5 I'm looking at Michael Anthony Foley, 209 Stephanie Street, B191.

6 MR. FOLEY: Okay.

7 THE COURT: It was mailed -- at Henderson, Nevada, 89012. It was
8 mailed December 24th.

9 MR. FOLEY: I did not see that as an order to appear or as a summons,
10 Your Honor.

11 THE COURT: It's diffi-

12 MR. FOLEY: And I...

13 THE COURT: Sir...

14 MR. FOLEY: I would...

15 THE COURT: Sir, it's not -- okay. I don't know why you think it has
16 to be because it doesn't. It's a -- simply a notice of hearing letting you
17 know we're gonna have the whole court hearing to modify your child support.
18 There doesn't have...

19 MR. FOLEY: But I didn't ask for a hearing, Your Honor.

20 THE COURT: ...to be a summons, sir. You don't have to be served in
21 person for a subsequent appearances like that. All right.

22 So let me hear from the D.A.

23 MS. ROSS: Thank you, Your Honor. The Respondent was arrested on
24 April 9th on a bench warrant from January 2015. The bench warrant is for
25 \$1000. Our investigator who arrested Mr. Foley, found him by way of

1 Craigslist. Mr. Foley has several ads on Craigslist advertising computer
2 work -- extensive computer work that he does. And within all of his
3 advertisements, he states, my long list of clients keeps me busy. So
4 apparently he is making money. He is working. However, the last payment
5 we received was August 2014 for only \$200. It appears that Mr. Foley puts
6 a lot of effort into not paying. If he only put half as much effort, maybe
7 this child could be supported. We're asking for a finding of contempt,
8 imposition of time with the release amount of the bench warrant in the
9 amount of \$1000.

10 THE COURT: Is there anything you want to say?

11 MR. FOLEY: Yes, Your Honor. I'd like to invoke my 14th Amendment
12 Right to appointed counsel. The 14th Amendment to the U.S. Constitution as
13 interpreted by the United States Supreme Court in Turner versus Rogers, I
14 am entitled to Court-appointed counsel because the opposing party is
15 represented by counsel, the State is represented by counsel. I do not...

16 THE COURT: Well, first of all...

17 MR. FOLEY: ...have counsel.

18 THE COURT: ...that's incorrect. The opposing party is not
19 represented by counsel.

20 MR. FOLEY: The State is represented by (indiscernible).

21 THE COURT: The Sta- the -- the State represents the interest of the
22 State. And the D.A. can tell you that.

23 MR. FOLEY: Okay. And therefore...

24 THE COURT: But let me hear from -- let me hear a reply from the D.A.

25 MR. FOLEY: Your Honor, I'm not done with my legal argument. It's

1 the -- if -- if you're gonna have...

2 THE COURT: You want -- you want an appointment of...

3 MR. FOLEY: ...a D.A. reply...

4 THE COURT: ...counsel. Let me have the D.A. reply, and then I'll
5 hear from you again.

6 MR. FOLEY: Thank you.

7 MS. ROSS: Your Honor, there is no right to appointment of counsel in
8 these types of civil cases. As you stated, we do not represent the
9 Petitioner. We don't represent any parties. We represent the interests of
10 the State. So this is not a situation that is similar to Turner v Rogers.

11 MR. FOLEY: Your Honor, this proceeding is criminal in nature. I've
12 been chained. I've been confined. And even though you may want to label
13 it as a civil action, it is a de facto criminal proceeding. And therefore,
14 I am entitled under -- under the U.S. Constitution to have appointed
15 counsel. If the Court wishes to not -- to deny my request for appointed
16 counsel, then that's an issue that can be addressed later on in -- in the
17 appeals process. And then I have other legal arguments to make, as well,
18 and other facts to state for the record.

19 THE COURT: Anything else?

20 MR. FOLEY: From me, Your Honor?

21 THE COURT: Yes, sir.

22 MR. FOLEY: Yes, Your Honor. I have seven reasons why I should be
23 released today. Number 1, I haven't seen my daughter, Elizabeth, in three
24 weeks. Number 2, I haven't seen my son, Michael, in two weeks. And number
25 3, I have not -- I've only seen my daughter, Therese, once in the last

1 three years. And that's all because of the Petitioner's efforts to deprive
2 me of my fundamental constitutional right to be a parent to my child.

3 Number 4, I try to -- I need to change out my contact lenses.
4 I'm a contact lens user. I'm dependent of contact lenses to be able to
5 see. If I take them out, the I won't be able to take them back in without
6 storage solution, which I believe that this facility should provide, given
7 that it's a -- a -- a health issue.

8 And then also I need to get back to work as the district
9 attorney pointed out. I do try to keep busy, as -- as best I can. I do
10 not charge very much for the work that I do, which helps me keep busy.
11 There are a number of people who depend on me, including seniors and some
12 disabled people that depend on me for the services that I provide.

13 And -- and if I'm not allowed to be released to resume my
14 occupation and my vocation, then I'll have to apply for public assistance;
15 and that's -- that would be unfair to the -- to the taxpayer if I have to
16 apply for public assistance, when I am capable of supporting myself by the
17 work that I do. And I do fully support my children. Money is not the only
18 way to support a child. Time is just as good as money.

19 Number 7, at least two of my children want their father to be
20 free and available to them. I've missed several visits because of this
21 incidents and incarceration.

22 And these are my legal arguments. Number 1, jurisdiction is
23 with the district court. I think...

24 THE COURT: All right. Just a moment. Let me address some of your
25 allegations and statements and arguments. First of all, I don't want this

1 personally to be a criminal proceeding, like you indicate. I'm merely
2 following the law. And the law has already established that child support
3 cour- court is a civil proceeding. It is not criminal. Under our laws,
4 you do not have a constitutional right for me to appoint a free lawyer to
5 you. So your request is therefore denied.

6 Second of all you say that I should let you out because you
7 haven't seen your children. Well, sir, I really sympathize with that. I
8 think it's wrong for parents to hold children over each other's heads and
9 treat them like property to get them to do things or not do things. But
10 that has nothing to do with child support. The U.S. Supreme Court, many
11 years ago saw fit to separate those two issues. So whether or not you pay
12 your child support has nothing to do with whether or not you get to see
13 your children. That is why we have a higher court than this court. We
14 have family district court. You have always been free to file motions. I
15 -- I see that you were recently there. There's a family court order from
16 November of 2014. So you know what the procedures are. You know...

17 MR. FOLEY: I have no...

18 THE COURT: ...how to follow those rules. I just saw the -- I just
19 saw the -- the...

20 MR. FOLEY: I have no knowledge of...

21 THE COURT: ...the actual motion...

22 MR. FOLEY: ...a family court proceeding.

23 THE COURT: ...and order.

24 MR. FOLEY: November...

25 THE COURT: You say you need to get...

1 MR. FOLEY: ...can you please describe it to me? I have no idea.

2 THE COURT: ...back to work because people depend on you. Well, what
3 about your kids, sir? Your -- your kids...

4 MR. FOLEY: They depend on me every...

5 THE COURT: ...should depend on you.

6 MR. FOLEY: ...Tuesday and Thursday.

7 THE COURT: I didn't interrupt you. I don't expect you to interrupt
8 me. Thank you.

9 So first of all, you say you have all these people that depend
10 on you, like, seniors and people that rely on your work. Well, what about
11 your kids, sir? Your kids come first. Your kids should be...

12 MR. FOLEY: They do.

13 THE COURT: ...depend -- should be able to financially depend on you.
14 All right? And that's not something that you've stepped up to the plate to
15 do. And then you say that money isn't the only way to support a child. I
16 appreciate that, sir. I'm a mother. So I understand that. Kids need love
17 and attention, as well as money, because they -- you need to buy food. You
18 need to have a roof over their head. But you are under a Court order to
19 pay support. Unless I have an order that says you pay zero, I'm gonna
20 enforce the prior orders that obligate you to pay.

21 And what I have in front of me, sir, is that you have refused
22 to pay any amount since August of 2014. Now, if you've given money
23 directly to Patr- Patricia, that is going against the Court order; and you
24 won't get credit for it. You have to pay through the court. All right?

25 So based on all those things, sir...

1 MR. FOLEY: I still have legal arguments to make. And under
2 Nevada...

3 THE COURT: All right, sir.

4 MR. FOLEY: Code of (indiscernible)...

5 THE COURT: I -- we're -- we're done.

6 MR. FOLEY: ...I must be heard.

7 THE COURT: I find that you are in contempt of Court. You are -- how
8 many days has he been in jail?

9 MS. ROSS: He was arrested on the 9th.

10 THE COURT: Okay.

11 MR. FOLEY: Your Honor, I still have a legal argument to make.

12 THE COURT: Oh I've heard enough, sir.

13 All right. You will be in -- remanded into custody for 19 days
14 from now. I've considered the time you've already been in jail.

15 MR. FOLEY: Your Honor, I...

16 THE COURT: That's from May...

17 MR. FOLEY: ...I would like my objection...

18 THE COURT: ...15th of 2012. There's 20 days there. You've been in
19 -- found in contempt many times before. This is nothing new to you. So...

20 MR. FOLEY: But I'd like to -- my objection to go on the record.

21 THE COURT: So the rest of the time -- you -- you've made sufficient
22 record, sir.

23 MR. FOLEY: No, I want my objection within a ten-day period as
24 required by EDCR 1 (indiscernible) one.

25 THE COURT: I don't have -- I'm not your personal lawyer, sir. I

1 don't have an obligation to -- to do that...

2 MR. FOLEY: Your Honor...

3 THE COURT: ...for you. Okay?

4 MR. FOLEY: ...(indiscernible) can't tell the...

5 THE COURT: I'm not...

6 MR. FOLEY: ...truth (indiscernible)...

7 THE COURT: ...gonna object to myself. You need to figure out a way
8 to that.

9 MR. FOLEY: The Court must accept my objection.

10 THE COURT: Okay. So...

11 MR. FOLEY: Under the (indiscernible) objection...

12 THE COURT: 19 days are imposed. This -- this is previously approved
13 jail time. You've been found in contempt many times before...

14 MR. FOLEY: Your Honor...

15 THE COURT: ...sir. I can go...

16 MR. FOLEY: ...no district court judge has...

17 THE COURT: ...through the dates if you want.

18 MR. FOLEY: ...endorsed a single recommendation of yours. The
19 presiding judge must sign your recommendation.

20 THE COURT: And they have, sir.

21 MR. FOLEY: You even in your own language...

22 THE COURT: Sir, I'm not gonna...

23 MR. FOLEY: ...in your own words...

24 THE COURT: ...argue with you anymore. I'm not here...

25 MR. FOLEY: ...this is not an order or a judgment...

1 THE COURT: ...to argue with you, sir.

2 MR. FOLEY: ...unless signed by a judge. I'm making...

3 THE COURT: I am...

4 MR. FOLEY: ...pointing out your words. It says...

5 THE COURT: I am not...

6 MR. FOLEY: ...not an order...

7 THE COURT: ...gonna argue with you...

8 MR. FOLEY: ...or a judgment...

9 THE COURT: ...anymore, sir.

10 MR. FOLEY: ...unless it's signed by a judge. It was never signed by

11 a judge. It's only signed by you...

12 THE COURT: Well, that's what you...

13 MR. FOLEY: ...and the district attorney.

14 THE COURT: ...say.

15 MR. FOLEY: (Indiscernible) about...

16 THE COURT: But that's not...

17 MR. FOLEY: Well, no, that's what...

18 THE COURT: ...that's not the truth...

19 MR. FOLEY: ...you say...

20 THE COURT: ...of it.

21 MR. FOLEY: ...in your order, Your Honor.

22 THE COURT: That's what you say. That's not the truth.

23 MR. FOLEY: (Indiscernible) the last order. Read it. It says

24 this...

25 THE COURT: Okay. The last order was signed by the...

1 MR. FOLEY: ...(indiscernible).

2 THE COURT: ...family court judge. So anyway...

3 MR. FOLEY: Which family court judge? What order was that?

4 Communicate, please.

5 THE COURT: Okay. You had \$1000 release amount. I'll reduce...

6 MR. FOLEY: Which family court...

7 THE COURT: ...it to...

8 MR. FOLEY: ...judge? It was blank.

9 THE COURT: ...\$900.

10 MR. FOLEY: It's blank, Your Honor. No family...

11 THE COURT: So the release date...

12 MR. FOLEY: ...court judge ever signed it.

13 THE COURT: Sir...

14 THE CLERK: It will be May 4th...

15 THE COURT: ...you need to stop talking.

16 THE CLERK: ...two-thousand four -- 2015.

17 THE COURT: What was that again? I couldn't hear over him.

18 THE CLERK: May 4th, 2015.

19 THE COURT: All right.

20 We'll -- we're gonna have a pay stay, Ms. Clerk, for June. You
21 can overbook.

22 All right. You must bring or have paid two months' worth of
23 child support. So for you that's \$1666.

24 MR. FOLEY: May I please have the name of the judge who signed the
25 last Court order, Your Honor?

1 THE COURT: The return date, when the clerk's ready.

2 THE CLERK: June 17th, 2015 at 9:00 a.m.

3 THE COURT: You be seated, sir.

4 MR. FOLEY: May I please have the name of the family...

5 UNIDENTIFIED SPEAKER: Have a seat.

6 THE COURT: You can be seated. Thank you.

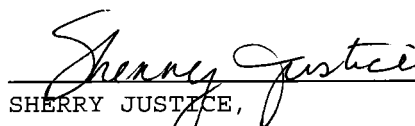
7 MR. FOLEY: (Indiscernible) court.

8 UNIDENTIFIED SPEAKER: William...

9 (THE PROCEEDING ENDED AT 13:50:10.)

10
11 * * * * *

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

15 
16 SHERRY JUSTICE,
17 Transcriber II

19

19

1 A. Granting judgment in STUART's favor on Plaintiff's First Cause of Action under 42
2 U.S.C. §1983 because:

- 3 (1) This cause of action is barred by the statute of limitations;
4
5 (2) Defendant STUART has qualified immunity from suit under 42 U.S.C. §1983
6 alleging a violation of civil rights; and
7 (3) There is no allegation or evidence of the violation of a known constitutional
8 right.

9 B. Granting judgment in STUART's favor on Plaintiff's Second Cause of Action
10 asserting a conspiracy to deprive Plaintiff of Constitutional rights in violation of 42
11 U.S.C. §1985(3) because:

- 12 (1) This cause of action is barred by the statute of limitations;
13 (2) Defendant STUART has qualified immunity from suit under 42 U.S.C.
14 §1985(3) alleging a violation of civil rights;
15 (3) Plaintiff has not stated a claim of racial or other class-based invidiously
16 discriminatory motive which would be protected by 42 U.S.C. §1985(3), nor
17 is there any evidence of such a discriminatory motive in the underlying
18 record.

19 C. Granting judgment in STUART's favor on Plaintiff's Third, Fourth, Fifth, Sixth and
20 Seventh Causes of Action asserting Nevada State tort claims because:

- 21 (1) These causes of action are barred by the statute of limitations;
22 (2) Defendant STUART has absolute statutory immunity from civil suit for State
23 civil claims based upon her conduct of a child welfare investigation.

24 DATED this 7th day of August, 2012.

25 STEVEN B. WOLFSON
26 DISTRICT ATTORNEY

27 By: 

28 TIMOTHY BALDWIN

Deputy District Attorney

State Bar No. 11048

STEPHANIE A. BARKER

Chief Deputy District Attorney

State Bar No. 3176

P. O. Box 552215

Las Vegas, Nevada 89155-2215

Attorneys for Defendant GEORGINA STUART

EXHIBIT LIST

- 1
- 2 Exhibit "A" – Affidavit of Clark County Family Services Child Protective Services Investigator,
Defendant GEORGINA STUART
- 3
- 4 Exhibit "B" – Clark County Department of Family Services, UNITY Child Protective Services
Report Summary, October 18, 2008, Case No. 1350382
(Authenticated by Exhibit "A" – Affidavit of GEORGINA STUART ¶ 3)
- 5
- 6 Exhibit "C" – Clark County Department of Family Services, UNITY Case Notes, Case No. 1350382
(Authenticated by Affidavit of Clark County Department of Family Services
Custodian of Records, attached as the cover page to the Exhibit)
- 7
- 8 Exhibit "D" – Eighth Judicial District Court, Family Division-Juvenile, Protective Custody Findings
and Order filed November 25, 2008, Case No. J313094
(Authenticated by Certification Stamp of the Clerk of the Eighth Judicial District
Court, Family Division-Juvenile, at page three of the Exhibit)
- 9
- 10 Exhibit "E" – Eighth Judicial District Court, Family Division-Juvenile, Petition-Abuse/Neglect,
electronically filed November 21, 2008, Case No. J313094
(Authenticated by Certification Stamp of the Clerk of the Eighth Judicial District
Court, Family Division-Juvenile, at page two of the Exhibit)
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 2012, I caused to be served true and accurate copies of the foregoing DEFENDANT GEORGINA STUART'S MOTION FOR SUMMARY JUDGMENT (*IN CAMERA SUBMISSION OF EXHIBITS "B" – "E"*) by placing them in the United States mail, postage prepaid, addressed as follows, or by one of the service methods listed on the Service List below:

SERVICE LIST		
ATTORNEYS OF RECORD	PARTIES REPRESENTED	SERVICE METHOD
Michael Foley, <i>Pro Per</i> 3300 S. Decatur Blvd., # 10172 Las Vegas, Nevada 89102 702-771-9725 foley1769@live.com	<i>Plaintiff in Proper Person and Counterdefendant</i>	<input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
Edward D. Boyack, Esq. Colby D. Beck, Esq. BOYACK, BECK & TAYLOR 401 N. Buffalo Drive, Suite 202 Las Vegas, Nevada 89145 702-562-3415 702-562-3570 - fax ted@edblaw.net sherri@edblaw.net	<i>Defendant</i> Michelle Pont	<input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
J. Stephen Peek, Esq. Leslie M. Nino, Esq. HOLLAND & HART, LLP 9555 Hillwood Dr., 2 nd flr Las Vegas, Nevada 89134 702-669-4600 702-669-4650 - fax speek@hollandhart.com lmnino@hollandhart.com <i>and</i> Milford W. Dahl, Jr., Esq. Lisa N. Neal, Esq. Taylor R. Dalton, Esq. mdahl@rutan.com lneal@rutan.com tdalton@rutan.com RUTAN & TUCKER, LLP 611 Anton Blvd., 14 th flr Costa Mesa, California 92626 714-641-3438 714-546-9035 – fax	<i>Defendants</i> Jeffrey Pont, AP Express Worldwide, and AP Express	<input type="checkbox"/> Document served only to local counsel via: <input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service <input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service

1			
2	Josh Cole Aicklen, Esq. David B. Avakian, Esq. LEWIS, BRISBOIS, 3 BISGARRD & SMITH 4 6385 S. Rainbow Blvd., Suite 5 600 6 Las Vegas, Nevada 89118 7 702-893-3383 8 702-893-3789 – fax 9 aicklen@lbbslaw.com 10 avakian@lbbslaw.com	Defendant Shera Bradley	<input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
11	James E. Smyth II, Esq. Lisa J. Zastrow, Esq. 12 KAEMPFER, CROWELL, 13 RENSHAW, GRONAUER & 14 FIORENTINO 15 8345 W. Sunset Road, Suite 16 250 17 Las Vegas, Nevada 89113 18 702-792-7000 19 702-796-7181 – fax 20 jsmyth@kcnvlaw.com 21 lzastrow@kcnvlaw.com	Defendant Manuel Carranza	<input checked="" type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
22	Toni Ann Iantuono, <i>Pro Per</i> Dino Iantuono, <i>Pro Per</i> 23 2382 Brockton Way 24 Henderson, Nevada 89072	Defendants/Counterclaimants in Proper Person Toni Ann Iantuono and Dino Iantuono	<input type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
25	Brenda Dorantes, <i>Pro Per</i> 5574 San Florentine Avenue 26 Las Vegas, Nevada 89141 27 702-876-3500	Defendant In Proper Person	<input type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
28	Michael Dorantes, <i>Pro Per</i> 5574 San Florentine Avenue Las Vegas, Nevada 89141 702-876-3500	Defendant in Proper Person	<input type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
	Patricia Foley, <i>Pro Per</i> 2120 Crestline Falls Place Las Vegas, Nevada 89134	Defendant in Proper Person	<input type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service

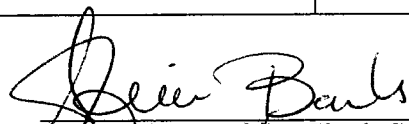

 An Employee of the Clark County
 District Attorney – Civil Division

EXHIBIT “A”

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EXHIBIT “A”

AFFIDAVIT OF GEORGINA A. STUART

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

GEORGINA A. STUART being first duly sworn, states as follows:

1. I am employed by Clark County's Department of Family Services (Family Services) as a Senior Family Services Specialist. In that capacity I serve as a Child Protective Services (CPS) Investigator. I have been a CPS Investigator for Clark County for approximately eight years. From 1998 to 2004 as a social worker employed by the State of Nevada Division of Child and Family Services, I conducted foster care investigations.

2. My first contact with the Michael and Patricia Foley family came in 2008 in my capacity as a CPS Investigator. Prior to that date I did not know and had had no contact with any member of that family.

3. On October 18, 2008, a Hot Line report was referred to me for investigation. A mandated reporter had contacted the hotline and reported allegations of physical abuse (bruising) and or neglect to a 10-year-old girl, identified in the Complaint on file in this case as "T". A true and accurate copy of the UNITY Child Protective Services Report Summary, with assigned Case No. 1350382, is attached hereto as Exhibit "B".

4. As a result of that referral, consistent with my statutory obligations, I commenced a child protective services investigation.

5. My initial investigation on October 18, 2008, included interviews of Michael Foley's wife Patricia (natural mother), their three children, ages approximately 10, 8, and 4, the paternal aunt Michelle Pont and her spouse, Jeffrey Pont. Through the course of my investigation I subsequently had contact with collateral sources such as law enforcement and the maternal grandmother residing in Mexico. I initiated contact with Michael Foley, however Mr. Foley declined to be interviewed but was given an agency brochure and informed of his rights.

6. On October 28, 2008, as a result of Family Services' interaction with the Foley family on that date, in combination with information gathered during my investigation, the Foley children were taken into protective custody (and placed with the natural mother Patricia Foley).

1 Because I was not available on that date, the protective custody decision was made after case review
2 by my supervisor Alexa Rodriquez, her supervisor Assistant Manager Lisa Reese, and CPS
3 investigator Anita Flores-Yanez. Protective Custody was deemed necessary because there was
4 reasonable cause to believe that Michael Foley should be restricted from access to his children due
5 to safety concerns for the children, an in particular the eldest daughter.

6 7. A Protective Custody hearing was scheduled with the Juvenile Court on October 29,
7 2008; approximately 24 hours after the children were taken into protective custody.

8 8. I testified at the Protective Custody hearing and provided the Court with the
9 information gathered during my investigation and during Family Services' interaction with the
10 family, as reflected in the UNITY Case Notes. As a result of that hearing, the Juvenile Court orally
11 pronounced and issued Protective Custody Findings and Order, finding that "continuation of
12 residence in the home would be contrary to the welfare of the children", and releasing the children
13 "to the natural mother [Patricia], with father [Michael] to have supervised contact pending further
14 proceedings."

15 9. Having completed my initial investigation, on November 19, 2008, I submitted a
16 Petition Request to the Child Welfare Division of the Clark County District Attorney's Office,
17 requesting that, consistent with the Court's findings on October 29, 2008, a Petition for
18 Abuse/Neglect be filed with the Court.

19 10. After the Petition was filed, my role with Family Services was to work with the
20 mother to maintain a safe custodial environment for the children, and to assist with visitation
21 between the father and the two younger children. In particular, I assisted the mother in accessing
22 community resources to enable her provide a stable home environment for the children.

23 11. In addition, as a result of a court ordered psychological evaluation of the father, on
24 November 26, 2008 I contacted the Family Services Clinical Department to request that they refer
25 the father to an appropriate mental health evaluator within the community. Thereafter, I coordinated
26 with Mr. Foley's attorney to attempt to facilitate completion of that assessment, including a final
27 referral to the Clinical Department on February 25, 2009.

28 ///

12. Because the children were in home with a parent, on February 5, 2009, the case was transferred to the Family Services "In-Home" unit to continue monitoring and assisting the family.

13. After that date I assisted the In-Home case worker on four occasions: Once on February 13, 2009, to refer the children for counseling services; again on February 24, 2009, to attempt to determine if the family qualified for health insurance; then on February 25, 2009, to refer the Plaintiff to the Clinical Department to facilitate the court ordered psychological evaluation; and finally, on March 4, 2009, I received a fax from Patricia Foley's attorney regarding the gambling assessment of Patricia. I forwarded that assessment to the In-Home worker but did not have contact with the family at that time.

14. March 4, 2009, was the date of my last contact with this Family Services case. I have had no further contact with this family or this case.


15. The record of the Family Services interaction with Michael Foley's family is kept in a computer log program known as UNITY. As a matter of course and practice, all of the Family Services interaction with the family following a report of abuse or neglect is recorded in UNITY. In particular my interaction with the Foley family, my work investigating the abuse/neglect report, and my assistance to the family is documented in UNITY.

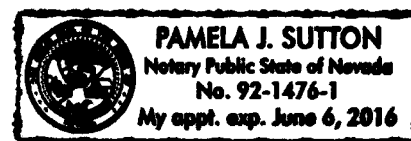
16. I had no interaction with this family or this case that is not documented either in UNITY or in the Juvenile court record.

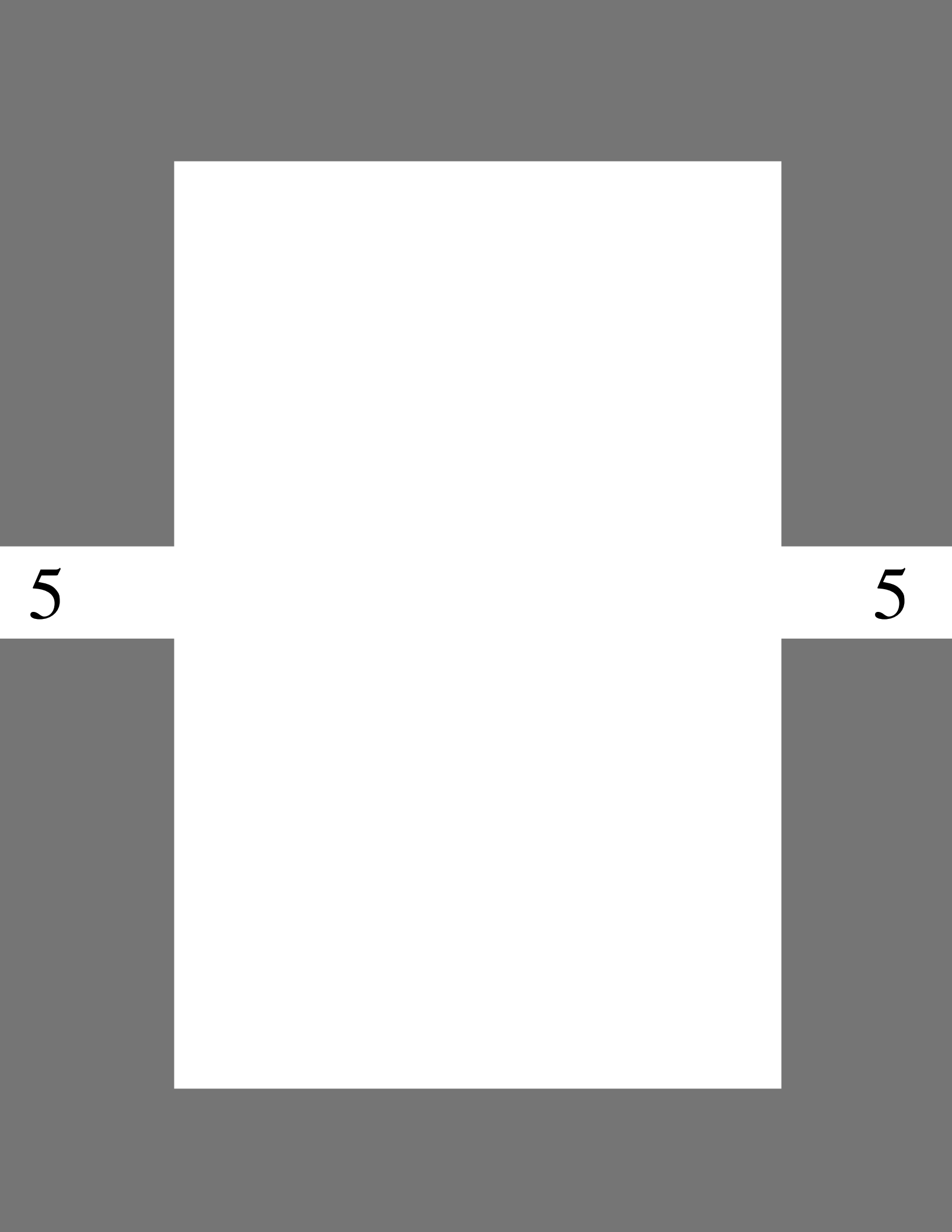
17. The foregoing statements are true and accurate to the best of my recollection as of the date of my signature hereon.


GEORGINA A. STUART

SUBSCRIBED AND SWORN to by
GEORGINA STUART, before me
this 7th day of August, 2012.


NOTARY PUBLIC






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FILED

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 CLERK OF COURT

1 TRANS

2
3 COPY4
5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 PATRICIA FOLEY,) CASE NO. R-11-162425-R
 10 Petitioner,) DEPT. C
 11 vs.)
 12 MICHAEL A. FOLEY,) APPEAL NO. 69997
 13 Respondent.)
 14 _____)

15 BEFORE THE HONORABLE SYLVIA TEUTON

16 TRANSCRIPT RE: MOTION FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT

17 TUESDAY, AUGUST 28, 2012

1 APPEARANCES:

2 For the Public by DAFS

GERARD CONSTANTIAN, ESQ.
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner:

PATRICIA FOLEY

6 For the Petitioner:

Pro se

7 The Respondent:

MICHAEL FOLEY (Not present)

8 For the Respondent:

Pro se

1 LAS VEGAS, NEVADA

TUESDAY, AUGUST 28, 2012

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

3 (THE PROCEEDING BEGAN AT 09:30:33.)

4 THE MARSHAL: Foley v Foley. Petitioner only is present.

5 THE COURT: This is Case Number R-11-162425.

6 THE CLERK: Ma'am, raise your right hand. You do solemnly swear the
7 testimony you will give in this action shall be the truth, the whole truth
8 and nothing but truth, so help you God?

9 MS. FOLEY: Yes, I do.

10 THE CLERK: Thank you.

11 THE COURT: Good morning.

12 MS. FOLEY: Good morning.

13 THE COURT: Let's see. We were here on April 24th. Okay. Well,
14 let's see. I'll hear from the D.A. He turned in his modification packet.
15 But he isn't here today.

16 Do you know where Michael is?

17 MS. FOLEY: Probably in his house.

18 THE COURT: All right. I hear from the D.A.

19 MR. CONSTANTIAN: Yes, Your Honor. This is at the request of
20 Respondent. It's a Motion for Modification of the Clark County Divorce
21 Decree from September 25, '09. Child support should be set at 29 percent
22 of his gross monthly income. However, he's not here. And I really wanted
23 him to be here to talk about his income. I ask that we deny his motion.

24 THE COURT: Do you know anything about his income?

25 MR. CONSTANTIAN: Well, the last we heard was \$9.00 an hour. And as

1 a matter of fact...

2 THE COURT: Did you verify?

3 MR. CONSTANTIAN: ...he's still at the same place...

4 THE COURT: Did...

5 MR. CONSTANTIAN: ...because we just got an income withholding on
6 August 23rd. But...

7 THE COURT: Do you have an employer wage verification?

8 MR. CONSTANTIAN: No, it wasn't done. To my knowledge, it wasn't
9 done, Your Honor. All we had was the testimony last court date. And,
10 well, somehow -- somehow we got information it was \$9.00 an hour at this
11 temp agency. But again, I would need to ask him -- query...

12 THE COURT: Okay.

13 MR. CONSTANTIAN: ...him on -- on his income.

14 THE COURT: Has he paid anything?

15 MR. CONSTANTIAN: Yeah, well, we're getting it through this temp
16 agency. We're getting money through the temp agency. But it's very --
17 we're getting very little.

18 THE COURT: Do you have health insurance information?

19 MS. FOLEY: I do. Well, I have my paycheck stub, how much I pay for
20 insurance.

21 THE COURT: I think the D.A. needs a little bit more than that. But
22 I'll have the D.A. ask you some questions on that.

23 MR. CONSTANTIAN: Sure.

24 This is through your employer?

25 MS. FOLEY: Yes.

1 MR. CONSTANTIAN: Okay. And may I see your pay stub, please?

2 MS. FOLEY: Yeah.

3 MR. CONSTANTIAN: You're not culinary? Are you?

4 MS. FOLEY: No.

5 MR. CONSTANTIAN: Okay. All right. Well, it looks like -- one
6 moment, Your Honor.

7 This is health insurance?

8 MS. FOLEY: Yeah.

9 MR. CONSTANTIAN: Okay.

10 MS. FOLEY: (Indiscernible).

11 MR. CONSTANTIAN: Okay.

12 MS. FOLEY: (Indiscernible).

13 MR. CONSTANTIAN: All right. Okay.

14 MS. FOLEY: These three.

15 MR. CONSTANTIAN: Okay. It's 72.50 every two weeks?

16 MS. FOLEY: Correct.

17 MR. CONSTANTIAN: You get paid every two weeks?

18 MS. FOLEY: Yes.

19 MR. CONSTANTIAN: Okay. And who does the health insurance cover?

20 MS. FOLEY: It's Sierra Health. Oh I'll tell you. Hold on.

21 MR. CONSTANTIAN: Who -- who does it cover? Does it cover you?

22 Does it cover all four chil- three children?

23 MS. FOLEY: Three -- three children.

24 MR. CONSTANTIAN: Anybody else?

25 MS. FOLEY: Three children and me.

1 MR. CONSTANTIAN: Three children and you. Okay. Would there be a
2 cost if you were the only person on the health insurance and you had no
3 children?

4 MS. FOLEY: I can get a free one.

5 MR. CONSTANTIAN: You cannot or can?

6 MS. FOLEY: I can. I can.

7 MR. CONSTANTIAN: You can get free?

8 MS. FOLEY: Yes.

9 MR. CONSTANTIAN: Okay. So it looks like it's 72.50 biweekly just
10 for the children only. And that amounts to 157 per month. Divide that by
11 two. Looking at \$78.54.

12 THE COURT: Okay. So the -- his request actually changed. The
13 child support amount is denied. It's -- it's still gonna be a temporary
14 amount. So it's gonna -- he has the burden of proof to come forward,
15 prove his income if he wants it changed. Since we already put him on
16 notice, though, that we were going to add health insurance, contributing
17 to what your cost is, we're gonna go ahead and add that today. And the
18 effective date is going to be back to April. So as of April, he's gonna
19 owe you an additional \$79 per month. So if he...

20 MS. FOLEY: Only 300?

21 THE COURT: What was that?

22 MS. FOLEY: Is it 300 he's supposed to pay, plus the 79?

23 THE COURT: Well, his actual obligation is 700 a month. That hasn't
24 changed. I only gave him an amount to avoid contempt. But if he doesn't
25 make enough money to cover the 700, you'll never get it. I mean, that's

1 -- even though he has a responsibility to pay it. But if he doesn't make
2 enough, the -- the D.A. can't withhold more than 50 percent of his pay --
3 paycheck.

4 MS. FOLEY: Yeah, last -- last pay I got \$3.66 pay.

5 THE COURT: Well, I'm going to issue a bench warrant for his arrest
6 today because...

7 MR. CONSTANTIAN: You -- you want a -- you -- we are getting a small
8 income withholding.

9 THE COURT: Yeah, very small. I'm sure.

10 MR. CONSTANTIAN: Okay. All right.

11 THE COURT: That's why I'm going to -- and he should have been here
12 today.

13 MR. CONSTANTIAN: He actually should've.

14 THE COURT: And this was to help him, too. So because of that, I am
15 gonna issue no bail bench warrant. The release amount's gonna be \$500.
16 So what's gonna happen at -- is in ten days a bench warrant will go out.
17 The D.A. will contact him. And if he just pays the 500, he can make this
18 go away. If he doesn't, they will go and arrest him. And they'll take
19 him to jail. Now if that happens, do you want to be notified?

20 MS. FOLEY: Yes, I guess. (Indiscernible)...

21 THE COURT: Because the D.A. will need to call you because there --
22 there won't be enough time. If he's arrested, it -- it happens so quickly
23 that they can't send you notice by mail. They'll need to call you.
24 That's why I'm asking. Because if you do, if you want to be notified, the
25 D.A. will call you and let you know.

1 MS. FOLEY: Yes, that's fine. Because...

2 THE COURT: Okay.

3 MS. FOLEY: ...he's still not even visiting the kids and, you know
4 -- but he talk to the kids. Well, the kids call him on Sunday. What's
5 today?

6 THE COURT: Tuesday.

7 MS. FOLEY: (Indiscernible) it's Sun- it's Sundays, yeah. He -- he
8 call them on Sunday. And he wants to know if the kids are ready for
9 school, if they have all their stuff.

10 THE COURT: Did he help you with any of that?

11 MS. CONSTANTIAN: Nothing, no.

12 THE COURT: No. He's just asking. He doesn't help, huh?

13 MS. CONSTANTIAN: Yeah, he was, like, kind of upset. Are you sure
14 you got new shoes, you got new backpacks and new clothes? And the kids,
15 yeah.

16 THE COURT: So let me ask the D.A. Has he failed to pay minimum
17 amount requested to avoid contempt?

18 MR. CONSTANTIAN: It -- one moment, Your Honor. Yes, that would be
19 true.

20 THE COURT: Okay. Okay. Thank you, ma'am. On your way out, just
21 check with the clerk about a phone number.

22 MS. FOLEY: Okay. Thank you so much.

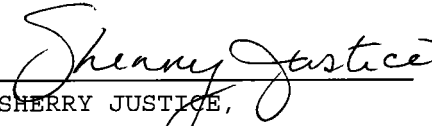
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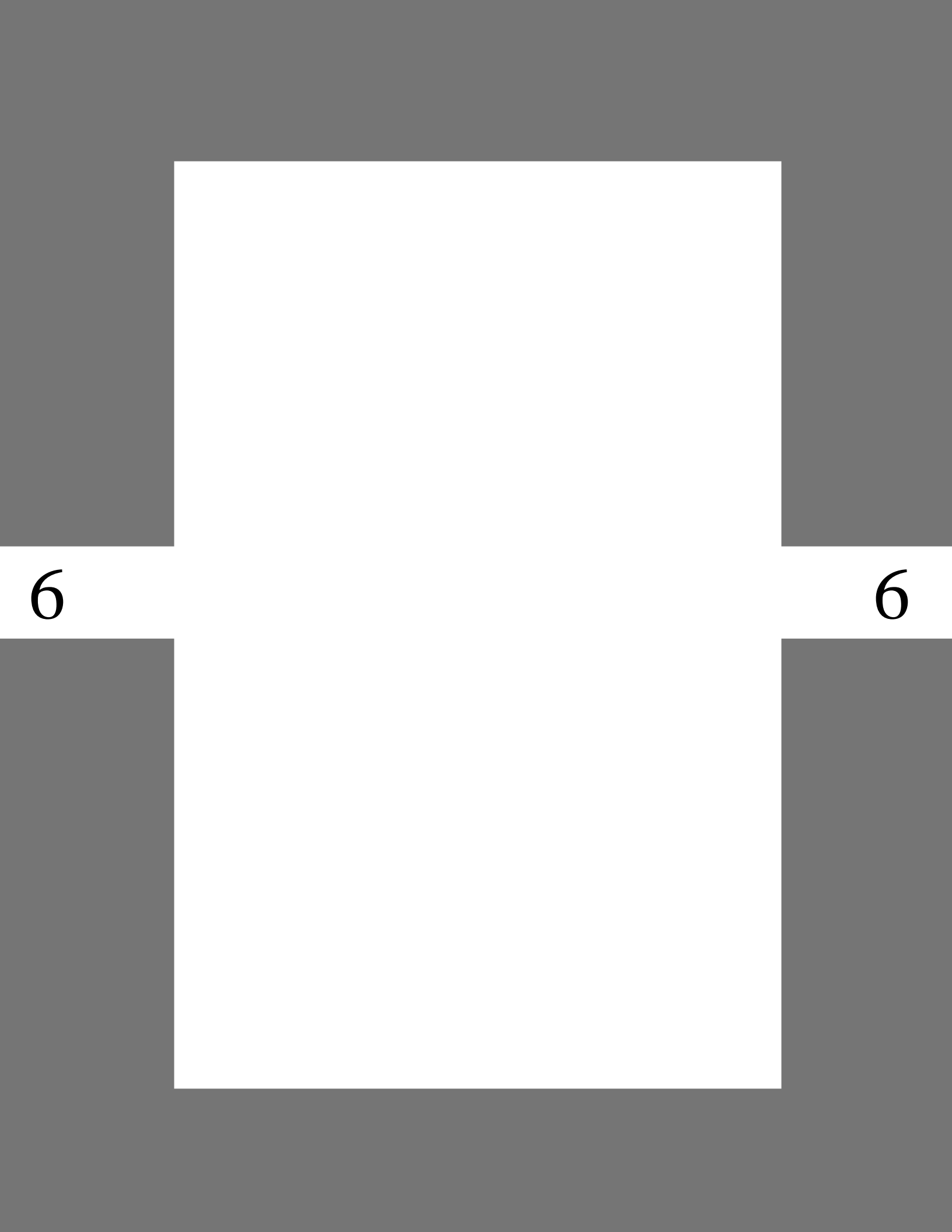
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2 ATTEST: I do hereby certify that I have truly and correctly
3 transcribed the digital proceedings in the above-entitled case to the best
4 of my ability.

5 
6 SHERRY JUSTICE,
7 Transcriber II




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 CLERK OF COURT

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

PATRICIA FOLEY,	)	CASE NO. R-11-162425-R
Petitioner,	)	DEPT. C
vs.)	
	)	APPEAL NO. 69997
MICHAEL A. FOLEY,)	
Respondent.)	

BEFORE THE HONORABLE JAMES DAVIS

TRANSCRIPT RE: IN CUSTODY HEARING

WEDNESDAY, OCTOBER 30, 2013

1 APPEARANCES:

2 For the Public by DAFS

EDWARD W. EWERT, ESQ.
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner:

PATRICIA FOLEY (Not present)

6 For the Petitioner:

Pro se

7 The Respondent:

MICHAEL FOLEY
(Present via video conference
from Clark County Detention Center)

8 For the Respondent:

Pro se

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1 LAS VEGAS, NEVADA

WEDNESDAY, OCTOBER 30, 2013

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

3 (THE PROCEEDING BEGAN AT 13:32:38.)

4 THE COURT: Call Case R162425. Respondent only, in custody. Looks
5 like three children here.

6 MR. FOLEY: Yes, Your Honor.

7 MR. EWERT: Yes, all under 18. There is a parallel fal- family court
8 case. It's D403071. It has a hearing on November 4, on the mother's -- on
9 the petition, mother's Request for -- for an Order to Show Cause for
10 Contempt. So he's gonna be a busy man.

11 THE CLERK: (Indiscernible).

12 THE COURT: What?

13 THE CLERK: (Indiscernible).

14 THE COURT: Okay. I -- I understand the November 4th date was
15 vacated.

16 MR. EWERT: Oh was it? Okay.

17 THE COURT: They probably kicked it over here, seeing it was on here.

18 MR. EWERT: I don't have any arrest information on any of the in-
19 custodies today.

20 Mr. Foley, when were you arrested?

21 MR. FOLEY: Sunday.

22 THE COURT: That was October 27th?

23 MR. FOLEY: That sounds correct.

24 MR. EWERT: Are you in custody on any of the charges?

25 MR. FOLEY: No, sir.

1 MR. EWERT: Do you have any money on the books?

2 MR. FOLEY: I believe it's almost over \$80.

3 MR. EWERT: I -- I see that the last payment we got was Jan- July
4 12th, 2013, wage withholding. Looks like you were employed most of the
5 beginning of this year. Is that correct?

6 MR. FOLEY: That sounds correct, yes.

7 MR. EWERT: What happened in about July? What happened to the job?

8 MR. FOLEY: Well, the company went through some transitions and the
9 -- they changed names; and they also changed locations. And so we had some
10 downtime for almost a month. And in the meantime, I was lookin' for other
11 work. But I'm still employed by the -- the same company. It's just a
12 different name now.

13 THE COURT: What's the new name?

14 MR. FOLEY: It's called McGuire Research Services.

15 THE COURT: Do you know the address?

16 MR. FOLEY: It's 3220 West Sahara Avenue.

17 MR. EWERT: McGuire Research. What was the last word?

18 MR. FOLEY: Services.

19 MR. EWERT: Services. (Indiscernible)...

20 THE COURT: Sir, do you have any means of -- or anybody on the
21 outside that can bring down some cash for you today?

22 MR. FOLEY: I -- I do believe I do. But I don't have any way of
23 contacting them because I don't have my phone. I mean, it's here; but I
24 don't have access to it.

25 THE COURT: I'm sure the C.O.s down there can help you out with that.

1 MR. FOLEY: If -- if that's possible, then I -- I -- I'm pretty sure
2 I can get about \$200 if that's -- if I can get my phone.

3 MR. EWERT: May I ask another question?

4 THE COURT: Sure.

5 MR. EWERT: Sir, you -- you say you're employed. When was the last
6 time you received a paycheck?

7 MR. FOLEY: I'd say about four to six weeks ago. It's -- it's still
8 like a temporary agency. We have to call in and if there's hours
9 available, we...

10 MR. EWERT: So you're not -- so the point is, you're not actively
11 working to- today; correct?

12 MR. FOLEY: I am. I have -- I have other work. I -- I do work for
13 other people. I do word processing, and I do proofreading.

14 MR. EWERT: Okay. You're working on the side, on your own?

15 MR. FOLEY: For -- yes, for -- for a private party.

16 MR. EWERT: Okay.

17 THE COURT: How much do you get paid with them?

18 MR. FOLEY: I make about 100, \$150 a week doin' that.

19 THE COURT: Then why aren't you paying child support?

20 MR. FOLEY: I do. I pay -- I pay cash directly.

21 THE COURT: Directly to mom?

22 MR. FOLEY: Correct.

23 THE COURT: Okay. I need you to listen. You don't get credit for
24 that in this court. You're under a Court order to pay the District
25 Attorney's Office, Child Enforcement Division, over, let's see, \$804 a

1 month. I don't care if you give \$1000 to mom directly. You don't get
2 credit for that. And guess what happens?

3 MR. FOLEY: I don't get credit for it.

4 THE COURT: You don't get credit. And go to jail.

5 MR. EWERT: Your Honor, may I ask another question?

6 THE COURT: Of course.

7 MR. EWERT: Mr. Foley, if you're not actively working for an
8 employer, have you applied for unemployment benefits?

9 MR. FOLEY: No, I'm not eligible for unemployment.

10 MR. EWERT: And why are you not eligible?

11 MR. FOLEY: I can't -- because I don't believe I had enough -- I
12 don't think I've earned enough money to qualify. I think you have to have
13 so much earnings in the past.

14 MR. EWERT: Well, Mr. Foley, I -- I suggest you apply.

15 MR. FOLEY: I'd love to apply if -- if I'm eligible. I didn't know I
16 would be eligible.

17 MR. EWERT: Well, apply; and they'll let you know whether you're
18 eligible.

19 MR. FOLEY: I'd be happy to apply.

20 THE COURT: Okay.

21 MR. EWERT: Because it looks like from what we see from the
22 Department of Employment and Rehabilitation that he may have benefits
23 available.

24 MR. FOLEY: Well, I appreciate -- I appreciate that information.

25 THE COURT: Okay, sir. You haven't paid your child support. I am

1 gonna find you in contempt of court, sentence you to 25 days in the Clark
2 County Detention Center. That sentence will be stayed until the next court
3 date. I'm gonna impose five days today -- five additional days. You can
4 be released from cu- custody on November 4th, 2013, or immediately upon the
5 payment of \$300.

6 MR. FOLEY: May I have my -- could you also authorize the release of
7 my phone to be able to contact somebody to produce that?

8 THE COURT: I don't think I have the authority to release -- to give
9 you that -- those permissions. And, sir, I -- I also notice that your
10 child support's a temporary order. Is that -- is it up for modification?

11 MR. FOLEY: I've asked for modification but never have been able to
12 get modification.

13 MR. EWERT: Looks like they've had some very recent activity in their
14 family court case.

15 Mr. Foley, if you get a new order from family court that
16 reduces your child support, please get a copy to the D.A.'s office
17 immediately so we can conform to that.

18 MR. FOLEY: Sure.

19 THE COURT: Okay. I'm gonna bring you back on the pay stay calendar
20 also. And that date is?

21 THE CLERK: Going to be on February 19th, 2014, at 9:00 a.m.

22 UNIDENTIFIED SPEAKER: To you.

23 THE COURT: Sir, you have three kids to take care of. That pay
24 stay's gonna be for \$500. If you haven't paid 500, an additional 500, or
25 don't bring it with you that day, you'll be going back to jail. Is that

1 clear?

2 MR. FOLEY: Are you saying November -- which -- which date?

3 THE COURT: February 19th.

4 MR. FOLEY: Okay. And will I get a copy of this some- sometime?

5 THE COURT: Yes. That will be the order today.

6 (THE PROCEEDING ENDED AT 13:39:54.)

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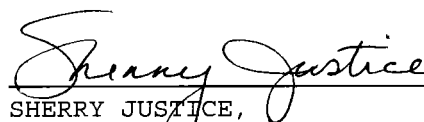
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9 ATTEST: I do hereby certify that I have truly and correctly
10 transcribed the digital proceedings in the above-entitled case to the best
11 of my ability.

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SHERRY JUSTICE,
Transcriber II

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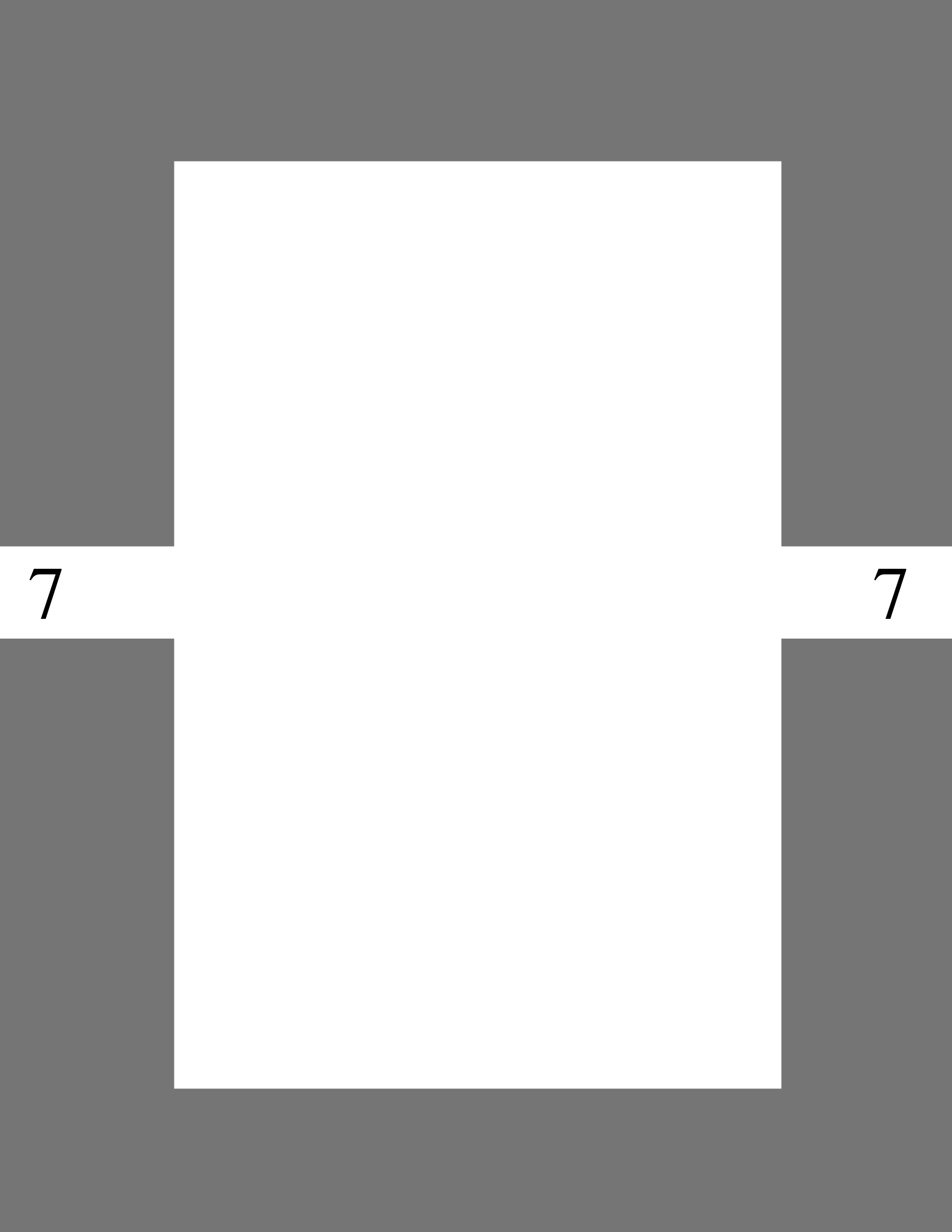
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FILED

Michael Foley
 2095 Stephanie St ~~APT 121~~
 Henderson, NV 89012 Ste B-191
 Petitioner in Proper
 CCDC # 507 8988

NOV 06 2013

TRACIE K. LINDEMAN
 CLERK OF SUPREME COURT
 BY *[Signature]*
 DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

Michael Foley, Petitioner

vs.

Case No. 64351

~~§~~ DOUG GILLESPIE, Clark County
 Sheriff, and Clark County
 Detention Center
 Respondents.

EMERGENCY

EX PARTE MOTION FOR AN EXTRAORDINARY WRIT

Comes now, Petitioner Michael Foley, in proper person,
 declared indigent by 8th District Court Chief Judge J. Togliatti,
 on or about July 3, 2013, (*Michael Foley v. ^{John T. Kelleher} Sonora Vista et al, 8th Dist.*),
 and hereby prays for relief from this honorable Court. This appeal
 is made due to extraordinary and grave circumstances caused
 by extreme abuses perpetrated by adversaries of justice who
 have impugned the honor, credibility and integrity of the Family
 Division of the Eighth District Court, and is brought in good faith.
 Waiver of the filing fee is respectfully requested due to the peti-
 tioner's indigence, current incarceration, and fiscal disability.

RECEIVED
 NOV 05 2013

TRACIE K. LINDEMAN
 CLERK OF SUPREME COURT
 DEPUTY CLERK

Petitioner was arrested on 10-27-2013 and is being held
 against his will pursuant to a fugitive document filed on 9-
 -19-2012 in case no. R-162425 (Clark County). The document
 is purported to be a "bench warrant" "recommended" by Hearing

Master Sylvia Beller-Teuton, the wife of District Court Judge Robert Teuton, who presided over the underlying dissolution action, Case No. D-08-403071-D. The proposed "bench warrant" was never presented to, endorsed or entered by the presiding judge as required by E.D.C.R. 1.40. Petitioner has been repeatedly denied the right to see the alleged "warrant" (or be served) but knows that it is not a "valid order/judgment unless signed by a judge." See pg. 3 lines 6-7, MASTER'S RECOMMENDATION filed on 9-19-2012, Case no. R-162425 (Clark County).

ARGUMENT This deprivation of due process as required by E.D.C.R. 1.40(d,e) and U.S. Const. Amend. IV constitutes a gross miscarriage of justice and warrants immediate release of the petitioner from his confinement. The Petitioner has commenced a separate action to undo many grave injustices that ~~have~~ were perpetrated against him in the action Foley v. Foley, Case No. D-08-403071. This action ^{for relief from judgment} was filed in the 8th District Court on or about December 10, 2012, and was initially assigned to Dept. IV, but has since been transferred to Dept. "C." Default judgment is pending in said action, however the "R" (Child Support) case continues to threaten the Petitioner's liberty, and his ability to provide for himself and for his minor children. ~~As~~ The aforementioned civil actions allege ~~that~~ the Petitioner has

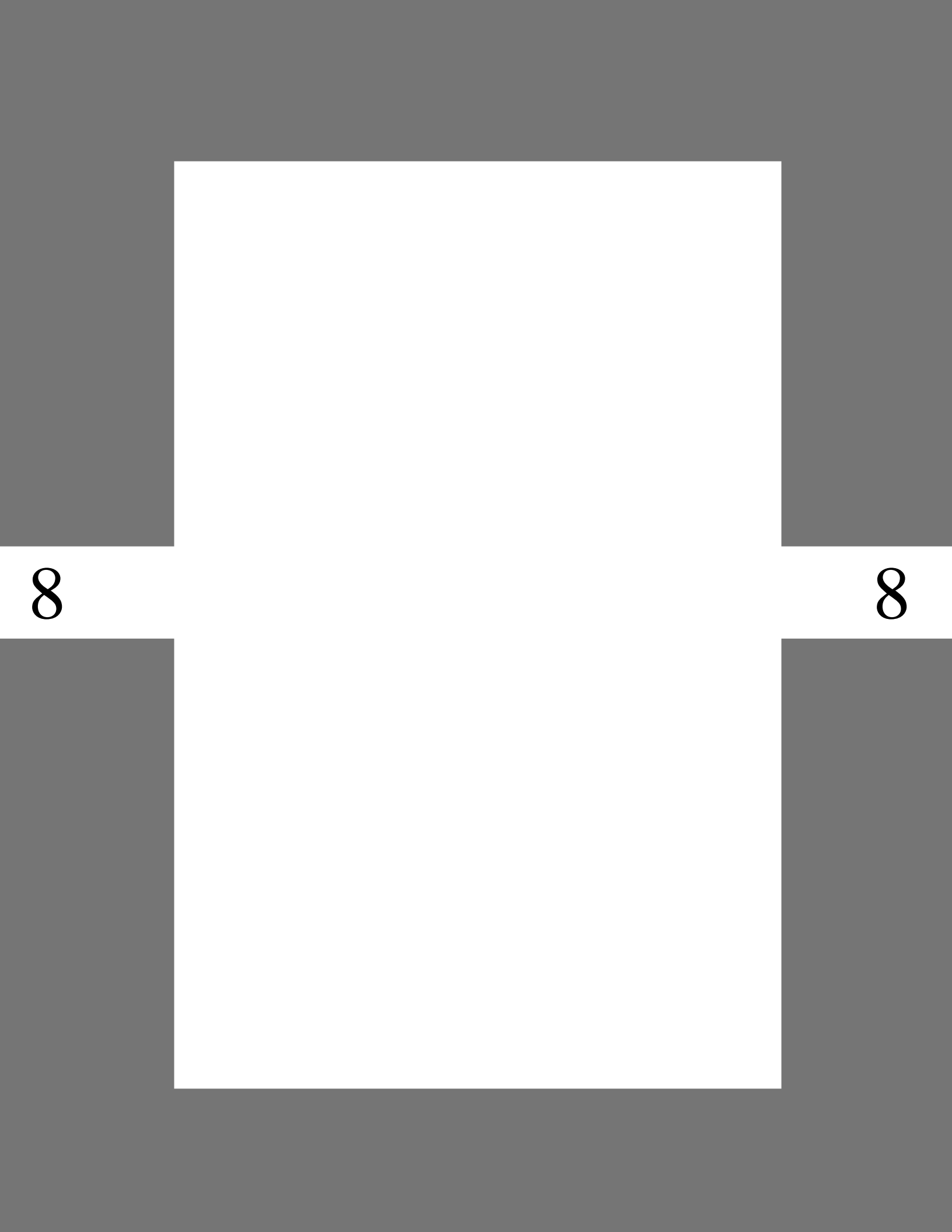
discovered that a variety of falsifications, fabrications and forgeries have worked to unjustly deprive the Petitioner of equal custody of his children, resulting in a child support award that overly burdens the Petitioner, and unjustly enriches the minor children's mother, who leaves the children alone and unsupervised while she works from 9 p.m. until 5 a.m., five (5) nights per week, while the Petitioner is constantly denied access to his children.

The Petitioner was arrested by Respondent Gillespie's deputy, pursuant to the unsigned "warrant" after Petitioner called the Sheriff to report that he was physically attacked and strangled by his children's mother's boyfriend, who was angry about the Petitioner's efforts to see his children. It is not practicable for the Petitioner to seek relief in the District Court because Department "C" is occupied by Senior Court Judge Nancy Becker, who belongs to an invidiously discriminatory women's group, as documented within the record D-08-403011-A. CONCLUSION

Because Petitioner's Fourth Amendment right to not be deprived of liberty in ^{the} absence of due process (a warrant signed by a judge) ^{must be protected and upheld,} the Court should order for the Petitioner's immediate release. ^{I Michael Foley do solemnly swear under penalty of perjury that the preceding is true and correct to the best of my knowledge.} On this 30th day of October, 2013.

Michael Foley

[illegible]



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1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 MICHAEL FOLEY,

3 Petitioner,

Case No.: 64351

4 vs.

Electronically Filed
Dec 03 2013 04:44 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

5 DOUGLAS C. GILLESPIE, CLARK
6 COUNTY SHERIFF; AND CLARK
COUNTY DETENTION CENTER,

7 Respondents.

8
9 **RESPONDENTS' APPENDIX**
10 **(Volume 1, Bates Nos. 1-18)**

11 **MARQUIS AURBACH COFFING**

Craig R. Anderson, Esq.

12 Nevada Bar No. 6882

Micah S. Echols, Esq.

13 Nevada Bar No. 8437

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14 Las Vegas, Nevada 89145

Telephone: (702) 382-0711

15 Facsimile: (702) 382-5816

canderson@maclaw.com

16 mechols@maclaw.com

17 **LAS VEGAS METROPOLITAN POLICE DEPARTMENT**

Liesl Freedman, General Counsel

18 Nevada Bar No. 5309

Charlotte M. Bible, Assistant General Counsel

19 Nevada Bar No. 2751

400 S. Martin Luther King Blvd.

20 Las Vegas, Nevada 89106

Telephone: (702) 828-3310

21 Facsimile (702) 828-3191

c9479b@lvmpd.com

22
23 *Attorneys for Sheriff Douglas C. Gillespie and Clark County Detention Center*

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INDEX TO RESPONDENTS' APPENDIX

DOCUMENT DESCRIPTION	LOCATION
Court Minutes of Hearing on August 28, 2012 in District Court Case No. R11-162425R (filed 08/28/12)	Volume 1, Bates Nos. 1–2
Master's Recommendation in District Court Case No. R11-162425R (filed 09/19/12)	Volume 1, Bates Nos. 3–6
Las Vegas Metropolitan Police Department Declaration of Arrest (dated 10/27/13)	Volume 1, Bates Nos. 7–8
Las Vegas Metropolitan Police Department Temporary Custody Record (dated 10/27/13)	Volume 1, Bates No. 9
Booking Record of Michael A. Foley	Volume 1, Bates No. 10
Bench Warrant for Michael Foley with Return of Service in District Court Case No. R11-162425R (filed 10/28/13)	Volume 1, Bates No. 11
Court Minutes of Hearing on October 30, 2012 in District Court Case No. R11-162425R (filed 10/30/13)	Volume 1, Bates Nos. 12–13
Docket of Court District Court Case No. R11-162425R	Volume 1, Bates Nos. 14–18

R-11-162425-R

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

August 28, 2012

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

August 28, 2012	9:00 AM	Motion for Review and Adjustment of Child Support	
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HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Melinda White

PARTIES:

Elizabeth Foley, Subject Minor, not
present

Michael Foley, Respondent, not present

Michael Foley, Subject Minor, not
present

Patricia Foley, Petitioner, present

Public by DAFS, Other, present

Therese Foley, Subject Minor, not
present

Steven Wolfson, Attorney, not present

JOURNAL ENTRIES

- DEPUTY DA: GERARD COSTANTIAN

Petitioner Sworn and Testified.

COURT FINDS: Today's hearing is a motion for a Review and Adjustment of Child Support. DA reported this is the Respondent's request. DA advised the Respondent is currently working through a temporary service, he earns \$9.00 per hour at 20 hours per week. The Petitioner provided her most recent paystub today in Open Court regarding the health insurance cost for just the minor child, the cost is \$157.00 per month and one half equals \$78.54 per month. The Petitioner requested to be

PRINT DATE:	09/04/2012	Page 1 of 2	Minutes Date:	August 28, 2012
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R-11-162425-R

notified once the Respondent has been arrested.

MASTER RECOMMENDED. Respondent shall PAY \$700.00 per month TEMPORARY CURRENT SUPPORT \$79.00 per month MEDICAL SUPPORT and \$25.00 per month TEMPORARY on ARREARS for a TOTAL monthly PAYMENT OF \$804.00.

PETITIONER SHALL PROVIDE HEALTH INSURANCE for the minor child(ren), if available, through employer and PROOF of INSURANCE to DA within 90 days.

ORDER TO SHOW CAUSE, CONTINUED. Respondent found in CONTEMPT and SENTENCED to 5 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date. PRIOR CONTEMPT SENTENCE STAYED. BENCH WARRANT, NO BAIL. RESPONDENT shall be RELEASED upon PAYMENT of \$500.00, which sum shall be RELEASED to PETITIONER as CHILD SUPPORT.

MISCELLANEOUS RECOMMENDED ORDERS: Respondent failed to appear. His request to modify is hereby DENIED, for failure to provide proof of income and hours worked. He can re-new his request at a later date. Respondent is to contribute to Petitioner's cost, at \$79.00 per month, beginning April 1, 2012. Respondent has failed to pay minimum amount requested to avoid contempt of court of \$325.00 per month.

INTERIM CONDITIONS:

FUTURE HEARINGS:

PRINT DATE:	09/04/2012	Page 2 of 2	Minutes Date:	August 28, 2012
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Electronically Filed
09/19/2012 11:18:29 AM

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

Alvin D. Johnson
CLERK OF THE COURT

District Court
CLARK COUNTY, NEVADA

Patricia Foley,

Petitioner,

Case No. R11-162425R

vs.

Department No. CHILD SUPPORT

Michael Foley,

Respondent.

MASTER'S RECOMMENDATION

This matter having been heard on AUGUST 28, 2012 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:

\$700.00 Temp child support
\$79.00 medical support (in lieu of health insurance)
spousal support
\$25.00 arrears payment

☐ ARREARAGES ☒ ARREARAGES NOT ADDRESSED AT THIS HEARING

\$ 804.00

TOTAL monthly payment is due on the 1st 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.

FINING 1.2

CASE NO. R11162425R

☒ 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 5 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 25 days in the Clark County Detention Center issued 05/15/2012 is ☐ imposed ☐ vacated ☒ stayed

Sentence of days in the Clark County Detention Center issued is ☐ imposed ☐ vacated ☐ stayed

Sentence of days in the Clark County Detention Center issued is ☐ imposed ☐ vacated ☐ stayed

Sentence of days in the Clark County Detention Center issued 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 \$500 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

Steven B. Wolfson, District Attorney, Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road #100
Las Vegas, Nevada 89119-5168

(702) 671-9200 - TDD (702) 385-7486 (for the hearing impaired)

CASE NO. R11162425R

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:

Respondent failed to appear. His request to modify is hereby DENIED, for failure to provide proof of income and hours worked. He can re-new his request at a later date. Petitioner provides health insurance for children, she provided a paystub. Cost is \$157 p/m and 1/2 = \$78.54. Respondent is to contribute to Petitioner's cost, at \$79 per month, beginning 4/1/12. Respondent has failed to pay minimum amount requested to avoid contempt of court of \$325 per month.

NEXT HEARING DATE IS B/W _____ **in Courtroom** _____ **in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.**

DATED: AUGUST 28, 2012

[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

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

CASE NO. R11162425R

1 date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this**
 2 **Order/Judgment.**

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

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

8 ☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS NOT affirmed and adopted this _____ day of
 9 _____, 20_____ and this matter is remanded to Child Support Court on _____, 20_____ at
 10 _____M.

11 _____
 12 District Court Judge, Family Division

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

15 By: 

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

Page 1 of 2VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARRESTI.D. #: 5078988True Name: Foley, Michael ADate of Arrest: 10/27/13Time of Arrest: 1940

OTHER CHARGES RECOMMENDED FOR CONSIDERATION:

THE UNDERSIGNED MAKES THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I am a peace officer with LVMPD (Department), ClarkCounty, Nevada, being so employed for a period of 7.7 years (months). That I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense of WARRANT, NO BAIL at the location of 8838 TONNITZ AVE #103 LV NV 89148 (ADDRESS / CITY / STATE / ZIP) and that the offense occurred at approximately 1940 hours on the 27 day of OCTOBER 2013 in the county of ☒ Clark or ☐ City of Las Vegas, NV.

DETAILS FOR PROBABLE CAUSE:

ON 10/27/13 AT APPROX. 1925 HOURS I OFFICER F. PACHEGA #9200 OPERATING AS MARKED PATROL UNIT 3045 ALONG WITH OFFICER C. MIKALONIS #9497 OPERATING AS MARKED PATROL UNIT 3053 RESPONDED TO A FAMILY DISTURBANCE CALL AT 8838 TONNITZ AVE APT#103. ON MY ARRIVAL I MADE CONTACT WITH FOLEY, MICHAEL D.O.B. 12/02/68, WHO WAS SITTING ON A POWER BOX IN FRONT OF THE APARTMENT. FOLEY, MICHAEL T.D. HIMSELF WITH HIS NEVADA D.L.

FOLEY, MICHAEL STATED THAT HE CAME OVER TO HIS EX-WIFE RESIDENCE TO SEE HIS KIDS. WHILE HE WAS BY THE GARAGE HIS EX-WIFE FOLEY, PATRICIA AND AN UNKNOWN FRIEND OF HERS RILED UP. A WHITE MALE ADULT CAME OUT OF THE VEHICLE, GRABBED HIS SHIRT AND THREW HIM TO THE GROUND. THE UNKNOWN MALE THEN BEGAN TO SLAM HIS HEAD INTO THE CURB AND HE COULD NOT BREATHE. I ^{TOOK} ~~ASKED~~ HIM THAT THE DETAILS OF THE CALL STATE THAT HE WAS CHOKED. FOLEY, MICHAEL THEN STATED THAT HE WAS GRABBED BY THE NECK AND CHOKED WITH ONE HAND, WHILE THE UNKNOWN WHITE MALE SLAMMED HIS HEAD INTO THE CURB. FOLEY, MICHAEL HAD NO VISIBLE MARKS AND REFUSED MEDICAL ATTENTION WHEN THE FIRE DEPARTMENT SPOKE WITH HIM. HE WAS VERY FROGETY, KEPT SCRATCHING HIMSELF AND COULD NOT STAND STILL. OFFICER C. MIKALONIS

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

Declarant's Signature

F. Pachega

#9200

Print Declarant's Name
LVMPD 22 - A (REV. 6-01)

P #

(2) ORIGINAL - RECORDS

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST CONTINUATION PAGE

Page 2 of 2

ID #: 5078988

ASKED MR. FOLEY IF HE WAS SUPPOSED TO BE AT HIS EX-WIFE RESIDENCE AND HE STATED NO, BUT HIS EX-WIFE WILL NOT LET HIM SEE HIS CHILDREN AND THAT IS WHY HE CAME OVER. MR. FOLEY WAS ADVISED HE HAD A WARRANT FOR CONTEMPT OF COURT AND THAT IT WAS A NO BAIL WARRANT. HE THEN ARGUED THAT THE WARRANT WAS NOT VALID BECAUSE THE JUDGE DID NOT SIGN IT, AND I COULD SEE THAT ON PAGE #3. MR. FOLEY THEN STATED THAT HE HAS A CIVIL SUIT AGAINST THE CLERK AND JUDGE BECAUSE OF IT. THE WARRANT WAS CONFIRMED BY P# 8307 AT 1938 HRS. IT SEEMED MR FOLEY WAS ON NARCOTICS OR HAS A MENTAL ISSUE. WHEN OFFICER C. MIHALONIS MADE CONTACT WITH FOLEY, PATRICIA SHE SHOWED HIM PICTURES THAT HER EX-HUSBAND FOLEY, MICHAEL POSTED OF THEIR DAUGHTER AND A GUN POINTED AT HER. PER Ms. FOLEY HER EX-HUSBAND CAME OVER, ATTACKED HER FRIEND AND HE DEFENDED HIMSELF, AND IS CONCERNED ABOUT HER-HUSBANDS MENTAL STATE. SHE ALSO HAD PICTURES ON HER CELL-PHONE OF HER FRIEND WITH ALL THE INJURIES THAT MR. FOLEY PLACED ON HIM. SHE STATED THAT HER FRIEND LEFT AND DID NOT WANT TO DEAL WITH THE SITUATION.

FOLEY, MICHAEL WAS ARRESTED FOR HIS NO BAIL WARRANT. AND WAS TRANSPORTED AND BOOKED AT CLDC WITHOUT ANY INCIDENTS.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

Declarant's Signature

F. PACCHIEGA

9000

Print Declarant's Name

P #

LVMPD 22-B (3-91)



(2) ORIGINAL - RECORDS

000094

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

DATE OF ARREST: 10/27/13 TIME OF ARREST: 1940
 INTAKE NAME (AKA, ALIAS, ETC.): FOLEY, MICHAEL A
 ADDRESS: 3430 FRONTIER ST, LAS VEGAS, NV 89102
 DATE OF BIRTH: 10/27/13 SEX: M HEIGHT: 5'04" WEIGHT: 180
 LOCATION OF CRIME (# - Street - City - State - Zip): 3430 FRONTIER ST, LAS VEGAS, NV 89102

TRUE NAME: FOLEY, MICHAEL A
 STATE: NV ZIP: 89102
 PLACE OF BIRTH: CALIFORNIA

LOCATION OF ARREST: 8838 TENNITE AVE 89178
 WARR/NCIC NUMBER: R162425

CHARGE: COUNTERT OF FORT. 022.010 P881L
 CASH BAIL \$600-

ARREST TYPE: PC - PROBABLE CAUSE
 WA - WARRANT
 BW - BENCH WARRANT
 BS - BONDSMAN SURRENDER

TIME Stamp at BOOKING: 10-27-13 21:40 DSD RECORDS

APPROVAL CONTROL # FOR ADDITIONAL CHARGES:

Transferring Officer's Signature: [Signature]
 (Print Name): S. J. [Name]
 P # [Number] Agency [Name]

FIRST APPEARANCE DATE: 10/27/13
 COURT: JUSTICE
 STANDARD BAIL: []
 O.R. RELEASE: []
 PROBABLE CAUSE: []
 JUVENILE: []
 L.A.D.: []

JUDGE: 10-5473 SH04 DSD RECORDS

TYPE OF ID. FOR VERIFICATION: 10-5473 SH04 DSD RECORDS

P # [Number]

(2) COURT - ORIGINAL

000094

Inmate Bookings
ID : '0005078988' 18-NOV-13

	Last Name	First Name	Middle Name		Offender ID	Booking No	Type	Date	Time In	Reason	Arrest Officer	Arrest Officer Name
1	FOLEY	MICHAEL	A	(	0005078988	1300055990	ADM	27-OCT-2013	21:10	N	ADMN 9200	FERNANDO G PACCHIEGA
2	FOLEY	MICHAEL	A	(	0005078988	1300055990	REL	04-NOV-2013	01:12	N	OUT 9200	FERNANDO G PACCHIEGA

Released for:
Time Served
 ordered to serve
 5 days
 Oct 30 - Nov 4th

BNCH

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
10/28/2013 03:22:57 PM

Patricia Foley,

vs.

MICHAEL FOLEY,

Petitioner,

Case no.

R-11-162425-R

CLERK OF THE COURT

Dept. no.

CHILD SUPPORT

Respondent,

BENCH WARRANT

To: ANY SHERIFF, CONSTABLE, MARSHAL, POLICEMAN or PEACE OFFICER IN THIS STATE

The Respondent, MICHAEL FOLEY, having been ordered to appear before the above-entitled Court on AUGUST 28, 2012, for hearing on a Complaint for Support and having failed to appear at said time, now therefore, **YOU ARE COMMANDED** to arrest the above-named Respondent and bring him before the Court or, if the Court has adjourned, deliver him into custody of the Sheriff of Clark County; bail for Respondent's release from custody of the Clark County Sheriff is hereby set in the amount of **NO BAIL**. Respondent may be released upon payment of \$500.00 to D.A. Family Support Division to be released to Petitioner as child support

This Warrant may be served at any hour of day or night.

As recommended by Special Master SYLVIA S TEUTON

GIVEN under my hand this _____ day of SEP 28 2012, 20____.

[Signature]
District Court Judge, Family Division

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

[Signature]
Deputy District Attorney

Court appearances may be scheduled by contacting the court team in the District Attorney's Family Support Office, (702) 671-9200, by 11:30 a.m. each day. Court is held Monday through Friday.

Date

Respondent

RETURN OF SERVICE

I hereby certify that I received the above and foregoing BENCH WARRANT on MICHAEL FOLEY and served the same by arresting the above-named Respondent, the arrest being made on SAME.

Dated this 27th day of OCTOBER, 2013

[Signature]
PEACE OFFICER

[Signature]
LVMPD

BWRCS

R-11-162425-R

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

October 30, 2013

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

October 30, 2013 1:15 PM In Custody Hearing

HEARD BY: Davis, James

COURTROOM: Greystone Courtroom #1

COURT CLERK: Mark Fernandez

PARTIES:

Elizabeth Foley, Subject Minor, not present
Michael Foley, Respondent, present
Michael Foley, Subject Minor, not present
Patricia Foley, Petitioner, not present
Public by DAFS, Other, present
Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Edward Ewert

Respondent, who participated via video conference from the Clark County Detention Center (CCDC), was sworn-in and testified.

The DDA informed the Court that Respondent has a parallel Family Court case, D-08-403071-D, wherein Petitioner is pursuing an Order to Show Cause against Respondent as well. Upon DDA inquiry, Respondent testified that he was arrested on Sunday, October 27, 2013. Respondent also testified that he has over \$80.00 on the books. The DDA noted that Respondent's last payment was on July 12, 2013 through a wage withholding. Respondent then presented testimony regarding his employment situation. Respondent testified that he can accrue \$200.00 to be released from custody.

Upon DDA inquiry, Respondent clarified that his last paycheck was approximately four (4) to six (6) weeks ago through a temporary agency. Respondent testified that he conducts side-jobs through a private party for income. Respondent estimated that he earns between \$100.00 and \$150.00 each week. Respondent also testified that he submits direct payments to Petitioner. The Court instructed

PRINT DATE:	10/30/2013	Page 1 of 2	Minutes Date:	October 30, 2013
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R-11-162425-R

Respondent to refrain from submitting direct payments to Petitioner.

Respondent testified that he did not qualify for unemployment insurance benefits (UIB). Upon viewing Respondent's employment history, the DDA encouraged Respondent to still apply. The Court IMPOSED a SENTENCE and encouraged Respondent to apply for a modification. The Court also ORDERED Respondent to submit \$500.00 at the next hearing.

MASTER RECOMMENDED; SENTENCE of 5 days is to be IMPOSED per PREVIOUS ORDER.

Respondent may be RELEASED from CUSTODY on November 04, 2013 or immediately upon PAYMENT of \$300.00, which shall be RELEASED to PETITIONER as CHILD SUPPORT.

Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date.

INTERIM CONDITIONS:

FUTURE HEARINGS:

February 19, 2014 9:00 AM Order to Show Cause - Pay or Stay
Greystone Courtroom #1
Teuton, Sylvia

PRINT DATE:	10/30/2013	Page 2 of 2	Minutes Date:	October 30, 2013
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Skip to Main Content Logout My Account Search Menu New Family Record Search Refine Search Back

Location : Family Help

REGISTER OF ACTIONS CASE NO. D-08-403071-D

Patricia Foley, Plaintiff vs. Michael A Foley, Defendant.

§
§
§
§
§
§

Case Type: **Divorce - Complaint**
 Subtype: **Complaint Subject Minor(s)**
 Date Filed: **11/19/2008**
 Location: **Department C**
 Cross-Reference Case Number: **D403071**

RELATED CASE INFORMATION

Related Cases

A-12-673291-C (Related Family Case)
 D-13-486829-U (Related Family Case)

PARTY INFORMATION

		Lead Attorneys
Defendant	Foley, Michael A	Pro Se
Plaintiff	Foley, Patricia	Pro Se
Subject Minor	Foley, Elizabeth Anne	
Subject Minor	Foley, Michael Anthony, Jr.	
Subject Minor	Foley, Therese Marie	

EVENTS & ORDERS OF THE COURT

DISPOSITIONS	
11/01/2010	Judgment (Judicial Officer: Teuton, Robert W.) Judgment (\$1,000.00, In Full, Child Support)
OTHER EVENTS AND HEARINGS	
11/19/2008	Complaint for Divorce
11/19/2008	Motion
11/19/2008	Summons
	Foley, Michael A Served 11/25/2008
11/19/2008	Family Court Motion Opposition Fee Information Sheet
11/26/2008	Proof of Personal Service of Summons and Complaint Acceptance Of Service
12/04/2008	Notice of Hearing December 17, 2008
12/16/2008	Opposition and Countermotion
12/16/2008	Answer
12/16/2008	Family Court Motion Opposition Fee Information Sheet
12/17/2008	Case Management Conference (1:30 PM) (Judicial Officer Teuton, Robert W.) Result: Off Calendar
12/22/2008	Financial Disclosure Form
12/22/2008	Certificate of Service
12/22/2008	Certificate of Service by Facsimile and Mailing
01/09/2009	Motion for Child Custody (11:00 AM) (Judicial Officer Teuton, Robert W.) Pltf's Motion for Custody, Establish Child Support and Alimony
01/09/2009	Opposition & Countermotion (11:00 AM) (Judicial Officer Teuton, Robert W.) Def't's Opposition and Countermotion for Joint Physical Custody
01/09/2009	All Pending Motions (11:00 AM) (Judicial Officer Teuton, Robert W.) Parties Present
	Result: Matter Continued
01/09/2009	Certificate of Mailing
01/09/2009	Financial Disclosure Form
01/16/2009	Motion (11:00 AM) (Judicial Officer Teuton, Robert W.) MOTION FOR CHILD CUSTODY: PLTF'S MOTION FOR CUSTODY, ESTABLISH CHILD SUPPORT & ALIMONY
01/16/2009	Motion (11:00 AM) (Judicial Officer Teuton, Robert W.) OPPOSITION & COUNTERMOTION: DEFT'S OPPOSITION & COUNTERMOTION FOR JOINT PHYSICAL CUSTODY
01/16/2009	All Pending Motions (11:00 AM) (Judicial Officer Teuton, Robert W.) Parties Present
	Result: Granted in Part
01/20/2009	Notice of Seminar Completion EDCR 5.07
02/10/2009	Notice of Hearing
03/09/2009	Order from January 16, 2009 Hearing
03/10/2009	Notice of Entry of Order filed 03/09/09
03/12/2009	Status Check (2:30 PM) (Judicial Officer Teuton, Robert W.)

<https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=6411818>

03/12/2009 **Case Management Conference** (1:30 PM) (Judicial Officer Teuton, Robert W.)
03/12/2009 Reset by Court to 03/12/2009

03/12/2009 **All Pending Motions** (1:30 PM) (Judicial Officer Teuton, Robert W.)
Parties Present
 Result: Matter Heard

03/17/2009 **Order Setting Civil Non-Jury Trial**

03/26/2009 **Substitution of Attorney**

04/30/2009 **Status Check** (2:30 PM) (Judicial Officer Teuton, Robert W.)
RE: PSYCHOLOGICAL EVALUATION
Parties Present
 Result: Matter Heard

05/14/2009 **Notice of Change of Address**

05/21/2009 **Affidavit of Service**
Subpoena Duces Tecum

05/27/2009 **Affidavit of Service**
Subpoena Duces Tecum, Exhibits A - C In Person

06/02/2009 **CANCELED Non-Jury Trial** (9:00 AM) (Judicial Officer Teuton, Robert W.)
Vacated
To be heard with the Evidentiary Hearing (mp/cc).

06/05/2009 **Order**
from April 30 2009 Hearing

06/08/2009 **Notice of Entry of Order**

07/07/2009 **Pre-trial Memorandum**

07/07/2009 **Financial Disclosure Form**
AMENDED

07/08/2009 **Receipt of Copy**
Defendant's Pre-Trial Memorandum

07/09/2009 **Pre-trial Memorandum**

07/09/2009 **Financial Disclosure Form**

07/10/2009 **Certificate of Mailing**

07/13/2009 **Evidentiary Hearing** (9:00 AM) (Judicial Officer Teuton, Robert W.)
/ TRIAL
Parties Present
 Result: Matter Continued

07/22/2009 **Evidentiary Hearing** (9:00 AM) (Judicial Officer Teuton, Robert W.)
LOCATION: TO BE DETERMINED
Parties Present
 Result: Decision Made

07/22/2009 **Affidavit of Resident Witness**

08/04/2009 **CANCELED Evidentiary Hearing** (1:30 PM) (Judicial Officer Teuton, Robert W.)
Vacated - per Judge

09/25/2009 **Decree of Divorce**

09/28/2009 **Notice of Entry of Decree**
of Divorce

02/16/2010 **Motion**

02/16/2010 **Family Court Motion Opposition Fee Information Sheet**

03/01/2010 **Certificate of Mailing**
Notice Of Motion for an Order to Show Cause

03/04/2010 **Order to Show Cause**

03/15/2010 **Substitution of Attorney**
Substitution of Attorney

03/15/2010 **Opposition and Countermotion**
Opposition to Motion for an Order to Show Cause; Counter-Motion to Grant Joint Legal custody of Minor Child; Counter-Motion to Set Aside Divorce Decree Pursuant to NRCP 60(b), or in the Alternative, to Amend it; Counter-motion for Legal Custody of Minor Children to Ensure Compliance with Order, and to Compel Plaintiff to Undergo Problem Gambling Therapy, or in the Alternative, Post a Bond Securing Against Unlawful Taking or Selling of the Minor Children Pursuant to NRS 125D(4) and NRS 200.465; and a Counter-Motion for an Order to Show Cause

03/16/2010 **Motion for Order to Show Cause** (1:30 PM) (Judicial Officer Teuton, Robert W.)
Pliff's Motion for an Order to Show Cause
03/18/2010 Reset by Court to 03/16/2010

03/16/2010 **Order to Show Cause** (1:30 PM) (Judicial Officer Teuton, Robert W.)
03/18/2010 Reset by Court to 03/16/2010

03/18/2010 **All Pending Motions** (1:30 PM) (Judicial Officer Teuton, Robert W.)
Parties Present
 Result: Matter Continued

03/16/2010 **Opposition & Countermotion** (1:30 PM) (Judicial Officer Teuton, Robert W.)
Opposition to Motion for an Order to show Cause; Counter-Motion to Grant Joint Legal custody of Minor Child; Counter-Motion to Set Aside Divorce Decree Pursuant to NRCP 60(b), or in the Alternative, to Amend it; Counter-motion for Legal Custody of Minor Children to Ensure Compliance with Order, and to Compel Plaintiff to Undergo Problem Gambling Therapy, or in the Alternative, Post a Bond Securing Against Unlawful Taking or Selling of the Minor Children Pursuant to NRS 125D(4) and NRS 200.465; and a Counter-Motion for an Order to Show Cause

03/16/2010 **Order for Family Mediation Center Services**

05/20/2010 **Return Hearing** (2:30 PM) (Judicial Officer Teuton, Robert W.)
RE: FMC CHILD INTERVIEW
Parties Present
 Result: Matter Heard

06/14/2010 **Order**
Order

11/01/2010 **Order**
5/20/10 Hearing

11/02/2010 **Notice of Entry of Order**
Notice of Entry of Order

11/04/2010 **Notice of Motion**
for an Order to Show Cause

11/04/2010 Certificate of Mailing
 11/04/2010 Family Court Motion Opposition Fee Information Sheet
 11/10/2010 Order to Show Cause
 12/10/2010 Opposition and Countermotion
 12/10/2010 Substitution of Attorney
 12/10/2010 Family Court Motion Opposition Fee Information Sheet
 12/14/2010 Notice of Entry of Order
 12/14/2010 Certificate of Mailing
 12/16/2010 Motion for Order to Show Cause (10:00 AM) (Judicial Officer Teuton, Robert W.)
 Plaintiff's Motion for an Order to Show Cause
 12/16/2010 Order to Show Cause (10:00 AM) (Judicial Officer Teuton, Robert W.)
 12/16/2010 Opposition & Countermotion (10:00 AM) (Judicial Officer Teuton, Robert W.)
 Deft's Opposition & Countermotion for Change of Visitation, Custody, Child Support and Sanctions
 12/16/2010 All Pending Motions (10:00 AM) (Judicial Officer Teuton, Robert W.)
 Parties Present
 Result: Denied
 01/21/2011 Motion
 01/21/2011 Ex Parte Motion
 for an Order Shortening time
 01/21/2011 Family Court Motion Opposition Fee Information Sheet
 01/25/2011 Order
 01/26/2011 Receipt of Copy
 Receipt of Copy
 01/26/2011 Order Shortening Time
 01/27/2011 Receipt of Copy
 02/01/2011 Motion (9:00 AM) (Judicial Officer Teuton, Robert W.)
 Plaintiff's Motion for Permission to take the Children to Mexico for 4 Days
 Parties Present
 Result: Matter Heard
 02/03/2011 Return Hearing (9:00 AM) (Judicial Officer Teuton, Robert W.)
 02/03/2011, 02/08/2011
 Parties Present
 Result: Matter Heard
 02/03/2011 Order
 Written Order from February 3 2011 Hearing
 02/18/2011 CANCELED Motion (10:00 AM) (Judicial Officer Teuton, Robert W.)
 Vacated - per Law Clerk
 OST
 02/24/2011 Status Check (2:30 PM) (Judicial Officer Teuton, Robert W.)
 02/24/2011, 05/05/2011
 RE: Reunification Counseling/Therapy & Ms. Coe's Report
 Parties Present
 Result: Matter Continued
 02/24/2011 Financial Disclosure Form
 Financial Disclosure Form
 02/24/2011 Financial Disclosure Form
 Financial Disclosure Form
 03/23/2011 Notice of Change of Hearing
 04/08/2012 Petition and Order to Destroy / Dispose of Exhibits
 04/08/2012 Certificate of Disposal of Exhibits
 03/06/2013 Affidavit in Support
 of the Disqualification of District Judge Honorable Robert Teuton and Supporting Memorandum of Points and Authorities
 03/06/2013 Notice of Change of Address
 03/07/2013 Declaration Under Uniform Child Custody Jurisdiction Act
 Declaration under UCCJEA
 03/07/2013 Motion
 Motion to Modify Custody, Visitation, and/or Child Support
 03/12/2013 Financial Disclosure Form
 Financial Disclosure Form
 04/05/2013 Supplemental
 Supplement to Motion for Change of Custody
 04/05/2013 Certificate of Service
 Certificate of Service
 04/08/2013 Motion (11:00 AM) (Judicial Officer Becker, Nancy)
 Deft's Motion to Modify Custody and Child Support
 Parties Present
 Result: Denied
 04/10/2013 Affidavit in Support
 Affidavit in Support of the Disqualification of Senior District Judge Honorable Nancy Becker, and Supporting Memorandum of Points and Authorities
 04/10/2013 Certificate of Service
 Certificate of Service
 04/12/2013 Answer - First Appearance Fee Not Required
 Answer to Affidavit of Bias and Prejudice Pursuant to NRS 1.235
 04/15/2013 Administrative Reassignment to Department C
 Case reassigned from Judge Robert Teuton Dept D
 04/15/2013 Certificate of Service
 Certificate of Service
 04/18/2013 Consent to Service By Electronic Means
 Consent to Service by Electronic Means
 05/08/2013 Order
 05/08/2013 Notice of Entry of Order/Judgment
 05/08/2013 Certificate of Mailing
 05/17/2013 Motion

<https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=6411818>

05/17/2013 *Motion to Disqualify Senior District Court Judge Honorable Nancy Becker*
Motion
Defendant's Motion for Reconsideration of the Court's April 8, 2013 Ruling
 05/24/2013 **Ex Parte Motion**
Ex Parte Motion for an Order Shortening Time
 05/24/2013 **Ex Parte Motion**
Ex Parte Motion for an Order Shortening Time
 05/31/2013 **Certificate of Service**
Certificate of Service
 05/31/2013 **Supplemental**
Supplement to Defendant's Motion for Reconsideration of the Court's April 8, 2013 Ruling
 05/31/2013 **Amended**
Amended Certificate of Service
 06/13/2013 **Motion to Disqualify Judge (3:00 AM) (Judicial Officer Togliatti, Jennifer)**
Deft's Motion To Disqualify Senior District Court Judge Honorable Nancy Becker
06/20/2013 Reset by Court to 06/13/2013
 Result: Denied
 06/14/2013 **Certificate of Service**
Amended
 06/14/2013 **Certificate of Service**
Amended
 06/17/2013 **Order Shortening Time**
 06/19/2013 **Motion to Reconsider (10:00 AM) (Judicial Officer Ames, Jack B.)**
Deft's Motion for Reconsideration Of The Court's April 8, 2013 Ruling
Parties Present
 Result: Under Advisement
 06/19/2013 **Certificate of Service**
Certificate of Service
 06/24/2013 **Order Denying**
Order Denying Motion to Disqualify Judge Nancy Becker
 06/27/2013 **Motion**
Motion For Reconsideration of the Chief Judge's Denial of Defendant's Motion to Disqualify Judge, Or In The Alternative, For An Order Placing On Calendar The Defendant's Pending Motion for Reconsideration, On An Order Shortening Time
 06/27/2013 **Ex Parte Motion**
Ex Parte Motion for an Order Shortening Time
 06/27/2013 **Family Court Motion Opposition Fee Information Sheet**
Family Court Motion/Opposition Fee Information Sheet (NRS 19 0312)
 06/28/2013 **Certificate of Service**
Certificate of Service
 07/03/2013 **Order Shortening Time**
Order Shortening Time
 07/03/2013 **Notice of Entry of Order**
Notice of Entry of Order
 07/11/2013 **Motion to Reconsider (3:00 AM) (Judicial Officer Togliatti, Jennifer)**
Deft's Motion for Reconsideration of the Chief Judge's Denial of Deft's Motion to Disqualify Judge, or in the Alternative, for an Order Placing on Calendar the Deft's Pending Motion for Reconsideration
07/25/2013 Reset by Court to 07/11/2013
 Result: Denied
 07/16/2013 **Decision**
Decision and Order
 07/24/2013 **Certificate of Service**
Certificate of Service
 07/24/2013 **Re-Notice of Motion**
Re-Notice Of Motion
 08/09/2013 **Ex Parte Motion**
Ex Parte Motion for Order Shortening Time
 08/21/2013 **Motion to Reconsider (11:00 AM) (Judicial Officer Ames, Jack B.)**
Defendant's Motion for Reconsideration of the Court's April 8, 2013 Ruling
Parties Present
 Result: Off Calendar
 08/29/2013 **Motion**
Motion For Order To Show Cause
 08/29/2013 **Notice of Motion**
Notice of Motion
 09/20/2013 **Amended Motion**
Amended Motion for An Order to Show Cause
 09/20/2013 **Amended Notice**
Amended Notice of Motion for An Order to Show Cause
 09/26/2013 **Order to Show Cause**
 09/27/2013 **Certificate of Mailing**
Certificate of Mailing
 09/30/2013 **CANCELED Motion for Order to Show Cause (10:00 AM) (Judicial Officer Jones, Steven E)**
Vacated
Plff's Motion For An Order To Show Cause
 09/30/2013 **Motion for Order to Show Cause (10:00 AM) (Judicial Officer Becker, Nancy)**
09/30/2013, 11/04/2013
Plff's Amended Motion For an Order to Show Cause
Parties Present
 Result: Matter Continued
 10/16/2013 **Response**
Defendant's Response To Plaintiff's Motions For An Order To Show Cause
 10/16/2013 **Certificate of Service**
 12/18/2013 **Evidentiary Hearing (1:30 PM) (Judicial Officer Jones, Steven E)**
ORDER TO SHOW CAUSE AGAINST DEFENDANT

FINANCIAL INFORMATION

Defendant Foley, Michael A			
Total Financial Assessment			157.00
Total Payments and Credits			157.00
Balance Due as of 11/26/2013			0.00
12/16/2008	Transaction Assessment		98.00
12/16/2008	Payment (Window)	Receipt # 2008-44494-FAM	(98.00)
10/13/2009	Transaction Assessment		11.00
10/13/2009	Payment (Window)	Receipt # 2009-61367-FAM	(11.00)
12/10/2010	Transaction Assessment		1.00
12/10/2010	Payment (Window)	Receipt # 2010-58754-FAM	(1.00)
03/30/2012	Transaction Assessment		27.00
03/30/2012	Payment (Window)	Receipt # 2012-08462-FAM	(27.00)
08/20/2013	Transaction Assessment		20.00
08/20/2013	Payment (Window)	Receipt # 2013-22837-FAM	(20.00)
Plaintiff Foley, Patricia			
Total Financial Assessment			188.00
Total Payments and Credits			188.00
Balance Due as of 11/26/2013			0.00
11/19/2008	Transaction Assessment		170.00
11/19/2008	Payment (Window)	Receipt # 2008-41548-FAM	(170.00)
10/07/2009	Transaction Assessment		5.00
10/07/2009	Payment (Window)	Receipt # 2009-60122-FAM	(5.00)
10/27/2009	Transaction Assessment		2.00
10/27/2009	Payment (Window)	Receipt # 2009-64854-FAM	(2.00)
06/23/2010	Transaction Assessment		3.00
06/23/2010	Payment (Window)	Receipt # 2010-33680-FAM	(3.00)
07/15/2011	Transaction Assessment		8.00
07/15/2011	Payment (Window)	Receipt # 2011-28197-FAM	(8.00)

9

9

FILED

FEB -7 2017


 CLERK OF COURT

COPY

1 TRANS

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EIGHTH JUDICIAL DISTRICT COURT

6

FAMILY DIVISION

7

CLARK COUNTY, NEVADA

8

9	PATRICIA FOLEY,	)	CASE NO. R-11-162425-R
	Petitioner,	)	DEPT. C
10)	
	vs.)	
11		)	APPEAL NO. 69997
	MICHAEL A. FOLEY,)	
12	Respondent.)	
13	_____)		

14

BEFORE THE HONORABLE MERLE K. LOK

15

TRANSCRIPT RE: ORDER TO SHOW CAUSE - PAY OR STAY

16

WEDNESDAY, FEBRUARY 19, 2014

17

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1 APPEARANCES:

2 For the Public by DAFS

VIVECA MONET WOODS, ESQ.
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

5 The Petitioner:

PATRICIA FOLEY

6 For the Petitioner:

Pro se

7 The Respondent:

MICHAEL FOLEY (Not present)

8 For the Respondent:

Pro se

1 LAS VEGAS, NEVADA

WEDNESDAY, FEBRUARY 19, 2014

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

3 (THE PROCEEDING BEGAN AT 09:19:59.)

4 THE COURT: Okay. We're calling Case R162425.

5 THE CLERK: And please raise your right hand? You do solemnly swear
6 the testimony you're about to give in this action, shall be the truth, the
7 whole truth and nothing but the truth, so help you God?

8 MS. FOLEY: Yes, I do.

9 THE CLERK: Thank you. You may be seated.

10 THE COURT: And, counsel.

11 MS. WOODS: Last date was October 30th, 2013, the Respondent was in
12 custody. He was given this date to bring \$500. His order is from family
13 court. It is for \$700 support per month. It has been, at least on the
14 last Master's report, an order, made temporary. I -- I wasn't -- I -- I
15 don't know why it was made temporary. But \$700 current support, \$79
16 medical cash and \$25 on arrears. And today, the Respondent was to pay
17 \$500. And nothing has been paid since July 12th, 2013, when wage
18 withholding ended; and \$28 dollars was paid that date.

19 THE COURT: Okay.

20 Ma'am, is there anything you'd like to say?

21 MS. FOLEY: Me? I -- I just wondering, you know, what's gonna
22 happen. He keeps suing me in family court. We actually have a hearing on
23 February 26, this month coming up. And I would like to ask -- I don't know
24 if -- if I want to ask for full custody of my three kids if it will be in
25 family court or here or...

1 THE COURT: Right. That would be in family court. This court only
2 deals with child support. So all other issues has to be taken care of in
3 family court. Okay?

4 MS. FOLEY: Okay.

5 MS. WOODS: There -- there also was a show cause filed September 26,
6 2013. And I did not see an order that showed a result of that hearing in
7 the D Case. That's D403071. So I suspect that they have other hearings
8 scheduled and maybe will also cover the fact that the Respondent is not
9 paying child support as ordered by that Court.

10 THE COURT: Okay. Are you requesting a bench warrant today?

11 MS. WOODS: Yes.

12 THE COURT: So we'll issue a bench warrant for his arrest. I'm going
13 to find contempt, 25 days stay. And how much are you requesting?

14 MS. WOODS: Well, the order is \$700 plus \$25 on arrears, so \$725.

15 THE COURT: Okay. I'll grant the D.A.'s request.

16 MS. WOODS: His -- I also looked for additional orders. There seems
17 to have been miss a lot of hearings. Is that still the valid order, \$700
18 current support; or has that been changed?

19 MS. FOLEY: No, it's -- it's a valid one.

20 MS. WOODS: Okay.

21 MS. FOLEY: I believe it's 779, with the medical insurance.

22 MS. WOODS: Was the medical insurance in the family court's order
23 or...

24 MS. FOLEY: It was here.

25 MS. WOODS: ...with this court?

1 MS. FOLEY: It was this one.

2 MS. WOODS: It was in this court that...

3 MS. FOLEY: Yes.

4 MS. WOODS: ...ord- ordered the additional.

5 MS. FOLEY: Correct.

6 MS. WOODS: Okay. I see.

7 THE COURT: Okay. Did you want to change your request, counsel? 804
8 is his entire obligations for the month.

9 MS. WOODS: I was actually -- if it's the custodian's wish, yes; but
10 I was just looking at what the family court had ordered. So, yes, 804
11 would be fine, Your Honor.

12 THE COURT: Okay. So we'll make it 804, okay, for the jail release?

13 All right. You're free to go.

14 MS. FOLEY: Okay. Thank you so much.

15 (THE PROCEEDING ENDED AT 09:24:00.)

16

17

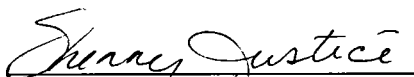
* * * * *

18

19 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.

20

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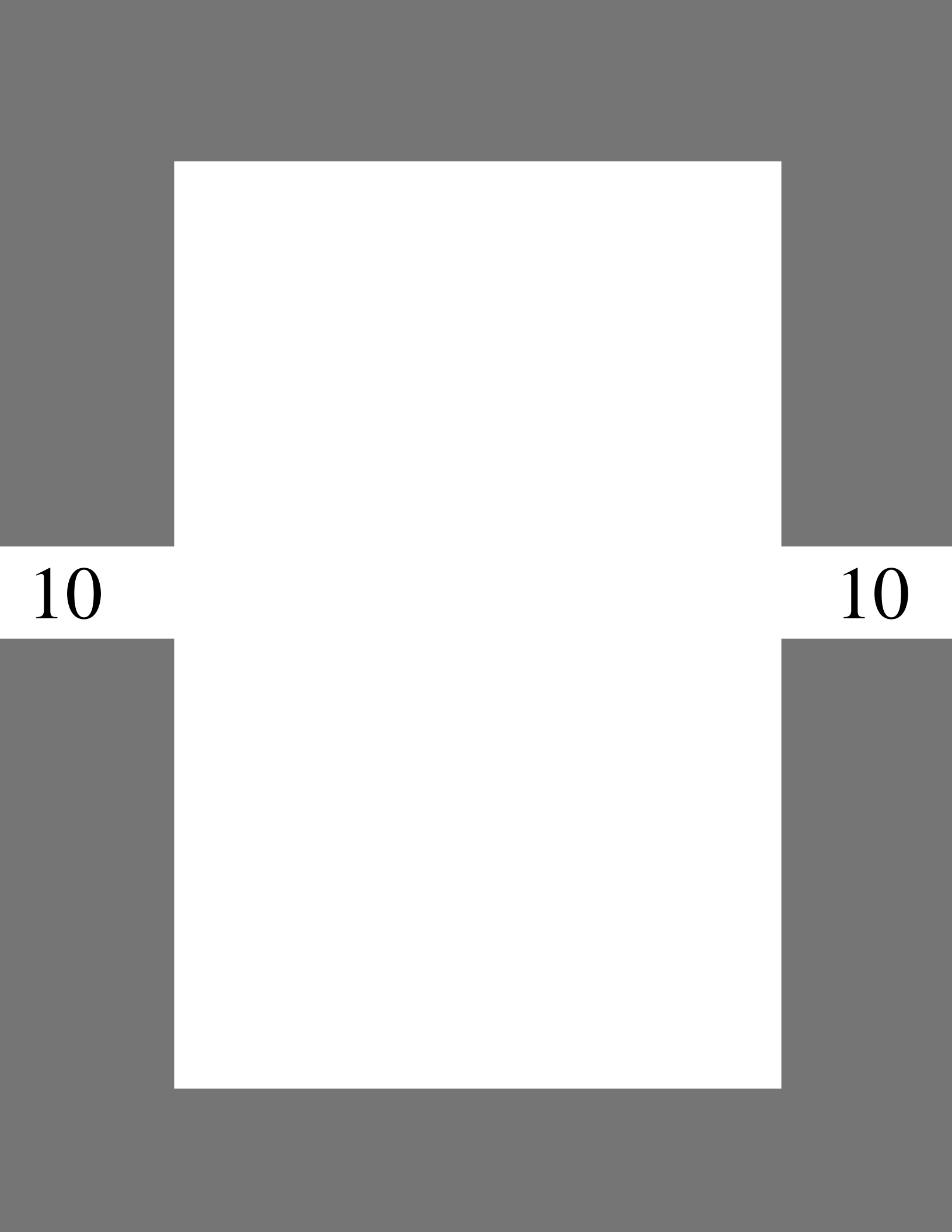

SHERRY JUSTICE
Transcriber II

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RECEIVED
Las Vegas Drop Box
CLERK OF SUPREME COURT

2013 DEC 13 PM 1:15
**PROPER PERSON
RECEIVED/ENTERED**

DEC 19 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

1 MICHAEL FOLEY
2 209 S. Stephanie St. Ste B-191
3 Henderson, NV 89012
4 Telephone: (702) 771-9725
5 Email: Foley64351@live.com
6 Petitioner in Proper Person

7 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

FILED

MAY 14 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

8 MICHAEL FOLEY

9 Petitioner,

10 vs.

Case No. 64351

BY S. Young
DEPUTY CLERK

12 DOUGLAS C. GILLESPIE, CLARK
13 COUNTY SHERIFF; AND CLARK
14 COUNTY DETENTION CENTER

15 Respondents.

16 **PETITIONER'S MOTION TO SUPPLEMENT HIS ORIGINAL PETITION**
17 **FOR EXTRAORDINARY RELIEF AND TO FILE AN APPENDIX AND REPLY**
18 **BRIEF**

19 COMES NOW, Petitioner Michael Foley, in Proper Person, and hereby requests that
20 the Court exercise its discretion, upon finding good cause, and enter the Petitioner's
21 proposed SUPPLEMENT TO PETITION FOR EXTRAORDINARY RELIEF, attached
22 hereto, which seeks to add three additional, indispensable respondents. The Petitioner also
23 requests for leave to file an Appendix and Reply Brief in support of his Petition for
24 Extraordinary relief. This motion is brought pursuant to NRAP 2.

25 **RECEIVED**
26 **RELEVANT FACTS**

27 On December 30, 2013, Petitioner drafted, executed and mailed the subject Petition by

28 **FILED**
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK
Emergency EX PARTE MOTION FOR AN EXTRAORDINARY WRIT.

Detached Supplement to Petition and appendix
and filed separately 1 per order 5-14-14.

1 This pleading was authored and submitted to this honorable Court immediately following a
2 hearing that was held when Respondent Gillespie's deputies and corrections officers
3 arrested, detained, restrained and brought the Petitioner before Eighth District Court
4 hearing master James Davis, via video conference transmitted from Respondent Clark
5 County Detention Center ("CCDC"). Petitioner was not appointed legal counsel, nor
6 allowed the opportunity to confer with counsel at said hearing, as he was put before the
7 hearing master and a Clark County Deputy District Attorney to answer questions, with his
8 hands cuffed and tethered by chains fastened around his waist. All other inmates who
9 appeared before the hearing master with the Petitioner were also cuffed and chained, and
10 all were compelled to answer questions with regard to child support obligations and
11 arrearages, without the assistance of counsel.

12 To the Petitioner's knowledge, there were approximately fifteen fathers who
13 appeared before two hearing masters that afternoon on the aforementioned date, at CCDC,
14 as they were compelled to answer questions related to alleged "child support contempt"
15 bench warrants and underlying child support ("R") enforcement actions pursued by District
16 Attorney ("DA") Steven B. Wolfson, and his deputies, presumably pursuant to NRS
17 125B.150.

18 The Petitioner's motion was hand-written using only three (3) pages of CCDC-
19 approved notepad paper, and mailed with a postage-paid envelope, which were both
20 borrowed from a fellow-inmate. The motion was inspired by the fact that Hearing Master
21 James Davis "sentenced" Petitioner Michael Foley to five days (in addition to the 3 days
22 already "served" while waiting to be brought before a judge), in violation of E.D.C.R. 1.40
23 and Nev. Const. Art. I, Sec. 14. Also, because Petitioner was not appointed counsel, and
24 was unable to retain counsel or even *read* the alleged "warrant" pending the hearing, his
25 right to have an *informed* argument made on his behalf in support of him being released
26 was *denied*, and so was his right, under Nevada Law (NRS 22.140), to not be unnecessarily
27 confined or restrained of personal liberty while awaiting his appearance before the court
28 that purportedly summoned him to attend the "civil" hearing. Moreover, Hearing Master

1 James Davis withheld from the Petitioner the “key to his freedom” by refusing Petitioner’s
2 request that he “order” the corrections officials of CCDC to return the mobile phone that
3 they confiscated, so that the Petitioner could communicate with individuals who could have
4 and would have posted the bail demanded by the hearing master. Hearing Master Davis
5 claimed, on the record, that he did not have “the power” to make such an order.

6 **ARGUMENT**

7 **The inclusion of three additional respondents is necessary for the Court to**
8 **adequately address the complete scope of the controversy.**

9 In addition to the current respondents Gillespie and CCDC, who have already
10 arrested, confined and released the Petitioner, prompting this petition for relief, there are
11 three other parties that are practically indispensable and integral to the pending controversy:
12 The Eighth District Court (the hearing masters and district judges), the Court Clerk, and
13 Clark County District Attorney Steven B. Wolfson. Wolfson and the 8th District Court
14 hearing masters are the joint and sole authors and endorsers of the purported “contempt
15 orders” that give rise to this controversy. For example, the September 19, 2012 document
16 filed in the record R11-162425 bears the name and State bar number of Steven B. Wolfson
17 on every page, and the same document is signed by Sylvia Beller, District Court Judge
18 Robert Teuton’s *wife*, who *never* disclosed to the Petitioner that she is married to the same
19 Family Court Judge who presided over the related dissolution action. A reasonable person,
20 like the Petitioner, would question not only her impartiality, but also the impartiality of
21 Judge Robert Teuton, if his wife’s “recommendations” were ever challenged by either
22 party in the dissolution and/or child support enforcement action(s). Although said
23 “recommendations” were not formally challenged, neither were they endorsed or entered
24 by the presiding judge, as required by E.D.C.R. 1.40, which requires the master’s findings
25 to be accepted and entered by the presiding judge, unless “clearly erroneous.” The
26 documents that would eventually purport to be “arrest warrants” were indeed *clearly*
27 erroneous, per the recent controlling authority and interpretation of U.S. Const. Amend.
28 XIV, as decided in Turner v. Rogers, 564 U.S. __ (2011). (No finding was made by the

1 hearing master that the contemnor has the “ability to pay.”) The “recommendation” was
2 *never signed* by a judge but yet it was certified (by staff members who work for DA Steven
3 B. Wolfson) as having been filed and entered as an “Order/Judgment” by an employee of
4 the District Attorney (See NOTICE OF ENTRY OF ORDER/JUDGMENT filed on
5 9/21/2012, Case No. R11-162425, **Exhibit “1”**). Typically, as the “R” record shows,
6 documents are e-filed by Wolfson’s deputies and staff, who label the documents as
7 “Master’s Recommendations and Orders” using the document code “MRAO.” The 8th
8 District Court Clerk requires that every document bear an alpha-numeric code in the upper-
9 left-hand corner of the first page for electronic file management purposes. However, these
10 documents are uploaded by the District Attorney’s deputies and staff into the “Odyssey”
11 Court filing system and electronically filed as “bench warrants” (“BNCH”) regardless of
12 the fact that they are seldom, if *ever* referred to or even *seen* by the Presiding Judge
13 (E.D.C.R. 1.40). This unorthodox process is what causes these unsigned documents to be
14 reported to Sheriff Gillespie as *active warrants*, which is an “effective strategy” for the DA
15 in the collection of child support payments and arrears from economically-challenged
16 fathers like the Petitioner. Incidentally, this questionable *strong-arm collection* design
17 routinely incarcerates fathers and yields otherwise uncollectable reimbursement and
18 incentive funds rewarded by the Federal Government (42 U.S.C. 658a), which is made
19 payable to Clark County and the District Attorney’s Child Support Enforcement (“Family
20 Support”) Division through the Nevada State Department of Health and Human Services
21 (NRS 425.430).

22 One last critical issue is the credibility of the purported “arrest warrant” supposedly
23 “signed” by 8th District Court Presiding Judge Gloria Sanchez (O’Malley). Respondents
24 Gillespie and CCDC purport that the “bench warrant” *was* “actually signed” albeit *only*
25 “*later* filed on October 28, 2013 with the return of service *after* Foley’s arrest.” (Emphasis
26 added) Petitioner contends that the purported “bench warrant” filed on 10-28-2013, *post-*
27 *facto*, not only runs afoul of the Nevada and U.S. Constitutions’ due process protections,
28 but also, it is nothing more than a rubber-stamped fabrication produced and filed by

1 deputies and staff who work for District Attorney Steven B. Wolfson. Although the “bench
2 warrant” is rubber-stamped with a September 28, 2012 date, it was *never filed into any*
3 *record* until the day *after* Petitioner was arrested (10-28-2013). This point of contention is
4 well-supported by another unfiled “court order” that was fabricated to the Petitioner’s
5 prejudice on or about December 10, 2008, in Juvenile case No. J313094 (Clark County)
6 bearing fake rubber-stamp seals purporting to be those of juvenile Hearing Master
7 Fernando Guzman and 8th District (Family Court) Judge Cynthia Dianne Steel. According
8 to the official docket, Guzman *did not even hear* the matter on the date in question.
9 Hearing Master *David S. Gibson, Sr.* heard the matter. Said purported “court order” was
10 produced in 2008, before the era of mandatory electronic filing, and was mechanically
11 “file-stamped” after-hours (at 5:19 p.m.) by someone with behind-the-counter access to the
12 Clerk’s file-stamp machine. The forged document was never filed into the record, yet it
13 bears the signature of former Deputy DA Jennifer Meiselman Titus who brought a
14 dependency action against Foley in a successful (but fraudulent) bid to win an unfair
15 advantage for the mother of Petitioner’s children. The false “order” was fabricated by the
16 deputy DA in order to trick Clark County into paying a hand-picked unscrupulous
17 psychologist who was contracted by the District Attorney and Department of Family
18 Services because (1) they wanted to prove to the Juvenile and Family Courts that the
19 Petitioner was unworthy of equal and joint custody of his children and (2) per Clark
20 County fiscal policy, psychological evaluations are funded *only* when there is a court order
21 mandating the evaluation. See Exhibit “2,” (Judicial Notice requested) REQUEST FOR
22 JUDICIAL NOTICE [84], NOTICE OF FORGED DOCUMENT [87], *Foley v. Pont*, U.S.
23 Dist. Court, 2:11-01769-JCM-VCF, D. Nevada 2012.

24 Titus apparently and reportedly motivated Mrs. Foley to divorce the Petitioner and
25 take “full custody” of the parties’ children with her assistance and a DFS-sponsored
26 custody and child support money award that was eventually granted in Judge Teuton’s
27 Court. Titus no longer works for Clark County, and has since relocated to Florida where
28 she took a position as a guardian ad litem. Judge Teuton now reportedly handles adoption

1 matters since Judge Steven Jones was suspended from the Court nearly one year ago,
2 following his indictment.

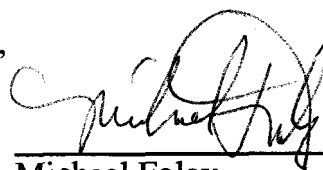
3 The most troubling irregularities that plague this particular case now before the
4 Supreme Court originate at the District Attorney's office located at 1900 East Flamingo
5 Road in Las Vegas, County of Clark. It is at this *collections* office where the hearing
6 masters make their "recommendations" and "sentence" child support obligors, regularly
7 making them *contemnors* and money-judgment debtors, without *any* endorsement by a
8 duly-elected District Court judge, as *required* by E.D.C.R. 1.40.

9
10 **CONCLUSION**

11 Because District Attorney Steven B. Wolfson, his deputies, and the 8th District
12 Court, as well as its Clerk, Steven D. Grierson are integral and necessary parties to the
13 controversy now before the Supreme Court, they should be named and added as
14 Respondents to the Petition. Accordingly, the Petitioner should be allowed to supplement
15 his Petition for Extraordinary Relief, and to set forth the facts, issues, points and authorities
16 that will lay the foundation for a just, speedy and well-informed disposition of this
17 controversy, the outcome of which could potentially affect a multitude of parents similarly
18 situated. Also, leave to file an Appendix and Reply Brief in support of the Petition and
19 Supplement is respectfully requested so that the issues raised by the Respondents in their
20 Answer(s) may be properly argued by the Petitioner.

21
22 DATED this 13th day of December, 2013.

23
24 SIGNED,

25 

26 Michael Foley
27 Petitioner in Proper Person
28 209 S. Stephanie St. Ste. B-191
Henderson, NV 89012
702-771-9725

EXHIBIT “1”

Electronically Filed
09/19/2012 11:18:29 AM

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. R11-162425R

vs.

Department No. CHILD SUPPORT

Michael Foley,

Respondent.

MASTER'S RECOMMENDATION

This matter having been heard on AUGUST 28, 2012 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:

\$700.00 Temp child support

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

spousal support

\$25.00 arrears payment

☐ ARREARAGES ☒ ARREARAGES NOT ADDRESSED AT THIS HEARING

\$ 804.00

TOTAL monthly payment is due on the 1st 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 5 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 25 days in the Clark County Detention Center issued 05/15/2012 is imposed vacated X stayed

Sentence of days in the Clark County Detention Center issued is imposed vacated stayed

Sentence of days in the Clark County Detention Center issued is imposed vacated stayed

Sentence of days in the Clark County Detention Center issued 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 \$500 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:

Respondent failed to appear. His request to modify is hereby **DENIED**, for failure to provide proof of income and hours worked. He can re-new his request at a later date. Petitioner provides health insurance for children, she provided a paystub. Cost is \$157 p/m and 1/2 = \$78.54. Respondent is to contribute to Petitioner's cost, at \$79 per month, beginning 4/1/12. Respondent has failed to pay minimum amount requested to avoid contempt of court of \$325 per month.

NEXT HEARING DATE IS B/W in Courtroom in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.

DATED: AUGUST 28, 2012

[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

1 date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this**
2 **Order/Judgment.**

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

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

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

11 District Court Judge, Family Division


12 **STEVEN B. WOLFSON, Clark County District Attorney**
13 Nevada Bar No. 001565

14 By: 

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

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09/21/2012 12:14:42 PM

NEJ
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.

Dept. no. CHILD SUPPORT

Michael Foley,

Respondent.)

NOTICE OF ENTRY OF ORDER/JUDGMENT

To: MICHAEL FOLEY, Respondent

Please take notice that the enclosed order/judgment against the respondent MICHAEL FOLEY was entered in the above-entitled matter on August 28, 2012.

CERTIFICATE OF MAILING

The foregoing Notice of Entry of Order/Judgment was served upon Michael Anthony Foley by mailing a copy thereof, first class mail, postage prepaid to 3300 S Decatur Blvd 10, Las Vegas, NV 89102 8153 on the 21st day of September, 2012.

/s/Rita Margolian
Employee, District Attorney's Office
Family Support Division

EXHIBIT “2”

1 JOSH COLE AICKLEN
Nevada Bar No. 007254
2 DAVID B. AVAKIAN
Nevada Bar No. 009502
3 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
4 Las Vegas, Nevada 89118
702.893.3383
5 FAX: 702.893.3789
E-Mail: aicklen@lbbslaw.com
6 E-Mail: avakian@lbbslaw.com
Attorneys for Defendant SHERA BRADLEY

8
9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 MICHAEL FOLEY,
12
13 Plaintiff,

14 v.

15 Michelle Pont., an individual; Jeffrey Pont,
an individual; AP Express, a California
16 Limited Liability Company; AP Express
Worldwide, a California Limited Liability
Company; Georgina Stuart, an individual;
17 John T. Kelleher, an individual; Nikki
Dupree, an individual; Kelleher & Kelleher,
18 a Nevada Limited Liability Company;
Shera Bradley, an individual; Joan Coe,
19 an individual; Juan Carlos Valdes, a
citizen of Mexico; Manuel Carranza, a
20 citizen of Mexico; Michael Dorantes, an
individual; Brenda Dorantes, an individual;
21 Viva Productions Las Vegas, LLC (a.k.a.
"Vivia Productions"), a business entity;
22 Toni Ann Iantuono, an individual; Dino
Iantuono, an individual; Patricia Foley, an
23 individual, DOES 1-10; ROEs 11-20,

24 Defendants.
25
26
27
28

CASE NO. 2:11-cv-01769-ECT-VCF

DEFENDANT SHERA BRADLEY'S
REQUEST FOR JUDICIAL NOTICE
PURSUANT TO FRE 201

[Filed concurrently with Defendants Reply
in Support of Motion to Dismiss]

**DEFENDANT SHERA BRADLEY'S REQUEST FOR JUDICIAL NOTICE PURSUANT TO
FRE 201**

COMES NOW, Defendant SHERA BRADLEY ("Dr. BRADLEY or Defendant") by and through her counsel of record, Josh Cole Aicklen, Esq. and David B. Avakian, Esq. of LEWIS BRISBOIS BISGAARD & SMITH LLP, and hereby respectfully requests that this Court, pursuant to FRE 201, take judicial notice of the following:

1. Order For Natural Father To Undergo A Psychological Evaluation dated December 10, 2008, a true and correct copy of which is attached hereto as Exhibit A.

I. MEMORANDUM OF POINTS AND AUTHORITIES

Judicial Notice may be taken at any stage of the proceeding. See, FRE 201(d). Courts judicially notice adjudicative facts that "are not subject to reasonable dispute" that are: 1) generally known within the trial court's territorial jurisdiction; 2) can be accurately and readily determined from sources whose accuracy cannot reasonable be questioned. See, FRE 201(b). Courts may judicially notice "adjudicative facts or matters of public record meeting the requirements of FRE 201." United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003); Branch v. Tunnell, 14 F.3d 449, 453-454 (9th Cir. 1994).

The document attached as Exhibit A is appropriate for judicial notice as it is a file stamped Court Order from December 10, 2008. Its accuracy is not subject to any reasonable dispute. As such, Defendant SHERA BRADLEY respectfully requests that this Honorable Court take judicial notice of the document herein described and attached at any hearing or trial of this matter.

///

///

///

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///

///

///

Case No. 69997

In the Supreme Court of Nevada

MICHAEL FOLEY,
Appellant,

vs.
PATRICIA FOLEY,
Respondent.

Electronically Filed
Jun 22 2017 09:30 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable REBECCA L. BURTON, District Judge
District Court Case No. R-11-162425-R

**APPELLANT'S APPENDIX
Volume 1
Pages 1-250**

DANIEL F. POLSENBERG (SBN 2376)
ABRAHAM G. SMITH (SBN 13,250)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

Attorneys for Appellant

CHRONOLOGICAL TABLE OF CONTENTS TO JOINT APPENDIX

Tab	Document	Date	Vol.	Pages
01	Transcript Re: Order to Show Cause	04/24/12	1	1–11
02	Notice of Forged Document Filed by Defendant Shera Bradley in <i>Foley v. Pont, et al.</i> , Case No. 2:11-CV-1769-ECR-VCF	06/11/12	1	12–30
03	Defendant Georgina Stuart’s Notice of Request for <i>In Camera</i> Inspection, <i>In Camera</i> Submission of Exhibits, and Request for an Order Authorizing Release of Clark County Department of Family Services Records and Authorizing Release of Juvenile Court Records in <i>Foley v. Pont, et al.</i> , Case No. 2:11-CV-1769-ECR-VCF	08/07/12	1	31–37
04	Defendant Georgina Stuart’s Motion for Summary Judgment and Exhibit “A” in <i>Foley v. Pont, et al.</i> , Case No. 2:11-CV-1769-ECR-VCF	08/07/12	1	38–62
05	Transcript Re: Motion for Review and Adjustment of Child Support	08/28/12	1	63–71
06	Transcript Re: In Custody Hearing	10/30/13	1	72–79
07	Emergency Ex Parte Motion for an Extraordinary Writ	11/06/13	1	80–83
08	Respondents’ Appendix in <i>Foley v. Gillespie, et al.</i> , Case No. 64351	12/03/13	1	84–103
09	Transcript Re: Order to Show Cause – Pay or Stay	02/19/14	1	104–108
10	Petitioner’s Motion to Supplement His Original Petition for Extraordinary Relief and to File an Appendix and Reply Brief in <i>Foley v. Gillespie, et al.</i> , Case No.	05/14/14	1	109–149

	64351			
11	Supplement to Petition for Extraordinary Relief in <i>Foley v. Gillespie, et al.</i> , Case No. 64351	05/14/14	1	150–165
12	Order Denying Petition for Extraordinary Writ Relief in <i>Foley v. Gillespie, et al.</i> , Case No. 64351	05/14/14	1	166–168
13	Transcript Re: In Custody Hearing	08/08/14	1	169–171
14	Transcript Re: In Custody Hearing	08/11/14	1	172–183
15	Respondent’s Response to the District Attorney’s Motion to Modify Child Support	12/08/14	1	184–189
16	Transcript Re: Motion for Review and Adjustment of Child Support	12/09/14	1	190–196
17	Transcript Re: Motion for Review and Adjustment of Child Support	01/28/15	1	197–201
18	Transcript Re: In Custody Hearing	04/15/15	1	202–215
19	Transcript Re: Order to Show Cause – Pay or Stay	06/17/15	1	216–218
20	Transcript Re: In Custody Hearing	11/16/15	1	219–229
21	Objection to Master’s Recommendation	11/24/15	1	230–231
22	Objection to Hearing Master’s Recommendation	11/26/15	1	232–233
23	Notice	01/13/16	1	234–235
24	Transcript Re: AM Pay Stays	01/15/16	1	236–239
25	Transcript Re: Objection – UIFSA	01/20/16	1	240–247
26	Notice of Appeal	03/17/16	1 2	248–250 251–307
27	Transcript Re: Motion for Review and Adjustment of Child Support	05/17/16	2	308–310

28	Master's Recommendation	06/08/16	2	311–314
29	Transcript Re: Review – HM	07/13/16	2	315–317
30	Objection to Hearing Master's Recommendation	07/26/16	2	318–343
31	Case Summary	12/27/16	2	344–354
32	Register of Actions in <i>Foley v. Foley</i> , D-08-403071-D	06/19/17	2	355–360

Filed Under Seal

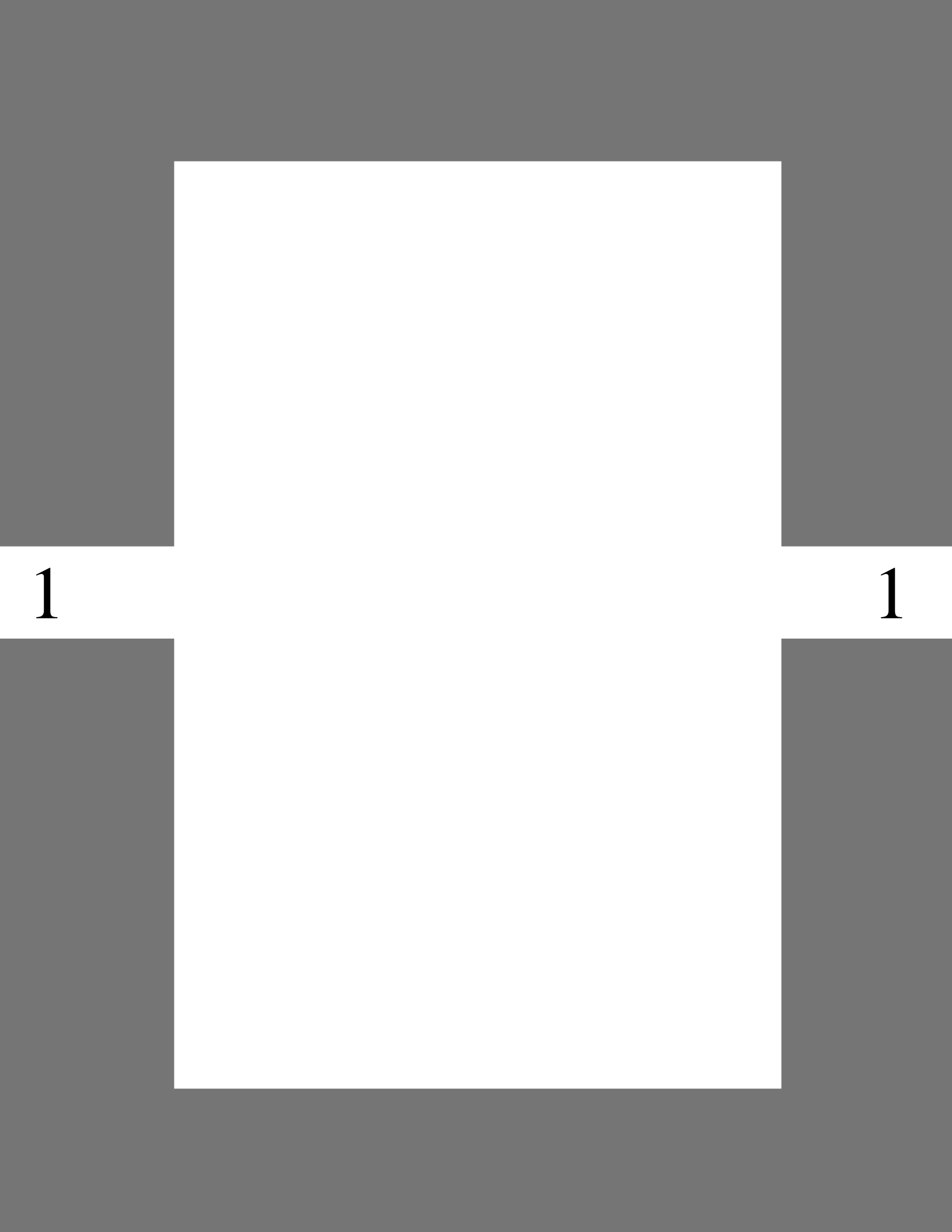
33	Exhibits “B”-“E” to Defendant Georgina Stuart's Motion for Summary Judgment in <i>Foley v. Pont, et al.</i> , Case No. 2:11-CV-1769-ECR-VCF	08/07/12	3	361–434
34	Exhibits “A”-“B” to Defendant Georgina Stuart's Notice of Request for <i>In Camera</i> Inspection, <i>In Camera</i> Submission of Exhibits, and Request for an Order Authorizing Release of Clark County Department of Family Services Records and Authorizing Release of Juvenile Court Records in <i>Foley v. Pont, et al.</i> , Case No. 2:11-CV-1769-ECR-VCF	08/07/12	3	435–501

ALPHABETICAL TABLE OF CONTENTS TO JOINT APPENDIX

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31	Case Summary	12/27/16	2	344–354
04	Defendant Georgina Stuart’s Motion for Summary Judgment and Exhibit “A” in <i>Foley v. Pont, et al.</i> , Case No. 2:11-CV-1769-ECR-VCF	08/07/12	1	38–62
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23	Notice	01/13/16	1	234–235
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			2	251–307
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01	Transcript Re: Order to Show Cause	04/24/12	1	1–11
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19	Transcript Re: Order to Show Cause – Pay or Stay	06/17/15	1	216–218
29	Transcript Re: Review – HM	07/13/16	2	315–317



1

1

FILED

FEB -7 2017


 CLERK OF COURT

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

PATRICIA FOLEY,	)	CASE NO. R-11-162425-R
Petitioner,	)	DEPT. C
)	
vs.)	
	)	APPEAL NO. 69997
MICHAEL A. FOLEY,)	
Respondent.)	
)	

BEFORE THE HONORABLE SYLVIA TEUTON

TRANSCRIPT RE: ORDER TO SHOW CAUSE

TUESDAY, APRIL 24, 2012

1 APPEARANCES:

2 For the Public by DAFS

EDWARD W. EWERT, ESQ.
Chief Deputy D.A. - Family Support
1900 E. Flamingo Rd., #100
Las Vegas, Nevada 89119

3
4
5 The Petitioner:
6 For the Petitioner:

PATRICIA FOLEY
Pro se

7 The Respondent:
8 For the Respondent:

MICHAEL FOLEY
Pro se

1 LAS VEGAS, NEVADA

TUESDAY, APRIL 24, 2012

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

3 (THE PROCEEDING BEGAN AT 15:38:56.)

4 THE MARSHAL: Foley, the parties are present.

5 THE COURT: This is Case Number R-11-162425.

6 THE CLERK: Please raise your right hands. You and each of you do
7 solemnly swear that the testimony you're about to give in this action
8 shall be the truth, the whole truth and nothing but the truth, so help you
9 God?

10 MR. FOLEY: Yes.

11 MS. FOLEY: Yes.

12 THE CLERK: Thank you.

13 THE COURT: All right. Good afternoon.

14 Do you know why the D.A. asked you to be here today, sir?

15 MR. FOLEY: I think so, Your Honor.

16 THE COURT: All right. This is for Michael, Elizabeth and Therese.
17 And it looks like the D.A. hasn't received adequate payments. That's why
18 they want you to answer as to why that you haven't been doing that. So
19 let me hear from the D.A. first. And I'll hear from both of you.

20 MR. EWERT: All right. Today's credit, he was paying through wage
21 withholding with the most recent payment October 11, 2011.

22 So is that about the time you lost your job?

23 MR. FOLEY: That's -- that was around the time I last got a
24 paycheck, sir.

25 MR. EWERT: And now you're showing this temp services?

1 MR. FOLEY: It's a company that does political surveys over the
2 phone and it -- they call themselves an employment service, but they're in
3 the business exclusively of doing political opinion polls. And I got my
4 first paycheck stub yesterday.

5 THE COURT: Have you thought about requesting a modification of your
6 child support?

7 MR. FOLEY: Your Honor, the family court won't allow that. The last
8 hearing we had, the Court ordered that there won't be anymore orders from
9 the case; and it was the third time he closed the case. I've been trying
10 to change custody to joint custody. Patricia's been ordered not to have
11 our oldest child babysit overnight. But that's what's been happening for
12 the past three years. And despite evidence that I've produced in that
13 case, the Judge disregards it. So there's really nothing I can do.

14 MR. EWERT: Well, may I respond, Your Honor?

15 From what -- what I saw, it was custody disagreement. The
16 Court cannot preclude you from at least making a Request for Modification
17 of Child Support if circumstances change. Perhaps the Court doesn't
18 believe what you say and denies the request. But you can always make the
19 request if you can show grounds. He's showing me his pay stub here. It's
20 showing 5.75 an hour, and this one has only nine hours on it.

21 MR. FOLEY: That's not...

22 THE COURT: I'm looking at the last order. There's nothing here
23 denying your request to modify. It talks about the babysitting the
24 overnights, statements about each other, custody, visitation. There's
25 nothing about child support here.

1 MR. EWERT: Yeah, in fact, the last order affecting child support
2 was back in -- it was the Divorce Decree of September 25, '09.

3 THE COURT: I'm gonna give you a modification packet. I'm gonna ask
4 that you fill that out and turn it back in.

5 MR. FOLEY: Well, just so that you have a better understanding, Your
6 Honor. I did argue in the -- before the last hearing for a change of
7 custody. And it looked as though the judge was going to entertain a
8 change of custody, but there was a family therapist who gave an opinion
9 that was very prejudicial to me, and that was enough for the judge.

10 THE COURT: Sir, I'm trying to help you out. If -- if you have
11 reduced income and then you're entitled to -- to have the Court review
12 your child support. Otherwise, we're gonna hold you to 700 a month,
13 whether you're capable of making it or not.

14 MR. FOLEY: I -- I appreciate that. And I just want the Court to
15 know that I don't want to burden the courts unnecessarily. And I've tried
16 to get a amicable change of custody by stipulation.

17 THE COURT: If you want to fill that out, you can. You drop it out
18 front.

19 MR. FOLEY: Okay.

20 THE COURT: What's the D.A.'s request today?

21 MR. EWERT: We would like the show cause ordered continued. Let me
22 just ask a couple questions.

23 Since you lost that job in November...

24 MR. FOLEY: Mm-hm.

25 MR. EWERT: ...how seriously have you been looking for employment?

1 MR. FOLEY: Very seriously. I've been trying to get back into the
2 telecommunications field. I used to work for Cox Communications. And
3 I've also worked for (indiscernible)...

4 MR. EWERT: Were you laid off or fired for cause or what?

5 MR. FOLEY: I...

6 MR. EWERT: I'm trying to find out how difficult it is for you...

7 MR. FOLEY: The last time I worked...

8 MR. EWERT: ...to find new employment.

9 MR. FOLEY: ...for Cox, it was in 2001. I reapplied since the
10 divorce. I was first offered work out of state by an airline. That job
11 unfortunately only lasted a week. After that, I found employment with an
12 internet company. It was a sales job. It had an hourly plus commission.
13 And that only lasted about five or six months.

14 MR. EWERT: Li- listen carefully to my question. Is there anything
15 in your background that -- that makes it very difficult for you to get
16 hired? For example, you know, like a felony conviction...

17 MR. FOLEY: No.

18 MR. EWERT: ...would make it harder; if you were fired for cause.

19 MR. FOLEY: Just the sporadic employment history is probably my
20 biggest impediment and not being able to renew my real estate license also
21 because there are jobs that I could apply for, but I don't apply for them
22 because I can't renew my real estate license until the -- until the child
23 support arrearage is cured.

24 THE COURT: The D.A. have anything else?

25 MR. EWERT: No. We'd ask for a review in -- probably around 90 to

1 120 days.

2 THE COURT: Ma'am, is there anything you want to say?

3 MS. FOLEY: Yes, Your Honor. I have some proofs and all the
4 lawsuits he's been (indiscernible) me and people who I know. And I
5 just...

6 THE COURT: That he's been what?

7 MS. FOLEY: He's been suing me in different courts.

8 THE COURT: Okay.

9 MS. FOLEY: And I just got a paper with -- last week, one of the
10 interrogations -- questions they're asking...

11 THE COURT: Interrogatories.

12 MS. FOLEY: Yes. He's claiming he spend over \$10,000, you know,
13 just in the lawsuits he's been doing. So...

14 THE COURT: What's he suing you for?

15 MS. FOLEY: He's suing me for different -- he sue -- he's suing me
16 in bankruptcy court for fraud. He's suing me in district court for -- for
17 damaging. He's asking for \$5.9 million. And he's spending a lot of
18 money. I know these last weeks, he's -- he's been -- I have all this
19 paperwork to prove.

20 THE COURT: And have you filed answers or countersued?

21 MS. FOLEY: Well, I file an answer. I don't have \$5000 retainer to
22 pay my attorney for the lawsuits. But, you know, like he says in his own
23 words, he spend \$10,000 in the past...

24 THE COURT: So you're...

25 MS. FOLEY: ...months.

1 THE COURT: You're implying that he should've spent that on -- on
2 his children instead of paying...

3 MS. FOLEY: Correct.

4 THE COURT: ...for something that...

5 MS. FOLEY: Correct.

6 THE COURT: ...you deem to be frivolous?

7 MS. FOLEY: Yes.

8 THE COURT: Okay.

9 MS. FOLEY: So...

10 THE COURT: Do you have an answer, sir?

11 MR. FOLEY: Yes, Your Honor. The \$10,000 that she's referring to is
12 what I had to spend to defend the divorce claim and the CPS claim that she
13 along with my sister, who offered her money to pay off her gambling debt
14 -- but this -- Your Honor, really this shouldn't be argued here. It's --
15 it's being heard in a -- in a different court.

16 The U.S. District Court has granted me leave to proceed in
17 forma pauperis. This is not gonna interfere with my ability to look for
18 and find work. And the Court has made for favorable orders for me. And I
19 expect the -- the Court to be entering judgment against the CPS agent, as
20 well as the family therapist, for not answering the complaints. I do
21 expect a full judgment to be entered in those cases. But I don't really
22 see the relevance of that. And I don't think that those issues should
23 really be argued here. I mean, at least for the sake of the children.

24 THE COURT: All right. Well, first of all, if you haven't paid
25 since October, I do find contempt. Do you have any money with you today?

1 MR. FOLEY: I have \$27, Your Honor. I only got \$48 from my check...

2 THE COURT: And I do find...

3 MR. FOLEY: ...and that was my first paycheck.

4 THE COURT: ...contempt. I am going to sentence you to 25 days in
5 jail. And that will be hanging over your head in the event that you don't
6 follow through with what I ask you to do between now and next time I see
7 you.

8 MR. FOLEY: Your Honor...

9 THE COURT: And this is what I'm asking you to do. I'm gonna ask
10 you to pay a minimum of \$325 a month...

11 MR. FOLEY: Your Honor, I can do that.

12 THE COURT: ...to avoid contempt.

13 MR. FOLEY: I...

14 THE COURT: It's strictly to avoid contempt, starting in May,
15 starting next month. And all the payments have to be made through this
16 court. So you pay right out front here. The modification packet that I
17 gave you, I'm gonna ask that you fill that out today before you leave.
18 And you drop it out front at the front desk. When we come back to court,
19 and it's gonna be in four months on a modification, I'm gonna ask that you
20 bring a pay stub. And we'll take a look at what you're making and we'll
21 consider a modification at that time. But in the meantime, you must pay
22 at least \$325 a month to avoid jail time. I'll have the D.A. tell you how
23 much you owe right now.

24 MR. EWERT: And we're working off the affidavit of arrears, carrying
25 that forward, we have child support arrears of 13,711.22, with interest

1 and penalties, 16,739.98. And that's through March 31.

2 THE COURT: What else did you wanna say, sir?

3 MR. FOLEY: I don't -- I really don't have much to say, Your Honor,
4 here.

5 THE COURT: So the return date will be...

6 THE CLERK: August the 28th, 2012, at 9:00 a.m.

7 THE COURT: Is there anything else, ma'am?

8 MS. FOLEY: He's -- he's got a job. I don't know how he's hide the
9 money. But I know...

10 THE COURT: Okay. Well, first of all, we need...

11 MS. FOLEY: ...he's been working (indiscernible)...

12 THE COURT: ...more information, like, where he's working...

13 MS. FOLEY: He was working at Cox...

14 THE COURT: ...or anything like that.

15 MS. FOLEY: ...lately.

16 THE COURT: Okay. You need to give all that information to your
17 caseworker so when we come back to court, the D.A. can present that to me.

18 MS. FOLEY: Okay. All right. And also let him know, just my
19 insurance payment for my -- the kids medical...

20 THE COURT: Bring that information with you.

21 MS. FOLEY: Okay.

22 THE COURT: Please do that, too.

23 MS. FOLEY: Okay.

24 MR. FOLEY: Do you have a (indiscernible) slip for the date?

25 THE MARSHAL: If you have time for the order...

1 MR. FOLEY: Oh.

2 THE MARSHAL: ...we can give you the order today.

3 Here you go. If you can copy that (indiscernible).

4 MS. FOLEY: Okay. Thank you.

5 THE MARSHAL: You're welcome.

6 MR. EWERT: Thank you for coming.

7 MS. FOLEY: Okay.

8 (THE PROCEEDING ENDED AT 15:49:48.)

9

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* * * * *

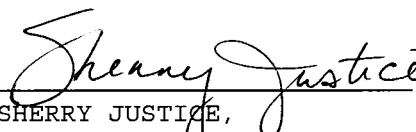
11

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.

12

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14


SHERRY JUSTICE,
Transcriber VI

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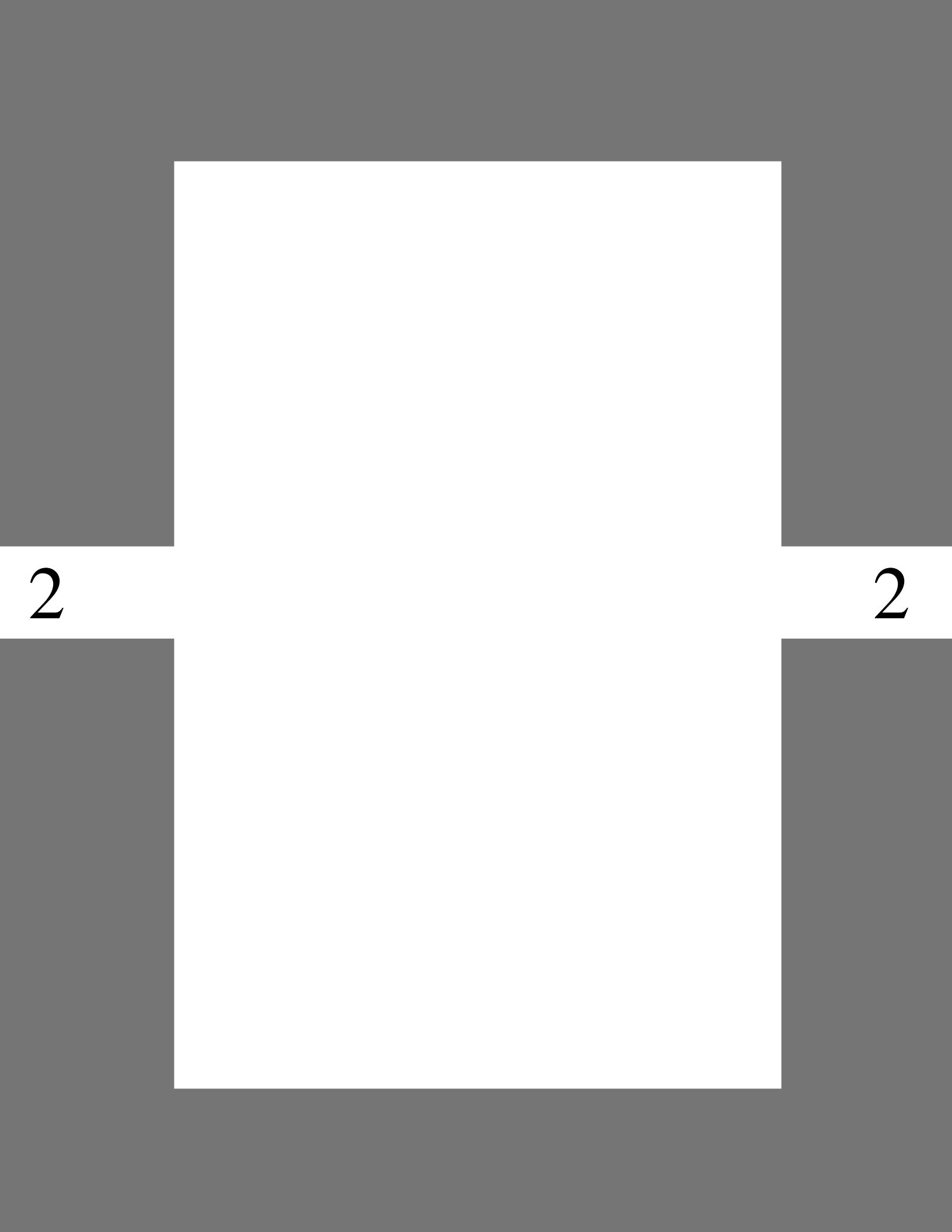
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2

2

1 MICHAEL FOLEY
 2 3300 S. Decatur Blvd. #10172
 3 Las Vegas, NV 89102
 Telephone: (702) 771-9725
 Plaintiff in Proper Person

2012 JUN 11 P 3:18

4
 5
 6
 7 UNITED STATES DISTRICT COURT
 8 DISTRICT OF NEVADA
 9

10 MICHAEL FOLEY,

Case No. 2:11-cv-01769-ECR-vcf

11 Plaintiff

12 vs.

13
 14 Michelle Pont, an individual; Jeffrey
 15 Pont, an individual; AP Express, a
 16 California Limited Liability Company;
 17 AP Express Worldwide, a California
 18 Limited Liability Company; Georgina
 19 Stuart, an individual; John T. Kelleher,
 20 an individual; Nikki Dupree, an
 21 individual; Kelleher & Kelleher, a
 22 Nevada Limited Liability Company;
 23 Shera Bradley, an individual; Joan Coe,
 24 an individual; Juan Carlos Valdes, a
 25 citizen of Mexico; Manuel Carranza, a
 26 citizen of Mexico; Michael Dorantes, an
 individual; Brenda Dorantes, an
 individual; Viva Productions Las Vegas,
 LLC (a.k.a. "Viva Productions"), a
 business entity; Toni Ann Iantuono, an
 individual; Dino Iantuono, an individual;
 Patricia Foley, an individual, DOEs 1-10;
 ROEs 11-20,

27 Defendants

NOTICE OF FORGED DOCUMENT
FILED BY DEFENDANT SHERA
BRADLEY

1 PLEASE TAKE NOTICE that the document presented to this Court styled as a
2 Juvenile Court Order filed as "Exhibit A" within DEFENDANT SHERA BRADLEY'S
3 REQUEST FOR JUDICIAL NOTICE PURSUANT TO FRE 201 filed on June 7, 2012, is
4 a *forgery*, and was originally filed under false pretenses. Plaintiff hereby advises the Court
5 that said document does not contain the signature or handwriting of either the judge or
6 hearing master, but mere rubber stamped signatures *and dates*, although it does appear that
7 it was in fact filed with the Clerk of the District Court, Clark County Nevada, but done so
8 in contravention of Hearing Master David S. Gibson Sr.'s finding and recommendation on
9 November 24, 2008, who decreed that "no [psychological] evaluation [was] needed." See
10 Plaintiff's Exhibit "1," COURT MINUTES of the District Court, Clark County Nevada,
11 Juvenile Division, case number 08J313094. One of the rubber stamps even bears the name
12 of the wrong Hearing Master, Fernando Guzman, who did NOT preside over the November
13 24, 2008 hearing. An authentic Order entered by Judge Steel is attached as Exhibit "2."

14 The Court should also note that the document lacks a NOTICE OF ENTRY OF
15 ORDER, which explains to the Plaintiff why he has never seen this document before. The
16 only logical explanation why this false Order was filed without notice is that production of
17 the false document was necessary to comply with Clark County's fiscal policy, which
18 *required a COURT ORDER or COURT MINUTES* in order to authorize payment to
19 Defendant Shera Bradley, who was *contracted* by DFS to perform the *false* psychological
20 evaluation on the Plaintiff. See Plaintiff's Exhibit "3," pg. 3 of UNITY (CPS) case notes,
21 which records an email sent from Clark County's Fiscal Department to Defendant Stuart:

22 Dear Ms. Stuart:

23 FCS received your referral requesting a psychological evaluation. FCS will
24 need a copy of the *court order or minutes* before the client [Plaintiff] can be
25 referred to a *contracted* provider. The county fiscal department requires a
26 copy of the *order* otherwise the doctor [Holland or Bradley] will not be
27 paid. Please fax the court order to 455-7961. Once I receive the order, I can
28 begin to facilitate the referral. Also the county only pays for *contract*
psychological evaluations for parents if they do not have any insurance
benefits. Thus I need to know the status of the client's insurance. Also, all
prior mental health records need to be provided to assist with the
evaluation. (Emphasis added.)

1 Apparently Defendant Stuart, who only months before admitted to committing fraud
2 in connection with obtaining her license as a social worker, had no qualms about
3 committing fraud against the County by causing the production of a false Court Order to
4 pay for a psychological evaluation that the Court had decreed was unnecessary, in order to
5 carry out her plan to force Plaintiff to submit to a psychological evaluation that was not
6 required by the Court, which now more than ever appears to be completely *bogus*. The
7 forged Order was never noticed to the Plaintiff or his defense counsel because such a notice
8 would have tipped off Plaintiff and his counsel that the forged Order had been filed, and a
9 fraud had been committed against the Juvenile Court, which would have likely entered an
10 outright dismissal of the Abuse and Neglect Petition, and imposed sanctions against the
11 fraud-perpetrating parties, namely Defendant Georgina Stuart and apparently Deputy
12 District Attorney Jennifer Meiselman Titus, who has since left the jurisdiction, and whom
13 Plaintiff has not named as a Defendant knowing that she, as well as other prosecutors
14 involved, are sworn to uphold the integrity of the Court while they enjoy absolute
15 immunity from civil suit. Moreover, such documents and filings are not normally
16 accessible or available for inspection by the general public pursuant to NRS 62H.030:

17 2. Except as otherwise provided in this section and NRS 217.110, records
18 of any case brought before the juvenile court may be opened to inspection
only by court order to persons who have a legitimate interest in the records.

19 Plaintiff or his counsel would not have been automatically noticed of this false
20 Court Order as one would be noticed using the County Court's Odyssey or Federal Court's
21 CM/ECF systems. The Court should also note that according to the UNITY (CPS) case
22 notes dated November 26, 2008, that Defendant Stuart proceeded to order a psychological
23 evaluation only *two days after* the Juvenile Court decreed that "no evaluation [was]
24 needed." See exhibit "2," page 2, Contact Date: 11-26-2008, Time: 7:25. The version of
25 these notes provided to Plaintiff's court-appointed attorney (in the abuse and neglect
26 matter) Stephanie MacKeen, pursuant to the Court's discovery order, was *redacted*,
27 blacking out the text where Defendant Georgina Stuart recorded her false statement, "Court
28 ordered psychological testing of the [Plaintiff]." See exhibit "4," page 2. Plaintiff believes

1 that this notation was made to mislead officials in the County Fiscal Department (who may
2 have reviewed UNITY) to believe that there was indeed an Order for psychological
3 evaluation of the Plaintiff, when the Juvenile Court Minutes (which were probably not
4 accessible to the Fiscal Department) reflected otherwise.

5 The forged Order in question was prepared for and obtained by Defendant Stuart to
6 finance the Psychological Report that Stuart arranged to be performed *originally* by
7 Psychologist Stephanie Holland, a close associate of co-conspirator and Defendant John
8 Kelleher, as alleged in Plaintiff's First Amended Complaint, pg. 44, ¶ 76, lines 6-13:

9 But in or about January, 2009, Stuart made an appointment for Michael to
10 be evaluated by a subordinate of Holland, who told Michael and his
11 attorney Amy Mastin that Holland would be writing the final report. Mastin
12 advised Michael to comply with the Court order and not submit to the
13 evaluation. This infuriated Stuart, who then sought out Defendant Shera
14 Bradley to administer the evaluation. Stuart enlisted Bradley because she
15 knew that Bradley was an unfair evaluator, and would give her a negative
16 report about Michael, regardless of how well he scored on his Personality
17 Assessment Inventory and interview with Bradley.

18 How Defendant's counsel was able to obtain this confidential Juvenile Court Order
19 is a question that will be asked as discovery continues. Plaintiff will later inform the Court
20 if the document was in fact obtained illegally, without a Court Order authorizing its release.

21 THEREFORE, Plaintiff desires that this Court be advised that a fraud was
22 committed in the production and entry of this forged document, attached as Exhibit "A"
23 within DEFENDANT SHERA BRADLEY'S REQUEST FOR JUDICIAL NOTICE
24 PURSUANT TO FRE 201, which was *apparently* prepared by a co-conspiring Deputy
25 District Attorney, and entered into the Juvenile Court record for the use and benefit of
26 conspiring Defendant Georgina Stuart and psychological evaluator and Defendant Shera
27 Bradley, *contrary to the finding and recommendation* of the Judicial Official, the
28 Honorable David S. Gibson, Sr., who presided over the subject matter.

DATED THIS 10th day of June, 2012.

SIGNED,



Michael Foley, Plaintiff in Proper Person

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of June, 2012, I caused service of NOTICE OF FORGED DOCUMENT FILED BY DEFENDANT SHERA BRADLEY by mailing a true and correct copy of the same 1st Class via the U.S. Postal Service, postage prepaid, addressed to the following:

J. Stephen Peek, Leslie Nino
Holland & Hart
Attorneys for Jeffrey Pont, AP Express,
and AP Express Worldwide
9555 Hillwood Drive, 2nd floor
Las Vegas, NV 89134

Josh Cole Aicklen, David Avaikian
Lewis Brisbois Bisgaard & Smith, LLP
Attorneys for Shera Bradley
6385 S. Rainbow Boulevard
Suite 600
Las Vegas, NV 89118

Leah A. Martin, Esq., P.C.
Attorney for Dino and Toni Ann Iuantuono
319 S. 3rd St., Suite 1
Las Vegas, NV 89101

Edward Boyack
Attorney for Jeffrey Pont
401 N Buffalo Dr # 202
Las Vegas, NV 89145

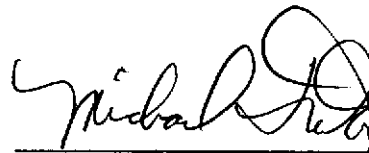
Patricia Foley
2120 Crestline Falls Pl
Las Vegas, NV 89134

Michael and Brenda Dorantes, and
Viva Productions Las Vegas LLC
5574 San Florentine Ave
Las Vegas NV 89141

Timothy Baldwin, Deputy D.A.
500 South Grand Central Pkwy, 5th Floor
P.O. Box 552215
Las Vegas, NV 89155-2215

Lisa Zastrow
Attorney for Manuel Carranza
8345 West Sunset Rd. Ste 250
Las Vegas, NV 89113

SIGNED,



Michael Foley, Plaintiff in Proper Person

000017

000017

000017

Exhibit “1”

000017

08J313094

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Juvenile Neglect

COURT MINUTES

November 24, 2008

08J313094

Patricia Foley, Mother

November 24, 2008	10:00 AM	Entry of Plea
-------------------	----------	---------------

HEARD BY:		COURTROOM:	No Location
-----------	--	------------	-------------

PARTIES:	Foley Sr., Michael	Father	
	Gibbs, R. Nathan	Attorney	
	Lobello, Michele	Attorney	
	Touby		
	Meiselman Titus,	Attorney	
	Jennifer R.		
	Roger, David J	Attorney	
	State of Nevada	State of	
		Nevada	

COURT CLERK:	
--------------	--

JOURNAL ENTRIES

- (T. . ., M. . . and E. . . Foley) Department of Family Services (DFS) represented by Georgina Stuart. Counsel, Nicki Dupree present on behalf of the mother.

Attorney Gibbs appearing in an unbundled capacity entered a DENIAL on behalf of the father as to petn 1. COURT RECOMMENDED, matter set for TRIAL.

Attorney Gibbs requested the evaluation be completed before the trial.

Statements made as to the relevancy of the evaluations as to the mother's mental health, issues as to gambling and guardianship as to T. . . .

Court noted the only allegations in the petn is as to physical abuse, therefore, no evaluation is needed. COURT RECOMMENDED, State to provide a witness list to counsel as well as full discovery. Reciprocal discovery to the State.

1-12-09 1:30 PM TRIAL/PETN 1 "19"

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Juvenile Neglect**COURT MINUTES****February 24, 2009**

08J313094

Patricia Foley, Mother

February 24, 2009	1:30 PM	Trial
-------------------	---------	-------

HEARD BY:	Steel, Cynthia Dianne	COURTROOM:	Courtroom 21
-----------	-----------------------	------------	--------------

PARTIES:	Cordes, Ronald L.	Attorney	
	Foley Sr., Michael	Father	
	Lobello, Michele	Attorney	
	Touby		
	Roger, David J	Attorney	
	State of Nevada	State of	
		Nevada	

COURT CLERK:	
--------------	--

JOURNAL ENTRIES

- (T, M and E Foley) Department of Family Services (DFS) represented by Georgina Stuart.

Pursuant to negotiations, State requested matter be set for further proceedings in 60 days. During that time, Dad agrees to complete a Psychological evaluation regarding domestic violence. If he completes the assessment and follows the recommendations with that time, State will be in a position to recommend dismissal of Petition 1.

COURT ORDERED, matter is set for further proceedings.

04-30-09 10:00 AM FURTHER PROCEEDINGS: POSSIBLE DISMISSAL P1 (DAD)

FUTURE HEARINGS:

000019

000019

Exhibit “2”

COPY

ORDER

Michele Touby LoBello

Nevada Bar No. 5527

Stephanie B. MacKeen

Nevada State Bar No. 9854

BLACK & LOBELLO

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

(702) 869-8801

Attorneys for Father,

MICHAEL FOLEY, SR.

FILED

MAR 11 4 32 PM '09

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Minor Children:

Case No.: J313094

T FOLEY

Dept. G

Date of Birth:

M FOLEY

Date of Birth:

E FOLEY

Date of Birth:

Minor Children

ORDER APPOINTING COUNSEL FOR FATHER, MICHAEL FOLEY, SR.

This matter having come before this Court upon the Petition of the above-named minors, and good cause appearing,

IT IS HEREBY ORDERED that as of January 20, 2009, STEPHANIE B. MACKEEN, and the law firm of BLACK & LOBELLO, is hereby appointed by this Court to represent Father, MICHAEL FOLEY, SR., with regard to this matter.

...

...

...

...

...

1 FOLEY / FOLEY CASE NO. J313094

2 IT IS FURTHER ORDERED that all fees and costs associated with this matter be
3 waived.

4 Dated this 9 day of March, 2009.

6
7 HEARING MASTER

8
9 DIANNE STEEL
10 DISTRICT JUDGE

11 Respectfully Submitted by:

12
13
14 

15 Michele Touby LoBello
16 Nevada State Bar No. 5527
17 Stephanie B. MacKeen
18 Nevada State Bar No. 9854
19 **BLACK & LOBELLO**
20 10777 West Twain Avenue, Suite 300
21 Las Vegas, Nevada 89135
22 (702) 869-8801
23 Attorneys for Father,
24 MICHAEL FOLEY, SR.
25
26
27
28

Electronically Filed
03/16/2009 10:02:19 AM


CLERK OF THE COURT

NOE
Michele Touby LoBello, Esq.
Nevada Bar No. 5527
Stephanie B. MacKeen
Nevada State Bar No. 9854
BLACK & LOBELLO
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
(702) 869-8801
Attorneys for Father,
MICHAEL FOLEY, SR.

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

In the Matter of the Minor Children:

Case No.: J313094

T FOLEY
Date of Birth:

Dept. G

M FOLEY
Date of Birth:

E FOLEY
Date of Birth:

Minor Children

**NOTICE OF ENTRY OF ORDER APPOINTING COUNSEL
FOR FATHER, MICHAEL FOLEY, SR.**

PLEASE TAKE NOTICE that an ORDER APPOINTING COUNSEL FOR FATHER,
MICHAEL FOLEY, SR., was entered in the above-entitled matter on March 11, 2009. A copy
of said Order Appointing Counsel is attached hereto.

...
...
...
...
...
...
...
...

1 DATED this 13th day of MARCH, 2009.

2 Respectfully Submitted by:

3
4 

5 Michele Touby LoBello

6 Nevada State Bar No. 5527

7 Stephanie B. MacKeen

8 Nevada State Bar No. 9854

9 **BLACK & LOBELLO**

10 10777 West Twain Avenue, Suite 300

11 Las Vegas, Nevada 89135

12 (702) 869-8801

13 Attorneys for Father,

14 MICHAEL FOLEY, SR.

15 **CERTIFICATE OF MAILING**

16 I HEREBY CERTIFY that on the 16th day of March 2009, I served a copy of the
17 Notice of Entry of Order Appointing Counsel For Father, MICHAEL FOLEY, SR., upon each of
18 the parties by depositing a copy of the same in a sealed envelope in the United States Mail,
19 Postage Pre-Paid, addressed as follows:

20 Ron Cordes, Esq.

21 Office of the District Attorney, Juvenile Division

22 601 North Pecos Road, North Building, Room 470

23 Las Vegas, Nevada 89101-2408

24 Ms. Georgina Stuart

25 Department of Family Services

26 701 K North Pecos Road

27 Las Vegas, Nevada 89101

28 and that there is regular communication by mail between the place of mailing and the place(s) so
addressed.

29 

30 An Employee of Black & LoBello

Exhibit “3”

FAMILY SERVICES SPEC II

Attended Plea Hearing at 10am. Present was the n/f, Nathan Gibbs (fathers attorney), John Kehhler, the n/m, this specialist, DDA Titus and Hearing Master Gibson. Matter set for a contested trial on 01/12/2008 at 1:30pm. Court ordered psychological testing for the n/f. Visitation schedule to remain the same.

Father will have E and M from Friday at 4pm to Sunday at 4pm.

Contact Date: 11-25-2008
Note Type: COURTHEARING
In Placement Contact: NO

Time: 12:15
Contact Type: OTHER

Contact With

Contact About
 FOLEY, E
 FOLEY
 FOLEY, PATRICIA
 FOLEY,

Author: STUART, GEORGINA
Title: FAMILY SERVICES SPEC II

Received a voice message from the TPO commissioners office, Vicky, @ 455-2434. Referred her to Julie Shook at 455-1594. TPO hearing schedule for 11/26/2008 at 2:30pm.

Contact Date: 11-26-2008
Note Type: COLLATERAL
In Placement Contact: NO

Time: 07:25
Contact Type: E-MAIL

Contact With
 FOLEY, MICHAEL

Contact About
 FOLEY, MICHAEL

Author: STUART, GEORGINA
Title: FAMILY SERVICES SPEC II

DFS clinical referral made for the psychological testing for the n/f, Michael Foley.

Contact Date: 11-26-2008
Note Type: COURTHEARING
In Placement Contact: NO

Time: 08:00
Contact Type: PHONE

Contact With

Contact About
 FOLEY, E
 FOLEY, M
 FOLEY, PATRICIA
 FOLEY, T

Author: STUART, GEORGINA
Title: FAMILY SERVICES SPEC II

poke with the TPO commissioners office at 455-2434.
 Matter scheduled for custody court on 01/09/2009 at 11am in Department D.
 Vill address CPS issues, TPO and custody at this time.
 PO removed as to the mother, Patricia Foley.
 Mother still has an active TPO against Michael Foley.

Contact Date: 11-26-2008
Note Type: CRB LEVEL 1

Time: 10:55

Attachment 1 of 1

Contact WithContact About
FOLEY, MICHAEL**Author: APPLEGATE-ESPINOZA, TAMI****Title: CHILD & FAMILY INTERVENT SPEC II**

FCS received a referral from the DFS worker requesting a contracted psychological evaluation. The email below was sent to the worker requesting a copy of the court order and info on the father's insurance status:

Dear Ms. Stuart:

FCS received your referral requesting a psychological evaluation. FCS will need a copy of the court order or minutes before the client can be referred to a contracted provider. The county fiscal department requires a copy of the order otherwise the doctor will not be paid. Please fax the court order to 455-7961. Once I receive the order, I can begin to facilitate the referral. Also the county only pays for contract psychological evaluations for parents if they do not have any insurance benefits. Thus I need to know the status of the client's insurance. Also all prior mental health records need to be provided to assist with the evaluation..

000027

000027

Exhibit “4”

000029
Title: FAMILY SERVICES SPEC II
Attended Plea Hearing at 10am. Present was Nathan Gibbs (fathers attorney), John Ken [REDACTED] the n/m, this specialist, DDA Titus and Hearing Master Gibson. Matter set for a contested trial on 01/12/2008 at 1:30pm [REDACTED]
Visitation schedule to remain the same.

Father will have E and M from Friday at 4pm to Sunday at 4pm.

Contact Date: 11-25-2008 Time: 12:15
Note Type: COURTHEARING
In Placement Contact: NO Contact Type: OTHER

Contact With
Contact About
FOLEY, F
FOLEY,
FOLEY, PATRICIA
FOLEY, T.

Author: STUART, GEORGINA
Title: FAMILY SERVICES SPEC II
Received a voice message from the TPO commissioners office, Vicky, @ 455-2434. Referred her to Julie Shook at 455-1594. TPO hearing schedule for 11/26/2008 at 2:30pm.

Contact Date: 11-26-2008 Time: 07:25
Note Type: COLLATERAL
In Placement Contact: NO Contact Type: E-MAIL

Contact With
FOLEY, MICHAEL
Contact About
FOLEY, MICHAEL

Author: STUART, GEORGINA
Title: FAMILY SERVICES SPEC II
DFS clinical referral made for the psychological testing for the n/f, Michael Foley.

Contact Date: 11-26-2008 Time: 08:00
Note Type: COURTHEARING
In Placement Contact: NO Contact Type: PHONE

Contact With
Contact About
FOLEY, E
FOLEY, M
FOLEY, PATRICIA
FOLEY, T

Author: STUART, GEORGINA
Title: FAMILY SERVICES SPEC II
Spoke with the TPO commissioners office at 455-2434.
Matter scheduled for custody court on 01/09/2009 at 11am in Department D.
Will address CPS issues, TPO and custody at this time.
TPO removed as to the mother, Patricia Foley.
[REDACTED]

Contact Date: 11-26-2008 Time: 10:55
Note Type: CRB LEVEL 1

Contact WithContact About
FOLEY, MICHAEL

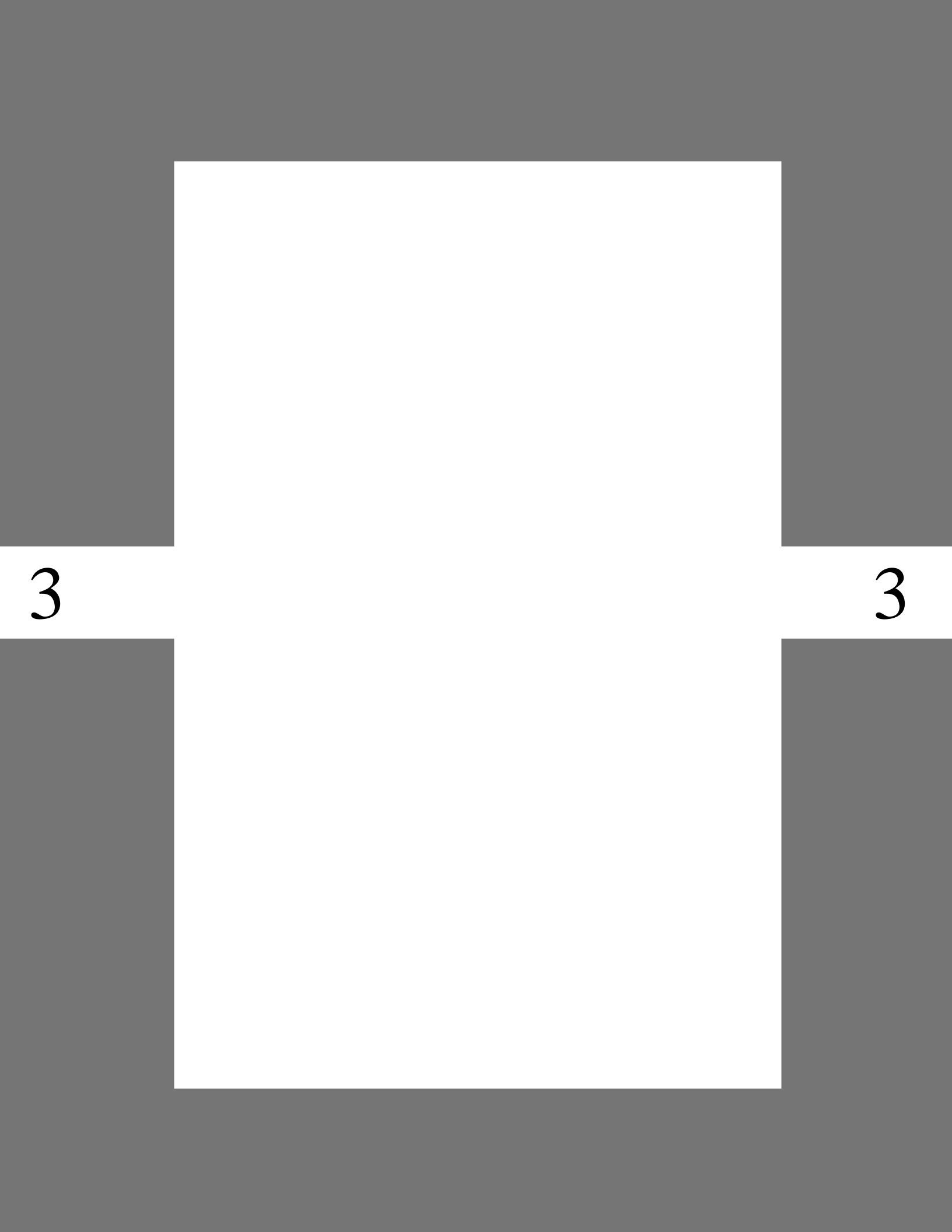
Author: APPLEGATE-ESPINOZA, TAMI

Title: CHILD & FAMILY INTERVENT SPEC II

FCS received a referral from the DFS worker requesting a contracted psychological evaluation. The email below was sent to the worker requesting a copy of the court order and info on the father's insurance status:

Dear Ms. Stuart:

FCS received your referral requesting a psychological evaluation. FCS will need a copy of the court order or minutes before the client can be referred to a contracted provider. The county fiscal department requires a copy of the order otherwise the doctor will not be paid. Please fax the court order to 455-7961. Once I receive the order, I can begin to facilitate the referral. Also the county only pays for contract psychological evaluations for parents if they do not have any insurance benefits. Thus I need to know the status of the client's insurance. Also all prior mental health records need to be provided to assist with the evaluation..



3

3

STEVEN B. WOLFSON
 DISTRICT ATTORNEY
 State Bar No. 1565
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 Deputy District Attorney
 State Bar No. 11048
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 Las Vegas, Nevada 89155-2215
 Phone: (702) 455-4761
 Facsimile: (702) 382-5178
Attorneys for Defendant GEORGINA STUART

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MICHAEL FOLEY,

Plaintiff,

vs.

Case No: 2:11-cv-01769-ECR-VCF

MICHELLE PONT, an individual; JEFFREY
 PONT, an individual, AP EXPRESS, a
 California Limited Liability Company;
 AP EXPRESS WORLDWIDE, a California
 Limited Liability Company; GEORGINA
 STUART, an individual; SHERA BRADLEY,
 an individual; JOAN COE, an individual;
 JUAN CARLOS VALDES, a citizen of
 Mexico; MANUEL CARRANZA, a citizen
 of Mexico; MICHAEL DORANTES, an
 individual; BRENDA DORANTES, an
 individual; VIVA PRODUCTION LAS
 VEGAS, LLC (a.k.a. "Viva Productions"),
 a business entity; TONI ANN IANTUONO,
 an individual; DINO IANTUONO, an
 individual; PATRICIA FOLEY, an individual;
 DOEs 1-10; ROEs 11-20,

Defendants.

**DEFENDANT GEORGINA STUART'S NOTICE OF
 REQUEST FOR *IN CAMERA* INSPECTION,
IN CAMERA SUBMISSION OF EXHIBITS, AND
 REQUEST FOR AN ORDER AUTHORIZING
 RELEASE OF CLARK COUNTY DEPARTMENT OF FAMILY SERVICES RECORDS
 AND
 AUTHORIZING RELEASE OF JUVENILE COURT RECORDS**

COMES NOW Defendant GEORGINA STUART, through her attorney, District Attorney STEVEN B. WOLFSON, by STEPHANIE A. BARKER, Chief Deputy District Attorney, and hereby submits this Notice of Request for *IN CAMERA* Inspection, *IN CAMERA* Submission of Exhibits, and Request for Court Authorization to Release Confidential Clark County Department of Family Services records, and Eighth Judicial District Court Family Division-Juvenile records pertinent to this action. Discovery in this matter is currently stayed. (DOC 106.) The subject documents have not been exchanged between the parties and there is no protective order governing their release as of this date. Accordingly, this Request is submitted to allow disclosure of documents related to and necessary to pending substantive determinations before the Court, and more specifically, necessary to a determination of Defendant Georgina Stuart's Motion for Summary Judgment filed this same date.

POINTS AND AUTHORITIES

The events alleged in Plaintiff's First Amended Complaint on file with this Court stem from a 2008 child protective services investigation regarding Plaintiff's interaction with one or more of his children. Defendant Georgina Stuart, in her capacity as a Clark County Department of Family Services Child Protective Services investigator, participated in the initial investigation by the Department of Family Services (Family Services), within the course and scope of her employment. That case was assigned Family Services Case No. 1350382, in re: Michael Foley and Patricia Foley.

Record of Family Services' interaction with the Foley family following the report of abuse or neglect, is kept in a software tracking program known as UNITY. As a matter of course and practice in Family Services, interaction with a family, investigation of a report of abuse or neglect, and assistance to the family is recorded in UNITY. Defendant Stuart's interaction with Plaintiff's family is reflected in the UNITY Case Notes for Case No. 1350382. The UNITY record for Case No. 1350382 is delivered directly to this Court *in camera* only, as Exhibit "A" to this Request.

In accordance with the applicable provisions of NRS Chapter 432B, as a result of the Family Services investigation into the Foley family, on October 29, 2008, a protective custody hearing was held in the Eighth Judicial District Court Family Division-Juvenile, and assigned Case No. J313094. A Petition for Abuse/Neglect was subsequently submitted to the Juvenile Court on November 21,

1 2008, and the Protective Custody Findings and Order were filed on November 25, 2008. The
2 Juvenile court records are delivered directly to this Court *in camera* only, as Exhibit "B" to this
3 Request.

4 Records of reports of child abuse or neglect in Nevada, and records concerning those reports
5 and investigations are made confidential pursuant to NRS 432B.280. Protective custody
6 proceedings in Nevada are confidential pursuant to NRS 432B.530, and in accordance with NRS
7 432B.430(1)(a) are closed to the public. Release of abuse or neglect records or proceedings is
8 governed by NRS 432B.290 which provides that data or information concerning reports and
9 investigations concerning the protection of children may be released, in pertinent part, as follows:

10 **432B.290 Authorized release of data or information concerning**
11 **reports and investigations; penalty; regulations.**

12 1. Except as otherwise provided in subsections 2 and 3 and
13 NRS 432B.165 [Missing Children], 432B.175 [Child Fatality] and
432B.513 [Parent or Guardian Before Proceedings], data or information
concerning reports and investigations thereof made pursuant to this chapter
may be made available only to:

14 (e) Except as otherwise provided in paragraph (f), a court, for
15 in camera inspection only, unless the court determines that public
disclosure of the information is necessary for the determination of an issue
before it;

16 (f) A court as defined in NRS 159.015 to determine whether a
17 guardian or successor guardian of a child should be appointed pursuant to
chapter 159 of NRS or NRS 432B.466 or 432B.468, inclusive;

18 (p) A parent or legal guardian of the child and an attorney
19 of a parent or guardian of the child . . . if the identity of the person
responsible for reporting the abuse or neglect of the child to a public
agency is kept confidential;
20 . . .

21 While NRS 432B.290(p) allows release of records to a parent, which would permit release
22 directly to the Plaintiff in this case and to Defendant Patricia Foley, there are no specific provisions
23 of 432B.290 that would permit release of the subject records to the remaining defendants in this
24 action. However, 432B.290(e) permits a court, after in camera inspection, to determine that "public
25 disclosure of the information is necessary to the determination of an issue before it."

26 This request to release the referenced 432B Juvenile court records and the Department of
27 Family Services Abuse/Neglect UNITY records, is made at this time because, filed simultaneously
28 herewith is Defendant Stuart's Motion for Summary Judgment which is based upon the events

described and documented in the subject records. Review of the subject records is necessary to a determination of the issue before this Court, and the records should be released to enable response to Defendant Stuart's Motion for Summary Judgment, as well as to Plaintiff's First Amended Complaint on file herein.

Accordingly, both the Department of Family Services UNITY records and the Juvenile court records, and are hereby submitted to the Court *in camera*, along with the filing of this Request for Authorization to Release the records. These records have been redacted to eliminate identification of the person/entity making the report of abuse or neglect, as well as elimination of personal identification information such as dates of birth and social security numbers. The subject matter of these records has been placed in issue by Plaintiff's suit before this Court and the records are necessary to a determination of the issues presented herein.

BASED UPON THE FOREGOING, Defendant STUART requests this Court's Order:

1. Authorizing release of Clark County Department of Family Services UNITY records related to Department of Family Services Case No. 1350382, in re: Michael Foley and Patricia Foley (Exhibit "A"); and
2. Authorizing release of the Eighth Judicial District Court Family Division-Juvenile records in Case No. J313094 (Exhibit "B").

The release of these records is specifically for, and solely for, purposes of assisting the parties and this Court to reach determination of the issues before this Court in this litigation.

RESPECTFULLY SUBMITTED this 7th day of August, 2012.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: 

STEPHANIE A. BARKER
Chief Deputy District Attorney
State Bar No. 3176
P. O. Box 552215
Las Vegas, Nevada 89155-2215
Attorneys for Defendant GEORGINA STUART

ORDER AUTHORIZING RELEASE OF RECORDS

IT IS HEREBY ORDERED that the attached exhibits, identified specifically hereinbelow, may be released to the parties hereto, solely for the purpose of assisting the parties and this Court to reach determination on the issues before this Court in this litigation captioned Michael Foley v. Michelle Pont, et al., Case No: 2:11-cv-01769-ECR-VCF.

DATED this _____ day of _____, 2012.

UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

EXHIBIT LIST


- Exhibit "A" – Clark County Department of Family Services UNITY Child Protective Services Report Summary, October 18, 2008 (5 Pgs), and
UNITY Case Notes, Case No. 1350382, in re: Michael Foley and Patricia Foley
(*Authenticated by Affidavit of Clark County Department of Family Services Custodian of Records, attached as the cover page to the Exhibit.*)
- Exhibit "B" – Eighth Judicial District Court, Family Division-Juvenile Records, Case No. J313094.
(*Authenticated by Certification Stamp of the Clerk of the Court.*)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ~~7th~~ day of August, 2012, I caused to be served true and accurate copies of the foregoing DEFENDANT GEORGINA STUART'S NOTICE OF REQUEST FOR *IN CAMERA* INSPECTION, *IN CAMERA* SUBMISSION OF EXHIBITS, AND REQUEST FOR AN ORDER AUTHORIZING RELEASE OF CLARK COUNTY DEPARTMENT OF FAMILY SERVICES RECORDS AND AUTHORIZING RELEASE OF JUVENILE COURT RECORDS, by placing them in the United States mail, postage prepaid, addressed as follows, or by one of the service methods listed on the Service List below:

SERVICE LIST		
ATTORNEYS OF RECORD	PARTIES REPRESENTED	SERVICE METHOD
Michael Foley, <i>Pro Per</i> 3300 S. Decatur Blvd., # 10172 Las Vegas, Nevada 89102 702-771-9725 foley1769@live.com	<i>Plaintiff in Proper Person and Counterdefendant</i>	<input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
Edward D. Boyack, Esq. Colby D. Beck, Esq. BOYACK, BECK & TAYLOR 401 N. Buffalo Drive, Suite 202 Las Vegas, Nevada 89145 702-562-3415 702-562-3570 - fax ted@edblaw.net sherri@edblaw.net	<i>Defendant</i> Michelle Pont	<input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
J. Stephen Peek, Esq. Leslie M. Nino, Esq. HOLLAND & HART, LLP 9555 Hillwood Dr., 2 nd flr Las Vegas, Nevada 89134 702-669-4600 702-669-4650 - fax speek@hollandhart.com lmnino@hollandhart.com <i>and</i> Milford W. Dahl, Jr., Esq. Lisa N. Neal, Esq. Taylor R. Dalton, Esq. RUTAN & TUCKER, LLP 611 Anton Blvd., 14 th flr Costa Mesa, California 92626 714-641-3438 714-546-9035 - fax	<i>Defendants</i> Jeffrey Pont, AP Express Worldwide, and AP Express	<input type="checkbox"/> Document served only to local counsel via: <input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service <input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service

1 2 3 4 5	Milford W. Dahl, Jr., Esq. Lisa N. Neal, Esq. Taylor R. Dalton, Esq. RUTAN & TUCKER, LLP 611 Anton Blvd., 14 th flr Costa Mesa, California 92626 714-641-3438 714-546-9035 – fax		<input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
6 7 8 9 10	Josh Cole Aiklin, Esq. David B. Avakian, Esq. LEWIS, BRISBOIS, BISGARRD & SMITH 6385 S. Rainbow Blvd., Suite 600 Las Vegas, Nevada 89118 702-893-3383 702-893-3789 – fax aicklen@lbbslaw.com avakian@lbbslaw.com	Defendant Shera Bradley	<input checked="" type="checkbox"/> Pacer E-Filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
11 12 13 14 15	Lisa J. Zastrow, Esq. KAEMPFER, CROWELL, RENSHAW, GRONAUER & FIORENTINO 8345 W. Sunset Road, Suite 250 Las Vegas, Nevada 89113 702-792-7000 702-796-7181 – fax lzastrow@kenvlaw.com	Defendant Manuel Carranza	<input checked="" type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
16 17 18	Toni Ann Iantuono, <i>Pro Per</i> Dino Iantuono, <i>Pro Per</i> 2382 Brockton Way Henderson, Nevada 89072	Defendants/Counterclaimants in Proper Person Toni Ann Iantuono and Dino Iantuono	<input checked="" type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
19 20	Brenda Dorantes, <i>Pro Per</i> 5574 San Florentine Avenue Las Vegas, Nevada 89141 702-876-3500	Defendant In Proper Person	<input checked="" type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
21 22	Michael Dorantes, <i>Pro Per</i> 5574 San Florentine Avenue Las Vegas, Nevada 89141 702-876-3500	Defendant in Proper Person	<input checked="" type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service
23 24 25	Patricia Foley, <i>Pro Per</i> 2120 Crestline Falls Place Las Vegas, Nevada 89134	Defendant in Proper Person	<input checked="" type="checkbox"/> Pacer E-filing Service <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service


An Employee of the Clark County
District Attorney – Civil Division

4

4

STEVEN B. WOLFSON
DISTRICT ATTORNEY
State Bar No. 1565
CIVIL DIVISION
By: **TIMOTHY BALDWIN**
Deputy District Attorney
State Bar No. 11048
By: **STEPHANIE A. BARKER**
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E-Mail: Timothy.Baldwin@ClarkCountyDA.com
Attorneys for Defendant GEORGINA STUART

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MICHAEL FOLEY,

Plaintiff,

vs.

MICHELLE PONT, an individual; JEFFREY PONT,
an individual, AP EXPRESS, a California Limited
Liability Company; AP EXPRESS WORLDWIDE, a
California Limited Liability Company; GEORGINA
STUART, an individual; SHERA BRADLEY, an
individual; JOAN COE, an individual; JUAN CARLOS
VALDES, a citizen of Mexico; MANUEL
CARRANZA, a citizen of Mexico; MICHAEL
DORANTES, an individual; BRENDA DORANTES,
an individual; VIVA PRODUCTION LAS VEGAS,
LLC (a.k.a. "Viva Productions"), a business entity;
TONI ANN IANTUONO, an individual; DINO
IANTUONO, an individual; PATRICIA FOLEY, an
individual; DOES 1-10; ROES 11-20,

Defendants.

Case No: 2:11-cv-01769-ECR-VCF

**DEFENDANT GEORGINA STUART'S
MOTION FOR SUMMARY JUDGMENT**

(IN CAMERA SUBMISSION OF EXHIBITS "B" – "E")

1 COMES NOW Defendant GEORGINA STUART, through her attorney, District Attorney
2 STEVEN B. WOLFSON, by Deputy District Attorney TIMOTHY BALDWIN, and Chief Deputy
3 District Attorney STEPHANIE A. BARKER, and submits this Motion for Summary Judgment in
4 accordance with Fed. R. Civ. P. 56(c), regarding Plaintiff's causes of action against Defendant
5 STUART.

6 This Motion is made and based upon the pleadings and papers on file herein, the attached
7 Affidavit of Defendant GEORGINA STUART, the certified records of the Clark County
8 Department of Family Services and the Eighth Judicial District Court Family Division-Juvenile,¹ the
9 following Points and Authorities, and the argument of counsel at the time of hearing in this matter.

10 DATED this 7th day of August, 2012.

11 STEVEN B. WOLFSON
12 DISTRICT ATTORNEY

13 By: 

14 TIMOTHY BALDWIN

15 Deputy District Attorney

16 State Bar No. 11048

17 STEPHANIE A. BARKER

18 Chief Deputy District Attorney

19 State Bar No. 3176

20 P. O. Box 552215

21 Las Vegas, Nevada 89155-2215

22 Attorneys for Defendant GEORGINA STUART

23
24
25 ¹ Records concerning a report of child abuse or neglect are declared confidential pursuant to NRS 432B.280. Pursuant to
26 NRS 432B.290(e), such records may be released by court order, after *in camera* inspection, when the court deems the
27 records necessary to a determination of an issue before it. **Filed simultaneously herewith is a Request for**
28 **Authorization to Release the records regarding the subject child abuse/neglect report. The subject records are**
provided to the Court, *in camera*, along with that Request. Pending receipt of Court authorization to release the
subject records, only the Court is provided with the related exhibits in this matter (Exhibits "B", "C", "D", and
"E"). The undersigned counsel will immediately supplement the record by providing the exhibits to all parties upon
receipt of court authorization for their release.

	<u>TABLE OF CONTENTS</u>	<u>Page</u>
1		
2	POINTS AND AUTHORITIES	4
3	I. SUMMARY OF PLAINTIFF'S CLAIMS	4
4	II. UNDISPUTED MATERIAL FACTS	4
5	III. SUMMARY OF DEFENDANT STUART'S POSITION	7
6	IV. LEGAL STANDARD FOR SUMMARY JUDGMENT	7
7	V. LEGAL ARGUMENT	8
8	A. Plaintiff's Claims, Both Federal and State, are Barred by Applicable Statutes	
9	of Limitation	8
10	B. STUART is Immune from Plaintiff's Suit	9
11	1. STUART has qualified immunity from Plaintiff's First and Second	
12	Causes of Action asserting civil rights violations	9
13	a. <i>STUART is entitled to immunity from and judgment on</i>	
14	<i>Plaintiff's First Cause of Action under 42 U.S.C. §1983</i>	
15	<i>because no Constitutional right has been violated</i>	11
16	b. <i>STUART is entitled to immunity from and judgment on</i>	
17	<i>Plaintiff's Second Cause of Action under 42 U.S.C. §1985(3)</i>	
18	<i>because there is no allegation or evidence of racial</i>	
19	<i>motivation</i>	12
20	2. STUART has absolute statutory immunity from Plaintiff's Third	
21	through Seventh Causes of Action asserting claims based in State	
22	law	13
23	a. <i>NRS 432B provides STUART with immunity from suit for</i>	
24	<i>investigation into a report of child abuse</i>	14
25	b. <i>NRS 41.032 provides STUART with immunity from suit for</i>	
26	<i>discretionary functions</i>	16
27	VI. CONCLUSION	17
28	EXHIBIT LIST	19
	CERTIFICATE OF SERVICE	20

POINTS AND AUTHORITIES

I. SUMMARY OF PLAINTIFF'S CLAIMS

Plaintiff MICHAEL FOLEY's Amended Complaint names Defendant Clark County Department of Family Services Child Protective Services investigator Georgina Stuart (hereinafter "STUART"), and other Defendants he believes have interfered with his relationship with his children. STUART is named in seven of Plaintiff's eight causes of action asserting both Federal and State causes of action as follows:

- 1) Violation of a Right to Free, Normal and Equal Access, Communication and Society with Children, Freedom from False Allegations of Abuse and Deprivation of Freedom
- 2) Conspiracy to Deprive Constitutional Rights in Violation of 42 U.S.C. § 1985(3)
- 3) Civil Conspiracy to Deprive, Defame, Defraud and Harm Plaintiff
- 4) Intentional Infliction of Emotional Distress
- 5) Intentional Misrepresentation (Fraud)
- 6) Defamation
- 7) False Light

Plaintiff's claims stem from a 2008 Clark County Department of Family Services (hereinafter "Family Services") investigation regarding Plaintiff's interaction with one or more of his children. Relevant to STUART, Plaintiff's Amended Complaint generally seeks compensatory and punitive damages as well as an award of attorney's fees and costs.

II. UNDISPUTED MATERIAL FACTS

The undisputed facts relevant to this motion, as testified to by STUART,² and evidenced by the certified Family Services records and the certified Eighth Judicial District Court Family Division-Juvenile (hereinafter "Juvenile Court") records,³ are:

² Exhibit "A" – Affidavit of Clark County Family Services Child Protective Services Investigator Georgina STUART.

³ The record of Family Services' interaction with a family following a report of abuse or neglect is kept in a software tracking program known as UNITY. As a matter of course and practice, STUART's interaction with Plaintiff's family, her investigation of the abuse report, and her assistance to the family was recorded in UNITY. STUART had no interaction with the family that is not reflected in either the UNITY Case Notes or the Juvenile Court record. See Exhibit "A" – Affidavit of STUART, p. 3, ¶¶ 15 & 16.

1 1. On October 18, 2008, the Family Services child abuse “Hot Line” received a report
2 that Plaintiff Michael Foley had abused his then 10-year-old daughter, identified by Plaintiff’s
3 pleadings in this matter as “T”.⁴

4 2. Defendant STUART was assigned to investigate the abuse report in the course and
5 scope of her employment as a Family Services Child Protective Services (CPS) investigator.⁵

6 3. STUART’s initial investigation included an attempted interview with Plaintiff,
7 interviews with Plaintiff’s wife Patricia, their three children (approximate ages 10, 8 and 4), the
8 paternal aunt, Michelle Pont, and Michelle’s spouse Jeffrey Pont. Through the course of her
9 investigation STUART subsequently had contact with collateral sources such as law enforcement
10 and the maternal grandmother residing in Mexico.⁶

11 4. As a result of the Family Services investigation and interaction with the Foley family,
12 on October 28, 2008, the children were taken into protective custody and placed with the natural
13 mother, Patricia Foley. The protective custody decision was not made by STUART, but rather was
14 made after case review by her supervisor Alexa Rodriquez, Rodriquez’s supervisor Assistant
15 Manager Lisa Reese, and CPS investigator Anita Flores-Yanez. Protective Custody was deemed
16 necessary because interaction with the Foley family on October 28, 2008, in combination with
17 STUART’s investigation, gave reasonable cause to believe that Michael Foley should be restricted
18 from access to his children due to safety concerns for the children.⁷

19 5. Approximately twenty-four (24) hours after the protective custody determination by
20 Family Services, on October 29, 2008, a Protective Custody Hearing was held in the Juvenile Court.
21 STUART testified at that hearing and provided the Court with the information she had gathered
22 during her investigation, as reflected in the UNITY Case Notes.⁸

23 6. The Juvenile Court pronounced its protective custody findings and order at the
24 October 29, 2008 hearing, finding that “continuation of residence in the home would be contrary to
25

26 ⁴ Exhibit “A” – STUART Affidavit ¶ 3; and Exhibit “B” – *In Camera Submission*: UNITY Child Protective Services
Report Summary October 18, 2008.

27 ⁵ Exhibit “A” – STUART Affidavit ¶¶ 2-4.

28 ⁶ Exhibit “A” – STUART Affidavit ¶ 5; Exhibit “C” – *In Camera Submission*: UNITY Case Notes CC001-002.

⁷ Exhibit “A” – STUART Affidavit ¶ 6; Exhibit “C” – *In Camera Submission*: UNITY Case Notes CC011-017.

⁸ Exhibit “A” – STUART Affidavit ¶¶ 7-8; Exhibit “C” – *In Camera Submission*: UNITY Case Notes CC017; and
Exhibit “D” – *In Camera Submission*: Protective Custody Findings and Order filed November 25, 2008, p. 1, ll. 17-20.

1 the welfare of the children”, and releasing the children “to the natural mother [Patricia], with father
2 [Michael] to have supervised contact pending further proceedings.”⁹

3 7. After completion of her investigation, on November 19, 2008, STUART submitted a
4 request that an Abuse/Neglect Petition be filed with the Juvenile Court by the Clark County District
5 Attorney – Child Welfare Division.¹⁰

6 8. On November 21, 2008, the Clark County District Attorney filed an Abuse/Neglect
7 Petition with the Juvenile Court.¹¹ The Petition asserted that the Plaintiff’s minor children were in
8 need of protection pursuant to NRS 432B based upon information that Plaintiff had both physically
9 and verbally abused his daughter “T”. The Petition requested that the Court set a hearing to
10 determine the need for protection of the minor children, and for the Court to take such further action
11 as it deemed proper under the circumstances presented by the Petition.¹²

12 9. After the Abuse/Neglect Petition was filed, STUART’s role with Family Services
13 was to work with the mother, Patricia, to maintain a safe custodial environment for the children, and
14 to assist with visitation between Plaintiff and the two younger children. In particular, she assisted
15 the Patricia in accessing community resources to enable her provide a stable home environment for
16 the children.¹³

17 10. In addition, as a result of a court ordered psychological evaluation of Plaintiff, on
18 November 26, 2008, STUART contacted the Family Services Clinical Department to request that
19 they refer Plaintiff to an appropriate mental health evaluator within the community, and thereafter
20 coordinated with Plaintiff’s attorney to attempt to facilitate completion of that assessment, including
21 a final referral to the Clinical Department on February 25, 2009.¹⁴

22 11. Because Plaintiff’s children remained placed with Patricia as their natural mother, on
23 February 5, 2009, the case was transferred to the Family Services “In-Home” Unit to continue
24 monitoring and assisting the family.¹⁵

25
26 ⁹ Exhibit “D” – *In Camera Submission*: Protective Custody Findings and Order filed November 25, 2008, p. 2, ll.21-25.

27 ¹⁰ Exhibit “A” – STUART Affidavit ¶ 9; and Exhibit “C” – *In Camera Submission*: UNITY Case Notes CC025-26.

28 ¹¹ Exhibit “E” – *In Camera Submission*: Petition-Abuse/Neglect, Electronically Filed November 21, 2008.

¹² *Id.*

¹³ Exhibit “A” – STUART Affidavit ¶ 10; and Exhibit “C” – *In Camera Submission*: UNITY Case Notes CC026-039.

¹⁴ Exhibit “A” – STUART Affidavit ¶ 11; and Exhibit “C” – *In Camera Submission*: UNITY Case Notes CC028-038.

¹⁵ Exhibit “A” – STUART Affidavit ¶ 12; and Exhibit “C” – *In Camera Submission*: UNITY Case Notes CC035-037.

1 12. After that date, STUART assisted the In-Home case worker on four occasions: On
2 February 13, 2009, to refer the children for counseling services; on February 24, 2009, to attempt to
3 determine if the family qualified for health insurance; on February 25, 2009 to refer the Plaintiff to
4 the Clinical Department to facilitate the court ordered psychological evaluation; and finally on
5 March 4, 2009, when she received and forwarded to the In-Home worker, a fax from Patricia
6 Foley's attorney regarding the gambling assessment of Patricia.¹⁶

7 13. March 4, 2009 was the date of STUART's last interaction with this Family Services
8 case. She has had no further contact with this family.¹⁷

9 14. Prior to the above-described Family Services investigation, STUART did not know
10 and had not had contact with either the Plaintiff or any member of the related family.¹⁸

11 **III. SUMMARY OF DEFENDANT STUART'S POSITION**

12 Two and one-half years after the date STUART last had contact with the Family Services
13 case involving Plaintiff's family, on November 4, 2011, Plaintiff filed a civil rights Complaint, in
14 *pro per*, initiating this federal court litigation. Plaintiff's Complaint was Amended on April 25,
15 2012. As to STUART, the facts alleged in both the Complaint and the Amended Complaint are
16 substantially the same, and the Causes of Action do not differ.

17 Plaintiff's Complaint as to STUART is barred by the statute of limitations and STUART is
18 protected by immunity for her good faith conduct in the investigation of the reported abuse.
19 Additionally, Plaintiff fails to state a violation of a federal right under 42 U.S.C. §1983, and does not
20 present a valid claim of discrimination under 42 U.S.C. §1985(3).

21 Accordingly, this Motion for Summary Judgment based upon the undisputed record of the
22 proceedings within Family Services and the Juvenile Court, is submitted.

23 **IV. LEGAL STANDARD FOR SUMMARY JUDGMENT**

24 Summary judgment is authorized by Rule 56 of the Federal Rules of Civil Procedure which
25 states that summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to
26 interrogatories, and admission on file, together with the affidavits, if any, show that there is no
27

28 ¹⁶ Exhibit "A" – STUART Affidavit ¶ 13; Exhibit "C" – *In Camera Submission*: UNITY Case Notes CC037-CC039.

¹⁷ Exhibit "A" – STUART Affidavit ¶ 14; Exhibit "C" – *In Camera Submission*: UNITY Case Notes CC039 et. seq.

¹⁸ Exhibit "A" – STUART Affidavit ¶ 2.

1 genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of
2 law.” Fed. R. Civ. P. 56(c). The purpose of summary judgment is to avoid unnecessary trial when
3 there is no dispute as to the material facts before the court. Northwest Motorcycle Ass’n v. U.S.
4 Dep’t of Agriculture, 18 F.3d 1468, 1471 (9th Cir. 1994). Summary judgment is proper if the
5 evidence shows that there is no genuine issue as to any material fact and that the moving party is
6 entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S.
7 317, 322 (1986). Summary judgment should be granted if the party opposing the motion has failed
8 to make a showing sufficient to establish an “essential element” of that party’s case regarding any
9 issue for which that party bears the burden of proof. Id. at 322-23. *See also* California Architectural
10 Bldg. Prod., Inc. v. Franciscan Ceramics, Inc., 818 F.2d 1466, 1468 (9th Cir. 1987), *cert. denied*, 484
11 U.S. 1006 (1988).

12 In the instant case, there are no material facts in dispute regarding the timing, nature and
13 purpose of the Family Services investigation by STUART. Accordingly, given the law which
14 governs the substance of Plaintiff’s claims, the time line for asserting them, and the immunities
15 provided to STUART, there is no genuine issue of fact for trial as to STUART and she is entitled to
16 judgment as a matter of law.

17 **V. LEGAL ARGUMENT**

18 **A. Plaintiff’s Claims, Both Federal and State, are Barred by Applicable** 19 **Statutes of Limitation.**

20 State law limitations periods govern Plaintiff’s federal causes of action brought pursuant to
21 42 U.S.C. §1983 and §1985. Taylor v. Regents of Univ. of California, 993 F.2d 710 (9th Cir. 1993)
22 (state law limitations period governs claims brought pursuant to 42 U.S.C. §1981, §1983, §1985 and
23 §2000d); Wallace v. Kato, 549 U.S. 384, 387 (2007) (the statute of limitations for a 42 U.S.C. §1983
24 claim is “that which the State provides for personal-injury torts”); Silva v. Crain, 169 F.3d 608, 610
25 (9th Cir. 1999) (courts considering §1983 claims should borrow the State’s general or residual statute
26 for personal injury actions).

27 ///

28 ///

1 In Nevada, personal injury tort actions are governed by a two-year statute of limitations
2 pursuant to NRS 11.190.

3 **NRS 11.190 Periods of limitation.** Except as otherwise
4 provided in NRS 40.4639, [Junior Mortgage Liens], 125B.050 [Child
5 Support Recovery], and 217.007 [Victim Claim to Proceeds of
6 Crime], actions other than those for the recovery of real property,
7 unless further limited by specific statute, may only be commenced as
8 follows:

9 . . .
10 4. Within 2 years:

11 . . .
12 (e) Except as otherwise provided in NRS 11.215
13 [damages arising from sexual abuse], an action to recover damages
14 for injuries to a person . . . caused by the wrongful act or neglect of
15 another.

16 Therefore, Plaintiff's State law claims, as well as his federal §1983 and §1985 claims, are
17 governed by a two-year limitation period. The applicable two-year statute of limitations bars both
18 Plaintiff's federal and state claims against STUART.

19 STUART's investigation into the report of child abuse by Plaintiff, commenced on October
20 18, 2008.¹⁹ STUART remained involved in the investigation of the report and the provision of
21 services to the family through March 4, 2009.²⁰ STUART's involvement with Plaintiff's Family
22 services case, and any contact with Plaintiff or his family, ended on March 4, 2009.²¹

23 Plaintiff initiated this suit on November 4, 2011 – two years and seven months after
24 STUART's last contact with the family or their Family Services case. Therefore, all of Plaintiff's
25 claims against STUART are time barred and summary judgment in STUART's favor is proper as to
26 all causes of action set forth in the Amended Complaint.

27 **B. STUART is Immune from Plaintiff's Suit.**

28 **1. STUART has qualified immunity from Plaintiff's First and Second Causes of Action asserting civil rights violations.**

29 STUART's involvement with Plaintiff was solely in her capacity as a Family Services Child
30 Protective Services investigator charged with investigating an allegation of abuse and neglect by

31 ¹⁹ Exhibit "A" – STUART Affidavit, ¶¶ 2-3; Exhibit "B" – *In Camera Submission*: UNITY Child Protective Services Report Summary October 18, 2008; and Exhibit "C" – *In Camera Submission*: UNITY Case Notes CC001-007.

32 ²⁰ Exhibit "A" – STUART Affidavit ¶ 14; Exhibit "C" – *In Camera Submission*: UNITY Case Notes CC039 et. seq.

33 ²¹ *Id.*

1 Plaintiff. STUART is entitled to qualified immunity from Plaintiff's civil rights allegations brought
2 pursuant to 42 U.S.C. §1983 and §1985.

3 The purpose of qualified immunity is to protect public officials "from undue interference
4 with their duties and from potentially disabling threats of liability." Harlow v. Fitzgerald, 457 U.S.
5 800, 806 (1982). Immunity considers that the interests of both the public official and society are
6 best served by shielding officials from liability in order to permit officials to carry out discretionary
7 functions without fear of harassing litigation. Harlow, supra, 457 U.S. at 814; *see also* Davis v.
8 Scherer, 468 U.S. 183, 195 (1984) (qualified immunity plays a critical role in striking the "balance .
9 . . between the interests in vindication of citizens' constitutional rights and in public officials'
10 effective performance of their duties"); and Devereaux v. Perez, 218 F.3d 1045, 1052 (9th Cir. 2000).

11 In the Ninth Circuit, social worker investigatory conduct with regard to abuse and neglect is
12 entitled to qualified, not absolute immunity. Beltran v. Santa Clara County, 514 F.3d 906 (9th Cir.
13 2008). The determination of whether qualified immunity shields the social worker from liability as a
14 public official requires inquiry regarding: 1) whether the facts, taken in the light most favorable to
15 the party asserting the injury, show that the official's conduct violated a constitutional right, and (2)
16 if so, whether the right was clearly established such that a reasonable person in the defendant's
17 position at the time would have understood that the conduct violated that right. Harlow v.
18 Fitzgerald, 457 U.S. 800, 817-18 (1982).

19 In 2009, the United States Supreme Court gave courts discretion to grant qualified immunity
20 on the basis of the "clearly established" prong alone, without deciding in the first instance whether
21 any right had been violated. Pearson v. Callahan, 555 U.S. 223, 236 (2009). Qualified immunity
22 operates to ensure that before they are subjected to suit, public officials are on notice that their
23 conduct is unlawful. Hope v. Pelzer, 536 U.S. 730, 739 (2002). Accordingly, the Court may grant
24 qualified immunity if either "the facts that plaintiff has alleged or shown [do not] make out a
25 violation of a constitutional right" or if "the right at issue was [not] 'clearly established' at the time
26 of defendant's alleged misconduct." Pearson, supra, 555 U.S. at 232 and 236. *See also* James v.
27 Rowlands, 606 F.3d. 646 (9th Cir. 2010).

28 ///

1 Plaintiff's allegations stem from STUART's investigation of a child abuse report against
2 Plaintiff. Without specific identification of any law making any of STUART's conduct in that
3 investigation unlawful, the undisputed facts establish that STUART has not engaged in conduct
4 which has violated a Constitutional right, and she is, therefore, entitled to immunity.

5 a. ***STUART is entitled to immunity from and judgment on Plaintiff's***
6 ***First Cause of Action under 42 U.S.C. §1983 because no***
Constitutional right has been violated.

7 Plaintiff's First Cause of action broadly asserts the "Violation of a Right to Free, Normal and
8 Equal Access, Communication and Society with Children, Freedom from False Allegations of Abuse
9 and Deprivation of Freedom."²² It appears from Plaintiff's form pleading that Plaintiff intends to
10 assert this First Cause of Action pursuant to 42 U.S.C. §1983.

11 42 U.S.C. §1983 allows a cause of action against any person who, acting under color of state
12 law, violates federal constitutional or statutory rights of another person. It provides in pertinent part:

13 Every person who, under color of any statute, ordinance, regulation,
14 custom, or usage, of any State or Territory or the District of Columbia,
15 subjects, or causes to be subjected, any citizen of the United States or
16 other person within the jurisdiction thereof to the deprivation of any
rights, privileges, or immunities secured by the Constitution and laws,
shall be liable to the party injured in an action at law, suit in equity, or
other proper proceeding for redress...

17 42 U.S.C. §1983. Although Plaintiff does not cite to a specific federal constitutional or federal
18 statutory violation, review of the allegations of Plaintiff's Amended Complaint reveals that the
19 allegations therein stem from the interruption of his contact with his children following a report of
20 abuse and neglect having been made to Family Services on October 18, 2008. Plaintiff's claim
21 appears directed at the interference with his contact with his children.

22 While the right to familial relationship is a fundamental right under the United States
23 Constitution, *see Lassiter v. Dep't Social Services*, 452 U.S. 18, 27 (1981), the right to family
24 integrity does not include a constitutional right to be free from child abuse investigations. *Hodge v.*
25 *Jones*, 31 F.3d 157, 164 (4th Cir. 1994). The State has a legitimate interest in curtailing the abuse
26 and neglect of its minor citizens. *Santosky v. Karmer*, 455 U.S. 745, 766 (1982). Plaintiff's First
27 Cause of Action must therefore fail, because in order to prevail on a §1983 claim, Plaintiff must
28

²² Plaintiffs Amended Complaint (DOC 55) Count One [First Cause of Action], p. 5.

1 show both that the conduct complained of was committed by a person acting under the color of state
2 law, and that the conduct deprived the plaintiff of a constitutional right. Parratt v. Taylor, 451 U.S.
3 527, 535 (1981), *see also* Long v. County of Los Angeles, 442 F.3d 1178 (9th Cir. 2006).

4 It is not disputed that STUART was acting under color of law when conducting the Family
5 Services abuse investigation. However, that conduct did not deprive Plaintiff of a constitutional
6 right because he has no constitutional right to be free from a child abuse investigation. Hodge v.
7 Jones, 31 F.3d 157, 164 (4th Cir. 1994). Therefore, summary judgment should be rendered in favor
8 of STUART on Plaintiff's First Cause of Action because she retains qualified immunity from suit
9 where no Constitutional right has been violated.

10 **b. *STUART is entitled to immunity from and judgment on Plaintiff's***
11 ***Second Cause of Action under 42 U.S.C. §1985(3) because there is***
no allegation or evidence of racial motivation.

12 Plaintiff's Second Cause of Action is asserted under 42 U.S.C. §1985(3), which provides:

13 **(3) Depriving persons of rights or privileges**

14 If two or more persons in any State or Territory conspire . . . for
15 the purpose of depriving, either directly or indirectly, any person . . .
16 of the equal protection of the laws, or of equal privileges and
17 immunities under the laws; . . . if one or more persons engaged therein
18 do, or cause to be done, any act in furtherance of the object of such
conspiracy, whereby another is injured in his person or property, or
deprived of having and exercising any right or privilege of a citizen of
the United States, the party so injured or deprived may have an action
for the recovery of damages occasioned by such injury or deprivation,
against any one or more of the conspirators.

19 In order to assert a claim under 42 U.S.C. §1985(3) Plaintiff must allege with particularity,
20 and then prove that the defendants conspired to carry out a deprivation of equal protection,
21 motivated by some *racial* or otherwise invidiously discriminatory animus. Griffin v. Breckenridge,
22 403 U.S. 88 (1971); Lopez v. Arrowhead Ranches, 523 F.2d 924, 926-28 (9th Cir. 1975); Arnold v.
23 Tiffany, 487 F.2d 216, 217-19 (9th Cir. 1973), *cert. denied* 415 U.S. 984 (1974). A §1985 claim is
24 not "intended to apply to all tortious, conspiratorial interferences with the rights of others," but only
25 to those which were founded upon "some racial, or perhaps otherwise class-based, invidiously
26 discriminatory animus." Briley v. California, 564 F.2d 849, 858 (9th Cir. 1977) *citing* Griffin, *supra*,
27 403 U.S. at 101-102. In the Ninth Circuit, a §1985(3) may extend "beyond race only when the class
28 in question can show that there has been a governmental determination that its members require and

1 warrant special federal assistance in protecting their civil rights.” Sever v. Alaska Pulp Corp., 978
2 F.2d 1529, 1536 (9th Cir. 1992).

3 Plaintiff herein has not properly asserted a claim under §1985(3). Plaintiff’s factual
4 allegations are extensive, approximately 123 paragraphs of primarily factual allegations in a 76 page
5 complaint. Even so, the Amended Complaint is void of any assertion that STUART’s investigation
6 was motivated by racial animus. At best, Plaintiff implies that STUART conspired with other
7 defendants in the child abuse investigation based on Plaintiff’s Catholic religion.²³ However, a
8 §1985(3) claim may not be based on religious animus. Briley v. California, 564 F.2d 849, 858-59
9 (9th Cir. 1977) (such a claim does not “include conspiracies motivated by religious, as opposed, to
10 racial animus”); Word of Faith World Outreach Center Church v. Sawyer, 90 F.3d 118, 124 (5th Cir.
11 1996) (“Essential to the [42 U.S.C. §1985(3)] claim, however, is that the conspiracy be motivated by
12 racial animus. We decline the Church’s invitation to extend the reach of section 1985(3) to include
13 conspiracies motivated by religious, as opposed, to racial animus.”); Kinniburgh v. Burlington
14 Northern Railroad, 568 F. Supp. 655, 657-58 (D. Mont. 1983) (plaintiff’s claim that he was the
15 victim of religious discrimination is not a subject of action under §1985(3)).

16 Plaintiff fails to state a claim against STUART under 42 U.S.C. §1985(3) and the underlying
17 record is void of any hint of racial animus.²⁴ STUART is entitled to judgment in her favor on
18 Plaintiff’s Second Cause of Action because she retains immunity from suit where no Constitutional
19 right has been violated.

20 **2. STUART has absolute statutory immunity from Plaintiff’s Third through**
21 **Seventh Causes of Action asserting claims based in State law.**

22 Plaintiff’s Third through Seventh Causes of Action assert State tort law claims against
23 Defendant STUART, specifically: (3) Civil Conspiracy to Deprive, Defame, Defraud and Harm
24 Plaintiff; (4) Intentional Infliction of Emotional Distress; (5) Intentional Misrepresentation (Fraud);
25 (6) Defamation; and (7) False Light. Pursuant to Nevada law, STUART is absolutely immune from
26 suit for these alleged torts.

27 ///

28 ²³ Plaintiff’s Amended Complaint (DOC 55), p. 46, ll. 8-11.

²⁴ Exhibit “C” – *In Camera Submission*: UNITY Case Notes.

1 *a. NRS 432B provides STUART with immunity from suit for*
2 *investigation into a report of child abuse.*

3 STUART is entitled to immunity from suit for her conduct of an investigation mandated by
4 Nevada law, specifically NRS 432B.300. In Clark County, Family Services is the agency which
5 provides child welfare services. See NRS 432B.325(1). As such, NRS 432B.300 mandates that
6 Family Services investigate reports of abuse or neglect as follows (emphasis added):

7 **NRS 432B.300 Determinations to be made from**
8 **investigation of report.** Except as otherwise provided in NRS
9 432B.260, an agency which provides child welfare services shall
10 investigate each report of abuse or neglect received or referred to it to
11 determine:

12 1. ...
13 2. Whether there is reasonable cause to believe any
14 child is abused or neglected or threatened with abuse or neglect, the
15 nature and extent of existing or previous injuries, abuse or neglect and
16 any evidence thereof, and the person apparently responsible;

17 ...
18 4. If there is reasonable cause to believe that a child is
19 abused or neglected, the immediate and long-term risk to the child if
20 the child remains in the same environment; and

21 5. The treatment and services which appear necessary to
22 help prevent further abuse or neglect and to improve the environment
23 of the child and the ability of the person responsible for the child's
24 welfare to care adequately for the child.

25 NRS 432B.330 defines when a child may be in need of protection to include:

26 **NRS 432B.330 Circumstances under which child is or may**
27 **be in need of protection.** A child is in need of protection if:

28 1. ...
29 (b) The child has been subjected to abuse or neglect by a
30 person responsible for the welfare of the child;

31 ...
32 Nevada's statutory mandate to investigate a report of abuse or neglect, to assess the safety of
33 a child's environment, to determine what services may be provided to prevent further abuse, and to
34 determine that a child is in need of protection, is accompanied by a blanket of immunity from civil
35 action. The child abuse investigator is immune from civil action as a result of actions taken in
36 furtherance of the investigatory mandate, and is presumed to be acting in good faith. Specifically,
37 NRS 432B.165 provides, in pertinent part, as follows (emphasis added):

38 ///

39 ///

40 ///

NRS 432B.160 Immunity from civil or criminal liability; presumption.

1. Except as otherwise provided in subsection 2, immunity from civil or criminal liability extends to every person who in good faith:

...

(h) Refers a case or recommends the filing of a petition pursuant to NRS 432B.380 [recommendation to file a petition for abuse or neglect]; or

(i) Participates in a judicial proceeding resulting from a referral or recommendation.

2. ...

3. In any proceeding to impose liability against a person for:

(a) Making a report pursuant to NRS 432B.220; or

(b) Performing any act set forth in paragraphs (b) to (i), inclusive, of subsection 1,

→ there is a presumption that the person acted in good faith.

STUART, as a person who investigated a report of abuse, recommended the filing of an abuse/neglect petition pursuant to NRS 432B.380, and participated in the judicial proceeding resulting from that referral, is presumed to have acted in good faith and is immune from civil liability.

The Nevada Supreme Court has confirmed that State actors engaged in the provision of child protective services pursuant to NRS 432B are entitled to quasi-judicial immunity when they provide information to a court pertaining to a child who is or may become a ward of the state. State v. Second Judicial Dist. Court (Ducharm), 118 Nev. 609, 55 P.3d 420 (2002). This immunity applies when the employee or the agency by which it is employed, acts as an arm of the court by providing their decision-making expertise to the court in forms such as, but not limited to, reports, case plans, testing evaluations and recommendations. Id., 118 Nev. at 618, 55 P.3d at 426.

The undisputed material facts in this case establish that STUART acted as an "arm of the court" when she investigated and then reported back to the Juvenile Court regarding the Family Services investigation into allegations of child abuse by Plaintiff. STUART is entitled to absolute quasi-judicial immunity in that regard. Therefore, STUART is entitled to summary judgment on the Third through Seventh Causes of Action in Plaintiff's Amended Complaint, all of which are Nevada State law claims based upon STUART's conduct as a child abuse investigator, in furtherance of her statutory duty.

b. NRS 41.032 provides STUART with immunity from suit for discretionary functions.

The Nevada Supreme Court has further extended discretionary immunity pursuant to NRS 41.032 to State actors engaged in the provision of child protective services. Foster v. Washoe County, 114 Nev. 936, 964 P.2d 788 (1998). More specifically, STUART's discretionary acts render her statutorily immune from Plaintiff's State causes of action pursuant to NRS 41.032, which provides:

NRS 41.032 Acts or omissions of officers, employees and immune contractors. Except as provided in NRS 278.0233 [land use restrictions] no action may be brought ... against an immune contractor or an officer or employee of the State or any of its agencies or political subdivisions which is:

1. Based upon an act or omission of an officer, employee or immune contractor, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, if the statute or regulation has not been declared invalid by a court of competent jurisdiction; or

2. Based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the State or any of its agencies or political subdivisions or of any officer, employee or immune contractor of any of these, whether or not the discretion involved is abused.

When looking to determine whether social service workers' decisions are entitled to discretionary immunity, the court must consider whether the acts in the course of their investigations involve numerous decisions or possible approaches. Foster, supra, 964 P.2d at 792. The Foster opinion recognized a discretionary act as one "which require[s] the exercise of personal deliberation, decision and judgment." Id. In Foster, the plaintiff alleged negligence against multiple defendants, including county and social service employees, related to their handling of a child sexual abuse investigation. In finding that the claim implicated discretionary functions and could not be maintained against county investigative employees, the Nevada Supreme Court specifically found that the investigation by county and social services employees into alleged child abuse, involved discretionary acts for which the employees were immune from liability.

The Foster opinion also discussed the public policy considerations militating in favor of immunity for child abuse investigations. The Court cited with favor to the case of Alicia T. v. County of Los Angeles, 222 Cal. App. 3d 869, 271 Cal. Rptr. 513 (1990), which involved allegations of negligence in the investigation of child abuse, and in the removal of a child from

1 parental custody. In relevant part, the Foster opinion restates the California Court of Appeals'
2 concern that a failure to grant absolute immunity to child protective workers arising from their
3 intervention to protect a child would:

4 . . . indirectly eliminate the protection afforded to children. The
5 state's interest in preventing child abuse will be diminished due to
6 fear of retaliatory suits. . . . Such a result negates the purpose of
7 child protective services by postponing prevention of further abuse
8 to avoid liability. . . .

9 It is necessary to protect social workers in their vital work
10 from the harassment of civil suits and to prevent any dilution of the
11 protection afforded minors. . . . Therefore, social workers must be
12 absolutely immune from suits alleging the improper investigation
13 of child abuse, removal of a minor from the parental home based
14 upon suspicion of abuse and the instigation of dependency
15 proceedings.

16 Foster v. Washoe County, 964 P.2d at 792, *quoting* Alicia T. v. County of Los Angeles, 222 Cal.
17 App. 3d 869, 271 Cal. Rptr. 513, 518 (1990) (*citing* Jenkins v. County of Orange, 212 Cal. App. 3d
18 278, 260 Cal. Rptr. 645, 650 (1989)).

19 There is no dispute that STUART investigated allegations of abuse by Plaintiff, submitted a
20 report to the Juvenile Court, and submitted to the District Attorney a request that a petition for
21 abuse/neglect be filed. STUART's actions were discretionary in furtherance of the investigation into
22 alleged child abuse, and were the kind of actions that discretionary immunity was meant to protect
23 as a matter of public policy in Nevada. STUART's discretionary actions were instigated by a report
24 of child abuse, and were grounded in governmental policy considerations for keeping children safe.
25 Her discretionary conduct is protected by absolute immunity and STUART is entitled to summary
26 judgment on the Third through Seventh Causes of Action in Plaintiff's Amended Complaint.

27 VI. CONCLUSION

28 Based upon the foregoing authority and the undisputed material facts before this Court,
STUART is entitled to judgment as a matter of law on all of Plaintiff's causes of action. STUART
respectfully requests that this Court grant her Motion for Summary Judgment as follows:

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///

///