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A.J., a 16-year-old foster child
Case No. 70119

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TRANSCRIPTS

Transcript Re: Motions & Objections,
Date of Hrg: 03/15/16..... 75-87

1 DTRANS

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Alfred J. Blum
CLERK OF COURT

3 **EIGHTH JUDICIAL DISTRICT COURT**

4 **JUVENILE DIVISION**

5 **CLARK COUNTY, NEVADA**

7 In the Matter of) CASE NO. J-15-337227-D4
8 A' JAH JORDAN,) DEPT. A
9 DOB 06/08/1999.)
10 _____)

11 BEFORE THE HONORABLE WILLIAM O. VOY, DISTRICT COURT JUDGE

12 TRANSCRIPT RE: MOTIONS & OBJECTIONS

13 TUESDAY, MARCH 15, 2016

14 APPEARANCES:

15 The Plaintiff: STATE OF NEVADA
16 For the Plaintiff: BRANDON L. LEWIS, ESQ.
17 Deputy District Attorney
18 601 North Pecos Road #470
Las Vegas, Nevada 89101
19 The Subject Minor: A' JAH JORDAN
20 For the Subject Minor: ALEX SPELMAN
21 MARY E. BERKHEISER, ESQ.
University Nevada Las Vegas
22 Boyd School of Law
4505 S. Maryland Parkway
Las Vegas, Nevada 89154
23 ALSO PRESENT: ESTHER BROWN
Embracing Project

1 LAS VEGAS, NEVADA

TUESDAY, MARCH 15, 2016

2 PROCEEDINGS

3 (THE RECORDING BEGAN AT 16:15:47.)

4 (AREAS DISCERNIBLE DUE TO SIMULTANEOUS SPEAKING.)

5 MR. LEWIS: ...on behalf of the State.

6 MR. SPELMAN: Alex Spelman, on behalf of subject minor
7 A'Jah Jordan, student attorney practicing under Supreme Court
8 Rule 49.5, supervised by Mary Berkheiser. Esther Brown is also
9 here, and our client A'Jah Jordan is up in Caliente in custody,
10 not present.

11 THE COURT: All right.

12 MR. SPELMAN: And we are here on a motion that we filed to
13 modify or vacate previous orders -- or terminate previous
14 orders.

15 Basically, as you remember, this case has been a long
16 chronicle. And what we have been worried about, this was
17 confirmed to us about four weeks ago, and A'Jah decided finally
18 to share what's been going on with her and explain her behavior
19 and explain to us very graphic details about a pimp that she's
20 been basically manipulated by and has been victimizing her and
21 exploiting her as a prostitute on the streets in Las Vegas.

22 So this was something that we feared was going on,
23 but now we confirmed it. And based on Nevada Law, AB153 that
24 just came out last year, hasn't even been added to the NRS yet,

1 but it is in effect, so it is very new. This just past two
2 months before A'Jah's first petition, which was for essentially
3 sex-trafficking behavior. So she was out on the streets.

4 The Declaration of Arrest talked about that they were
5 observing her soliciting cars and trying to beckon motorists
6 and talked to her. And eventually she confessed that she was
7 engaging in prostitution behavior.

8 And essentially what happened then was then the
9 petition was filed, it was filed for obstruction of an officer,
10 because she didn't originally give her name to the officer when
11 he was talking to her. She eventually did, of course. And
12 then she was adjudicated delinquent on that charge, and all the
13 -- essentially after that it was just her running away. So she
14 ended up in this court with four petitions, all related to her
15 victimization and sex trafficking.

16 So now that we know this information -- we understand
17 what's happened in the previous proceedings -- but now that we
18 know the information that we have, we're just asking This Court
19 to apply AB153, which says that girls who are the victims of
20 sex trafficking and get picked up for that activity are
21 supposed to be put under a Court's supervision and consent-
22 decree program with victim -- Victim Services, and that
23 specifically says that delinquency is not an option for these
24 girls. It was a unanimously-passed bill and it passed right

1 before A'Jah was picked up. And that is the motion, Your
2 Honor.

3 THE COURT: Okay.

4 Brandon.

5 MR. LEWIS: Yeah, Your Honor. Every part of that, AB153,
6 just for me to quickly, briefly for me to quote, it says that
7 if the District Attorney filed the petition with the Juvenile
8 Court alleging that a child who is less than eighteen years of
9 age has been engaged in prostitution or solicitation of
10 prostitution in Juvenile Court, and then it goes on a list what
11 must happen.

12 As stated by Defense Attorney, she was not charged
13 with prostitution. Petition 1 came out on obstructing, was
14 adjudicated on obstructing. VOP's (indiscernible) that she
15 stated she ran away from four different placements. I believe
16 first was St. Jude's, then she was placed at Child Haven.

17 THE COURT: Um-hmm (in the affirmative).

18 MR. LEWIS: There was one time when she was placed at a
19 Eagle Quest Home, and then most recently she was placed with
20 Mrs. Alvarez, who was a foster parent. She ran from there.
21 And that was Petition No. 4, which Your Honor adjudicated her
22 on, placed her at Spring Mountain -- or Caliente, rather.

23 Now, I know the motion that was filed alleges that
24 the District Attorney is somehow trying to circumvent AB153.

1 However, neither the Defense Attorney or the police agency can
2 direct the District Attorney how to file charges. She was
3 filed -- obstruction was filed, that's what she was adjudicated
4 on. They can't direct us to file solicitation and/or
5 prostitution. Oftentimes when these girls are brought before
6 Your Honor they adjudicate it on other charges so we don't
7 label them as prostitutes -- or prostitution charges rather. I
8 think Your Honor has done what's in this girl's best interest,
9 given the fact that she was running from every different
10 placement that we placed her at.

11 Being at Caliente she'll receive the service that she
12 needs, and it'll decrease the likelihood that she'll run.
13 She's two hundred some-odd miles out of Clark County --

14 THE COURT: It's actually only a hundred and forty, but --

15 MR. LEWIS: A hundred and forty. Thank you for the --
16 yeah, sixty off.

17 But she's far out of Clark County. So, again, it'll
18 decrease the likelihood that she'll run back to the lifestyle
19 that's victimizing her and that she'll stay put to receive the
20 services that Your Honor ordered her to receive.

21 So I think Your Honor's already done what's in her
22 best interest. I ask you not to disturb your previous orders,
23 terminate or modify them and keep them in place.

24 THE COURT: You mentioned when you first started that

1 something about her finally talking about her pimp. When did
2 that occur?

3 MR. SPELMAN: We submitted a declaration along with the
4 motion, and she --

5 THE COURT: I didn't get that far. And -- as for --

6 MR. SPELMAN: And that's --

7 THE COURT: -- the declaration. I'm sorry.

8 MR. SPELMAN: -- that's okay. Yeah, she --

9 THE COURT: I see that.

10 MR. SPELMAN: -- she essentially -- and I have -- I should
11 have a copy with me -- but essentially that was a -- really
12 just a few days before and then it was just however long it
13 took me to write the motion. But it's --

14 THE COURT: I see, yeah (indiscernible).

15 MR. SPELMAN: Yeah. So it was right -- I think she signed
16 it on the twenty-eighth, so it was -- or I'm sorry, twenty
17 third -- but it was a few days before we filed the motion in
18 February, so it was after she'd been committed. I mean, we
19 went to talk with her and, you know, and again, the -- her
20 behavior has been really hard to explain based on what we knew
21 before because everything had fallen into her lap, all the
22 great placements had been set up for her. And I was struggling
23 with this case trying to understand what was going on. And the
24 only -- finally we got an explanation that made sense to me.

1 In the declaration she had -- at the very end of it
2 she also has come forward willing to submit any physical
3 evidence that she has to corroborate it, including pictures she
4 has on her cell phone of her with the pimp engaged in sexual
5 acts. She described -- I mean, this stuff is in custody of Las
6 Vegas Metro, so it should still be on there.

7 THE COURT: Okay.

8 MR. SPELMAN: You know, so she's doing in her best to be
9 candid and honest.

10 THE COURT: (Indiscernible.) I just want to know one
11 other thing --

12 MR. SPELMAN: Yeah, so that's --

13 THE COURT: -- (indiscernible).

14 MR. SPELMAN: -- when it was.

15 MS. BERKHEISER: It was February 17th.

16 THE COURT: Okay.

17 MR. SPELMAN: February 17th?

18 MS. BERKHEISER: That's what Jen --

19 MR. SPELMAN: So that's when the --

20 THE COURT: Okay.

21 MR. SPELMAN: -- interview took place.

22 THE COURT: Okay.

23 MS. BERKHEISER: Yeah.

24 THE COURT: Well, let's just take a step back.

1 First of all, this is not a big shock. I mean, the
2 fact that she finally talked about the guy is one thing. But
3 we always know.

4 UNIDENTIFIED SPEAKER: Right.

5 THE COURT: I mean, this is not --

6 MS. BERKHEISER: Um-hmm (in the affirmative).

7 THE COURT: -- something new in our epifany has occurred.

8 UNIDENTIFIED SPEAKER: Sure enough.

9 THE COURT: The statute makes it really clear that -- and
10 this happens in other jurisdictions, also -- I mean, my
11 experience, most recently with kids coming from California and
12 (indiscernible) similar experience, is because of their so-
13 called Safe-Harbor Legislation.

14 But they've now learned that if they -- as soon as
15 they encounter law enforcement, it's the first thing they say
16 is my pimp's over there. Then they fall right into the
17 California statute and they go to the -- equivalent to DFS
18 side.

19 If they had a lot of cops, whatever, they'd go to the
20 Juvenile Justice thing.

21 We've had cases recently where that the DA has
22 charged, under the new statute, and we found in those cases per
23 the new statute. So from that surely technical standpoint,
24 your motion fails in that regard, because that's not what she

1 was adjudicated on.

2 MR. SPELMAN: Can --

3 THE COURT: That's not even what the petition was brought
4 for. Okay? We all know what she's involved in. And, quite
5 frankly, if you went and took a poll back in Detention on those
6 girls that don't come to my Wednesday morning calendar and they
7 were honest and sat and talked to you, you'd find out a lot
8 more of them are also involved, too. But --

9 MS. BERKHEISER: Um-hmm (in the affirmative).

10 THE COURT: -- that's just the experience that --

11 MR. SPELMAN: (Indiscernible.)

12 THE COURT: -- the little experience I've had over the
13 last decade.

14 MR. SPELMAN: Your Honor, my --

15 THE COURT: But --

16 MR. SPELMAN: -- at least to put it on the record, I think
17 the point of the Safe-Harbor Law was very clear. It was -- I
18 mean, the Legislative intent couldn't have been more clear. I
19 don't think --

20 THE COURT: Right.

21 MR. SPELMAN: -- that they intended to give the DA the
22 discretion --

23 THE COURT: All right.

24 MR. SPELMAN: -- of what to do with these girls.

1 THE COURT: Actually, they did, and that's what happened.

2 MR. SPELMAN: Well, there was no discussion of that in the
3 Legislative history.

4 THE COURT: Of the kids as in --

5 MR. LEWIS: Of the kids --

6 MR. SPELMAN: So --

7 MR. LEWIS: -- (indiscernible).

8 THE COURT: That's not the point. And this happens
9 (indiscernible) a point and experience in California, for
10 example, is that if kids get picked up just on a solicitation
11 charge, like we've had here in this community since the passage
12 of the new law, it's handled as Chin's.

13 MS. BERKHEISER: Um-hmm (in the affirmative).

14 THE COURT: And this is no different. She was not
15 adjudicated, and I've not seen the DA try to manipulate the
16 charging documents. Because I've had cases that come in here
17 where they could have charged other delinquent offenses, but
18 they went ahead with the solicitation charge, which is not on
19 the Chin's case.

20 So to say that the DA is trying to fort the new law
21 -- I haven't seen him practice, okay? Just so the record's
22 clear.

23 MR. SPELMAN: So, Your Honor, when she was first here on
24 Petition 1, it said, charges, allegation, solicitation of

1 prostitution.

2 THE COURT: I've got Petition --

3 MR. SPELMAN: So --

4 THE COURT: -- 1, obstruction.

5 MR. LEWIS: That's who (indiscernible) --

6 MR. SPELMAN: The petition that we're talking about --

7 MR. LEWIS: -- she referred on.

8 MS. BERKHEISER: This is --

9 MR. LEWIS: That's who (indiscernible) --

10 THE COURT: Well, that's what she was booked on.

11 MR. LEWIS: Well, the --

12 MS. BERKHEISER: That's what she was --

13 MR. LEWIS: -- (indiscernible).

14 MS. BERKHEISER: -- booked on, yeah.

15 THE COURT: Yeah.

16 MR. LEWIS: Booked on and referred on. I mean, those are

17 two --

18 THE COURT: Right. And that's not --

19 MR. LEWIS: -- different things that --

20 THE COURT: -- two different things.

21 MR. SPELMAN: I guess what we're arguing --

22 MR. LEWIS: Oftentimes --

23 MR. SPELMAN: I'm sorry.

24 MR. LEWIS: -- the petition --

1 THE COURT: The actual issue wasn't charged was
2 solicitation, it was a charge of prostitution over the last
3 decade --

4 UNIDENTIFIED SPEAKER: Correct.

5 THE COURT: -- and those charges don't -- we don't sustain
6 those charges anyways, just so you know. We've been doing that
7 --

8 MS. BERKHEISER: Right.

9 MR. LEWIS: Right.

10 THE COURT: -- for a decade.

11 MR. LEWIS: We always --

12 MS. BERKHEISER: Right. It's always --

13 MR. LEWIS: And, I mean --

14 MS. BERKHEISER: -- (indiscernible).

15 MR. LEWIS: -- those agencies always submit charges. They
16 submit -- they may submit seven and we may charge two out of
17 the seven, depending --

18 THE COURT: Um-hmm (in the affirmative).

19 MR. LEWIS: -- on our review of the file. We don't
20 necessarily have to charge the -- charges that they're booked
21 on. Oftentimes, I mean, some officers do things that aren't in
22 our best interests when they submit charges, so we can't charge
23 them, charge this and this. So we deny the case all
24 (indiscernible) altogether.

1 MS. BERKHEISER: UM-HMM (IN THE AFFIRMATIVE).

2 MR. LEWIS: So --

3 THE COURT: Okay, you guys.

4 At this point the -- I haven't -- I've made a
5 finding, when I originally decided finally to pull the plug and
6 send her to Caliente, which is that it was in her best interest
7 to be there. And there's not really of anything has changed in
8 my mind that changed my opinion that it's not still in our best
9 interest to the program up there.

10 If you look at her history and the history while
11 she's been under my jurisdiction, we've just been trying to
12 keep her alive.

13 So the motion is denied.

14 And we can go off the record for a second and I want
15 to tell you something else.

16 THE CLERK: We're off...

17 (THE RECORDING CONCLUDED AT 16:26:28.)

18 * * * * *

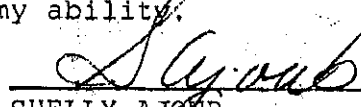
19 ATTEST: I do hereby certify that I have truly and
20 correctly transcribed the digital proceedings in the above-
entitled case to the best of my ability.

21

22

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SHELLY AJOUB,
TRANSCRIBER II

1
2
3 **IN THE SUPREME COURT OF THE STATE OF NEVADA**
4

5 A.J., a 16-year-old foster child,

S.C. No. 70119

6 Petitioner,

7 vs.

(D.C. No. J-15-337227-D/1/2/4)
(Department A, Courtroom 18)

8 The Eighth Judicial District Court of the
9 State of Nevada, Juvenile Division, in
10 and for the County of Clark, the
11 Honorable William O. Voy, District
Court Judge,

Respondent.

12 **PETITIONER'S SUPPLEMENTAL APPENDIX**

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18 Counsel for Respondent

19 **CERTIFICATE OF SERVICE**

20 I hereby certify that this document was filed electronically with the Nevada
21 Supreme Court on the 11TH DAY OF May, 2016. Electronic Service of the foregoing
22 document shall be made in accordance with the Master Service List as follows:

23 ADAM LAXALT
24 JONATHAN VANBOSKERCK
STEVEN S. OWENS

SUSAN ROSKE
HOWARD S. BROOKS

25 I further certify that I served a copy of this document by mailing a true and
26 correct copy thereof, postage pre-paid, addressed to: HONORABLE JUDGE WILLIAM
27 VOY, District Court, Juvenile Division, Dept. 18, 601 North Pecos, Las Vegas, NV
28 89101.

BY /s/ Carrie M. Connolly
Employee, Clark County Public Defender's Office