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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Parental Rights as to

SAMANTHA JAY LAWRENCE,
NIKKI RAE BROWN,
HEIDI RENEE BROWN,
WYATT CARL BROWN,

Minors.

Case No. D-15-510944-R
Department K
Courtroom 22 - JUDGE GIULIANI

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER TERMINATING PARENTAL RIGHTS**

The above-entitled matter came on for a Trial over the course of ten days, concluding on September 23, 2016. Present at the hearing were the Petitioners, the Department of Family Services ("DFS"), by and through Case Manager Maryte Tallent, and Clark County District Attorney STEVEN B. WOLFSON, by and through his Chief Deputy District Attorneys JANNE HANRAHAN and AMITY DORMAN. MICHAEL GOWDEY, ESQ., was present on behalf of Respondent mother, MELISSA LAWRENCE, who was present. ROBERT DRASKOVICH, ESQ., was present on behalf of Respondent father, DONALD EDWARD BROWN, who was present. AMY HONODEL, ESQ., was present on behalf of the subject minor Samantha Lawrence, and LAUREN CALVERT, ESQ., was present on behalf of the subject minors Heidi Brown, Nikki Brown and Wyatt Brown. The other parties whose parental rights were the subject of the Petition failed to appear either personally or through an attorney. All notices required by law and orders of this Court were served as proved by the pleadings on file herein.

Non-Trial Dispositions:

- | | |
|--|---|
| <input type="checkbox"/> Other | <input type="checkbox"/> Settled/Withdrawn: |
| <input type="checkbox"/> Dismissed - Want of Prosecution | <input type="checkbox"/> Without Judicial Conf/Hrg |
| <input type="checkbox"/> Involuntary (Statutory) Dismissal | <input type="checkbox"/> With Judicial Conf/Hrg |
| <input type="checkbox"/> Default Judgment | <input type="checkbox"/> By ADR |
| <input type="checkbox"/> Transferred | |
| <input type="checkbox"/> Disposed After Trial Start | <u>Trial Dispositions:</u> |
| | <input checked="" type="checkbox"/> Judgment Reached by Trial |

1 The State hereby submits the following Findings of Fact, Conclusions of Law and final Order
2 based on the Court's written Decision, filed on November 14, 2016, which is attached hereto and
3 incorporated herein by this reference, See Exhibit 1.

4
5 **FINDINGS OF FACT**

6 I

7 The Court has jurisdiction of the subject matter involved and of the parties.

8 II

9 SAMANTHA JAY LAWRENCE ("Samantha") was born on July 6, 1998, in Las Vegas, Clark
10 County, Nevada.

11 III

12 NIKKI RAE BROWN ("Nikki") was born on January 4, 2004, in Las Vegas, Clark County,
13 Nevada.

14 IV

15 HEIDI RENEE BROWN ("Heidi") was born on January 4, 2004, in Las Vegas, Clark County,
16 Nevada.

17 V

18 WYATT CARL BROWN ("Wyatt") was born on May 30, 2009, in Henderson, Clark County,
19 Nevada.

20 VI

21 SAMANTHA JAY LAWRENCE, NIKKI RAE BROWN, HEIDI RENEE BROWN, and
22 WYATT CARL BROWN currently reside in foster care in Clark County, Nevada, licensed by the Clark
23 County Department of Family Services.

24 VII

25 SAMANTHA JAY LAWRENCE, NIKKI RAE BROWN, HEIDI RENEE BROWN, and
26 WYATT CARL BROWN were adjudicated abused and/or neglected children and made Wards of the
27 Eighth Judicial Court, Juvenile Division, in Case No. J-14-319202-P2, and placed into the custody of
28 the Department of Family Services. SAMANTHA was placed into physical custody on January 8,

1 2014. NIKKI, HEIDI and WYATT were placed into physical custody on January 19, 2014. The Clark
2 County Department of Family Services has maintained legal custody of these children since August 13,
3 2014.

4 VIII

5 The birth certificate for SAMANTHA JAY LAWRENCE issued by the State of Nevada
6 Department of Human Resources, Division of Health, Section of Vital Statistics, lists the mother's
7 name as MELISSA DAWN LAWRENCE, and no father's name is listed. It is unknown if MELISSA
8 DAWN LAWRENCE, aka MELISSA DAWN BROWN, aka MELISSA BROWN, aka MELISSA D
9 BROWN, aka MELISSA LAWRENCE, aka MELISSA D LAWRENCE, aka MELLISSA D
10 LAWRENCE was married at the time of the birth of Samantha, and no person is the legally presumed,
11 legal or putative father of Samantha. The true identity of the natural father of Samantha is unknown and
12 he will be referred to as JOHN DOE.

13 IX

14 The birth certificate for NIKKI RAE BROWN issued by the State of Nevada Department of
15 Human Resources, Division of Health, Section of Vital Statistics, lists MELISSA DAWN BROWN,
16 *nee* LAWRENCE as the mother, and DONALD EDWARD BROWN is listed as the father. It is
17 unknown if MELISSA DAWN LAWRENCE, aka MELISSA DAWN BROWN, aka MELISSA
18 BROWN, aka MELISSA D BROWN, aka MELISSA LAWRENCE, aka MELISSA D LAWRENCE,
19 aka MELLISSA D LAWRENCE was married at the time of the birth of Nikki. Therefore, pursuant to
20 NRS 126.051, NRS 126.053, or NRS 126.161, DONALD EDWARD BROWN, aka DONALD
21 BROWN, aka DONALD E BROWN, aka DON BROWN, aka DONALD D BROWN is the legal or
22 legally presumed father of Nikki.

23 X

24 The birth certificate for HEIDI RENEE BROWN issued by the State of Nevada Department of
25 Human Resources, Division of Health, Section of Vital Statistics, lists MELISSA DAWN BROWN,
26 *nee* LAWRENCE as the mother and DONALD EDWARD BROWN is listed as the father. It is
27 unknown if MELISSA DAWN LAWRENCE, aka MELISSA DAWN BROWN, aka MELISSA
28 BROWN, aka MELISSA D BROWN, aka MELISSA LAWRENCE, aka MELISSA D LAWRENCE,

1 aka MELLISSA D LAWRENCE was married at the time of the birth of Heidi. Therefore, pursuant to
2 NRS 126.051, NRS 126.053, or NRS 126.161, DONALD EDWARD BROWN, aka DONALD
3 BROWN, aka DONALD E BROWN, aka DON BROWN, aka DONALD D BROWN is the legal or
4 legally presumed father of Heidi.

5 XI

6 The birth certificate for WYATT CARL BROWN issued by the State of Nevada Department of
7 Health and Human Services, Division of Health, Section of Vital Records, lists MELISSA DAWN
8 BROWN, *nee* LAWRENCE as the mother and DONALD EDWARD BROWN is listed as the father. It
9 is unknown if MELISSA DAWN LAWRENCE, aka MELISSA DAWN BROWN, aka MELISSA
10 BROWN, aka MELISSA D BROWN, aka MELISSA LAWRENCE, aka MELISSA D LAWRENCE,
11 aka MELLISSA D LAWRENCE was married at the time of the birth of Wyatt. Therefore, pursuant to
12 NRS 126.051, NRS 126.053, or NRS 126.161, DONALD EDWARD BROWN, aka DONALD
13 BROWN, aka DONALD E BROWN, aka DON BROWN, aka DONALD D BROWN is the legal or
14 legally presumed father of Wyatt.

15 XII

16 MELISSA DAWN LAWRENCE, aka MELISSA DAWN BROWN, aka MELISSA BROWN,
17 aka MELISSA D BROWN, aka MELISSA LAWRENCE, aka MELISSA D LAWRENCE, aka
18 MELLISSA D LAWRENCE (hereafter "MELISSA LAWRENCE"), DONALD EDWARD BROWN,
19 aka DONALD BROWN, aka DONALD E BROWN, aka DON BROWN, aka DONALD D BROWN
20 (hereafter "DONALD BROWN"), JOHN DOE, and any other persons claiming paternity of
21 SAMANTHA are necessary and proper parties to these proceedings.

22 XIII

23 ABANDONMENT – RELEVANT FACTS

24 JOHN DOE and any other person claiming paternity to Samantha Jay Lawrence have failed to
25 maintain regular contact with the child or with DFS for the last six months, and failed to provide support
26 for the child for at least the last six months. No person has come forward to claim paternity to this child.
27 Further, since the period of abandonment is in excess of six (6) months, it is presumed that JOHN DOE
28 and any other person claiming paternity to Samantha Jay Lawrence intended to abandon this child.

1 MELISSA LAWRENCE and DONALD BROWN maintained contact with DFS regarding their
2 children on a regular basis, even though a no-contact order from the criminal court was in place throughout
3 much of this case. MELISSA LAWRENCE and DONALD BROWN provided gifts when allowed to do
4 so, and did not exhibit any intent to abandon the children.

5 XIV

6 UNFITNESS – RELEVANT FACTS

7 Based on the testimony and evidence presented at trial, the Court finds that Samantha Lawrence
8 was abused both physically and mentally in the family home over a lengthy period of time and that the
9 faults, habit or conduct that resulted in the abuse have not been addressed through counseling or
10 therapy.

11 The Court finds that the family has a significant history of reports of abuse to CPS, beginning in
12 2008. Testimony by the DFS Custodian of Records Mari Parlade, Esq., indicated that fourteen reports of
13 suspicious injuries to the subject minor Samantha were called in by mandated reporters between March
14 2008 and December 2013. At the time of the report that opened the current case, Samantha had a black
15 eye as well as multiple bruises, loop marks and linear abrasions covering her back. Photos of those
16 injuries were admitted into evidence at trial. A physician who specializes in child abuse, Dr. Sandra
17 Cetl, M.D., testified at a related criminal hearing that the injuries to Samantha's back were of differing
18 ages, indicating more than one occurrence, and that the injuries to her back, at least, were inflicted by
19 abusive trauma. The transcripts of that hearing were admitted into evidence at trial by stipulation of all
20 parties.

21 Three of the four subject minors testified at trial. Samantha testified at length about the abuse by
22 Donald Brown, indicating that she was regularly hit in the back and face by Donald Brown, that he shot
23 her in the hand with a BB gun, that she was forced to stand on her head and do "wall-sits" for lengthy
24 periods of time as punishment, that Donald Brown threw a knife at her, causing a wound to her wrist,
25 that he broke her front teeth, restricted her food intake, forced her to clean excessively and pick weeds
26 in the yard as punishment, and regularly called her derogatory names. Samantha testified that the
27 injuries to her eye and back that were depicted in the photographs admitted as evidence were a result of
28 being hit and/or beaten with a belt by Donald Brown. She also testified that Donald Brown told the

1 children what to say to CPS when the agency responded to the home, in order to mislead investigators
2 about the cause of Samantha's injuries. Samantha stated that she lied about the cause of her injuries to
3 CPS because she was afraid she would be further abused by Donald Brown if she told the truth.

4 Heidi Brown testified that she had seen Samantha being hit by Donald Brown with a belt and a
5 spatula. She recalled that on one occasion, Donald Brown told Samantha to go to the garage and get him
6 something to hit her with and that Samantha came back with a pipe. Heidi's therapist testified that Heidi
7 talked about that event in therapy, and said that Donald was hitting Samantha with the pipe while the
8 other children ran into another room. Heidi also testified that Donald Brown knocked Samantha's teeth
9 out, and that her mother knew of the abuse to Samantha. Nikki Brown also testified that she had
10 witnessed Donald Brown hitting Samantha. The therapists for Samantha, Heidi and Nikki each testified
11 that their respective clients had talked in therapy about the ongoing abuse of Samantha in the home by
12 Donald Brown. The therapists indicated that all three girls had been diagnosed with PTSD, at least in
13 part as a result of the abuse they had experienced or witnessed in the family home.

14 At the beginning of the underlying "J" case, the parents pled no contest to a petition alleging that
15 Donald Brown physically abused Samantha and that Melissa Lawrence failed to protect Samantha from
16 the abuse. Both parents also pled no contest to having mentally abused Samantha. At the time the
17 parents entered their pleas, the State stipulated that any statements made by the parents to treatment
18 providers while addressing the abuse would not be used against them in the pending criminal trial.

19 Despite the no-contest pleas, both parents denied that Samantha was ever abused, and indicated
20 to DFS that she had caused the injuries to herself. The parents postulated that Samantha had mental
21 health issues that led her to injure herself and then blame Donald Brown for causing the injuries.
22 However, at trial the parents presented no evidence of any type of mental illness in Samantha, or any
23 propensity to harm herself. Samantha's therapist testified that Samantha had been evaluated by a
24 psychiatrist and had not been diagnosed with any serious mental illness other than PTSD, which she
25 sustained as a result of the abuse. The Court found Samantha credible when she testified about the
26 abuse. The Court found Nikki and Heidi credible as well, when they testified about witnessing the abuse
27 and about Melissa Lawrence's knowledge of it.

28 Both parents were provided with case plans for reunification. The primary requirement on both

1 case plans was acknowledgement of the abuse and its negative effect on all the children. Although both
2 parents testified that they had attended therapy, classes, and assessments as required by their case plans,
3 neither parent ever acknowledged that Samantha was abused, and both appear to continue to blame
4 Samantha for causing the abuse to herself. At trial, the State played recorded jail calls between the
5 parents from early in the case, and the calls indicated that both had an extremely negative view of
6 Samantha, characterizing her as lying, stupid, manipulative and a "killer kid." Melissa Lawrence stated
7 in the calls that Samantha was "lucky she wasn't in front of my fucking face" when Samantha wrote a
8 letter in which she listed the types of abuse she had suffered at Donald Brown's hands. Melissa
9 Lawrence also stated in other calls that Samantha "has the brain of a fucking peanut" and that she felt
10 "sorry for the poor sap that ends up with her." In contrast, the foster mother Jacqueline Wolff testified
11 that Samantha is a normal teenager, a good student who took honors classes, that she is not an
12 aggressive person and that she is protective of her siblings.

13 All parties stipulated to the admission of written reports regarding the therapy that was attended,
14 and those reports indicate that physical abuse was not addressed in therapy by either parent. Both
15 parents obtained physical abuse assessments from Red Rock Psychological Health, and both were found
16 to be at "high risk" for further physical abuse to occur in the home. Both were recommended to engage
17 in individual counseling to address their denial of the abuse. Both parents testified that they had
18 attended therapy at Healthy Minds. David Sanchez, Psy.D., LMFT, a therapist at Healthy Minds,
19 testified at trial and confirmed they had indeed participated in therapy there. David Sanchez testified
20 that in the course of his therapy sessions with Donald Brown, Donald Brown denied ever causing any
21 abuse to Samantha. Mr. Sanchez testified that he accepted Donald Brown's assertion as true.

22 Both parents also completed a course of ten sessions of individual therapy at ABC Therapy.
23 However, the Court finds that this therapy likewise did not address physical abuse. A Completion
24 Report from ABC Therapy that was submitted as evidence indicated that both parents discussed their
25 own issues regarding possible loss of rights to the children, but the report from ABC says nothing about
26 addressing triggers for abuse, protective capacity or coping skills, which were the elements of the
27 individual therapy recommended by the Red Rock assessment.

28 Based upon the testimony and evidence at trial, the Court finds factually that Samantha

1 Lawrence was physically and mentally abused over a period of years while in the care of Donald Brown
2 and Melissa Lawrence, and that the abuse negatively affected the lives of all the children. The Court
3 also finds that neither parent presented any evidence whatsoever at trial that Samantha had caused the
4 injuries to herself. The Court finds that physical abuse counseling was necessary for both parents to
5 address the likelihood of recurrence, and that neither parent engaged in such counseling. The Court
6 further finds, based on the testimony of the parents themselves, their therapist David Sanchez, and the
7 assessments and reports admitted at trial, that neither parent presented evidence of any behavioral
8 change since the beginning of the case.

9 Both parents invoked their Fifth Amendment privileges not to answer questions about the abuse,
10 due to the pending criminal cases. However, the Court finds that the State presented clear and
11 convincing independent evidence that the abuse occurred and that the parents failed to address it.
12 Additionally, the Court finds, based upon a certified copy of a Judgement of Conviction from San
13 Diego admitted at trial, that Donald Brown was previously convicted of felony manslaughter and
14 corporal punishment of a child in relation to the death of his infant child in the 1980s.

15 XV

16 FAILURE OF ADJUSTMENT – RELEVANT FACTS

17 The Court found Samantha was seriously physically and mentally injured by Donald Brown and
18 Melissa Lawrence throughout her childhood. During the course of this case, both parents did complete
19 some classes and therapy as required by their case plans; however neither parent has addressed their
20 denial of the abuse, what caused the abuse or how to prevent it from occurring in the future. The case
21 plans for both parents were submitted as evidence. Both case plans required the parents to acknowledge
22 the abuse and to develop an understanding of how the abuse affected all the children. As noted above,
23 the parents received assessments at Red Rock Psychological Health that determined they were at high
24 risk to re-offend and that they needed individual counseling to address their denial of the abuse. As
25 described in Section XIV, the counseling at Healthy Minds did not address physical abuse, nor did the
26 individual therapy that both received at ABC Therapy. Thus the Court finds that the conditions that
27 existed at the beginning of the case had not changed substantially by the time of trial.

1
2 XVI

3 RISK OF SERIOUS PHYSICAL, MENTAL OR EMOTIONAL INJURY –

4 RELEVANT FACTS

5 The testimony of the three children, their therapists and Dr. Sandra Cetl indicated that the abuse
6 occurred and that it had a negative effect on all the children. The testimony and evidence regarding the
7 parents' participation in their case plans indicated that the threat of abuse had not been mitigated by
8 counseling. The Court considered the fourteen separate calls to the DFS Hot Line, received from
9 mandated reporters regarding injuries to Samantha that were suspicious for abuse. The Court finds that
10 despite the multiple instances of intervention by CPS over a period of years that should have served as
11 notice to the parents that something was wrong in their home, the parents had never made any effort to
12 change or remedy conditions in the home. The Court also considered the photographs of the injuries to
13 Samantha's back and eye that were admitted as evidence, and Dr. Cetl's testimony that the injuries were
14 caused by abuse. The Court also considered the prior conviction of Donald Brown for
15 Manslaughter in the death of his infant daughter.

16 The Court found the parents' theory that Samantha is mentally ill and caused the injuries to
17 herself not credible, and found that, even if such a theory were to be believed, the parents made no
18 effort whatsoever to obtain any help for Samantha's alleged mental health issues despite multiple
19 investigations by CPS over a period of five-plus years. Melissa Lawrence and Donald Brown presented
20 no evidence at trial that Samantha caused her own injuries, although they did elicit some testimony
21 about injuries that Samantha sustained in foster care. Jacqueline Wolff, the foster mother for the subject
22 minors, testified that Samantha had received some documented injuries while in her care from being
23 involved in soccer and football at school, and from a bike accident that occurred in the presence of
24 several other people. The children testified about the bike accident as well, and Samantha also testified
25 that she had been injured while playing goalie in soccer. Those injuries were not considered suspicious
26 for either abuse or self-harm by any medical personnel or other mandated reporters who saw or treated
27 them.

28 As described in Section XIV, the Court finds that neither parent acknowledged that the abuse

1 occurred or formulated a plan to keep it from happening again.

2 XVII

3 TOKEN EFFORTS – RELEVANT FACTS

4 With regard to efforts made by the parents, the Court finds that Donald Brown and Melissa
5 Lawrence did engage in multiple services such as assessments, counseling and classes, but the services
6 that the parents engaged in did not directly address physical abuse and did not result in the behavioral
7 changes necessary to protect these children from future abuse. The case plans for both parents required
8 them to acknowledge the abuse that had occurred in the home and to understand the effect it had on all
9 the children. Both parents sat through counseling, assessments and classes, but the therapy they sought
10 out was not designed to assist them in understanding the dynamics of abuse and preventing its
11 recurrence, even though they were made aware that those were the subjects that needed to be addressed.
12 The evidence presented at trial indicates their efforts at obtaining therapy did not address physical abuse
13 as to Samantha.

14 XVIII

15 PRESUMPTIONS – RELEVANT FACTS

16 The Court finds that Samantha, Nikki, Heidi and Wyatt have remained out of the home for more
17 than 14 of the previous 20 months. The children had remained outside the parents' care for 30 months at
18 the start of trial. Neither parent was able to demonstrate any behavioral change after 30 months. Neither
19 parent produced any evidence that they had specifically addressed physical abuse in therapy at any time
20 during the 30 months the case was open, despite receiving a stipulation from the State that any
21 statements to treatment providers regarding the abuse would not be used against them in the criminal
22 matter. Based on the lack of behavioral change over a period of 30-plus months, the Court finds there
23 could be no reunification of this family in the near future.

24 XIX

25 BEST INTEREST – RELEVANT FACTS

26 The children have been out of the home for more than 30 months and have become bonded to
27 and an integral part of the family in their foster home. The foster mother testified that the children are
28 thriving, that they are doing well in school, that their relationship with one another has become less

1 strained and that they are integrated into her family as full-fledged members. Nikki and Heidi testified
2 that they would like to go home to their parents; however, both girls stated that if they were to go home,
3 they would want things to be different, with no more violence between the parents, and no more
4 violence directed at Samantha or anyone else. The evidence presented at trial, however, indicated by a
5 clear and convincing standard that physical abuse has not been addressed since the case opened such
6 that the parents could provide a home for the children that was free from violence.

7 XX

8 Any finding of fact construed to constitute a conclusion of law is hereby adopted as a conclusion of
9 law to the same effect as if it had been so designated.

10 **CONCLUSIONS OF LAW**

11 I

12 The Court has jurisdiction of the subject matter and of the parties pursuant to NRS 128.020.

13 II

14 MELISSA DAWN LAWRENCE is the natural mother of SAMANTHA JAY
15 LAWRENCE, NIKKI RAE BROWN, HEIDI RENEE BROWN, and WYATT CARL BROWN. The
16 true identity of the father of SAMANTHA JAY LAWRENCE is unknown. DONALD EDWARD
17 BROWN is the legal or legally presumed father of NIKKI RAE BROWN, HEIDI RENEE BROWN, and
18 WYATT CARL BROWN.

19 III

20 As defined in NRS 128.012, JOHN DOE and all other persons claiming paternity to Samantha Jay
21 Lawrence have abandoned Samantha in that, for at least six (6) months, they have conducted themselves in
22 a manner that evinces a settled purpose to forego all parental custody and relinquish all claims to this
23 child. JOHN DOE and any other person claiming paternity have failed to maintain regular contact with the
24 child or with DFS for the last six months, and failed to provide support for the child for at least the last six
25 months. No person has come forward to claim paternity to this child. Further, since the period of
26 abandonment is in excess of six (6) months, it is presumed that JOHN DOE and any other person claiming
27 paternity to Samantha Jay Lawrence intended to abandon this child.
28

1 MELISSA LAWRENCE and DONALD BROWN did not indicate any intent to abandon the
2 subject minors, and in fact did not abandon them. Melissa Lawrence and Donald Brown maintained
3 whatever contact with the children they were allowed by the criminal court.

4 IV

5 Pursuant to NRS 128.105(1)(b)(3), MELISSA LAWRENCE and DONALD BROWN are unfit
6 parents in that they have, by reason of their faults, habits or conduct, failed to provide SAMANTHA
7 JAY LAWRENCE, NIKKI RAE BROWN, HEIDI RENEE BROWN, and WYATT CARL BROWN
8 with proper care, guidance and support. The facts adduced at trial, as described above in Section XIV,
9 provided clear and convincing evidence that subject minor Samantha was physically and mentally
10 abused by Donald Brown over a period of years from 2008 to 2013, and that Melissa Lawrence knew of
11 the abuse and failed to intervene to stop it. The facts adduced at trial, as described above in Section
12 XIV, also provided clear and convincing evidence that the effect of the abuse on the other children was
13 detrimental to their mental health. The facts adduced at trial, as described above in Section XIV, also
14 provided clear and convincing evidence that neither parent had addressed the abuse in therapy as
15 required by their case plans, despite a stipulation by the State that no statements to treatment providers
16 for the purpose of reunifying the family would be used against them in the pending criminal trial.

17 Donald Brown and Melissa Lawrence were the subjects of multiple CPS investigations in a
18 period of five-plus years, and were therefore on notice that something was seriously wrong in their
19 household, yet neither parent made any effort to obtain relevant counseling for themselves or their
20 children to change things in any other way, even after the children were removed from their care and
21 they were issued case plans for reunification. Thus, they indicated that they had no intention of
22 correcting the faults, habits or conduct that prevented them from providing the subject minors with
23 proper care, guidance and support in the first place. Therefore, the Court finds that the parental fault
24 ground of unfitness applies to the detriment of Melissa Lawrence and Donald Brown.

25 In considering unfitness, the Court also weighed the factors outlined in NRS 128.106(1)(f) and
26 (1)(g). Donald Brown was previously convicted of felony Voluntary Manslaughter and Corporal
27 Punishment of a Child in relation to the death of his biological infant daughter. The facts of that crime –
28 causing the abuse and death of a child – are “of such a nature as to indicate the unfitness of the parent to

1 provide adequate care and control to the extent necessary for the child's physical, mental or emotional
2 health and development," as outlined in NRS 128.106(1)(f). Combined with the evidence of the abuse
3 of Samantha and with the evidence that no treatment was ever obtained to address physical abuse of a
4 child, Donald Brown is found to be an unfit parent pursuant to the above statutes as well.

5
6 V

7 Pursuant to NRS 128.105(1)(b)(4), MELISSA LAWRENCE and DONALD BROWN have
8 failed within a reasonable period of time to remedy substantially the conditions which led to placement
9 of the subject minors outside the home, even though appropriate and reasonable efforts were made on
10 the part of DFS to reunite the family while the permanency goal remained reunification. Both parents
11 were provided with case plans for reunification, but neither parent complied with the primary
12 requirements of the case plans, that they acknowledge that Samantha was abused and demonstrate an
13 understanding of how the abuse negatively affected all the children. Because neither parent
14 acknowledged the abuse, neither parent ultimately was able to demonstrate the insight or behavioral
15 change necessary to assure the safety of the children in the future, even though they had more than a
16 "reasonable" period of time to do so. Therefore, the circumstances, conduct and conditions that led to
17 removal were not changed or remedied, and the parental fault ground of failure of adjustment applies to
18 the detriment of Melissa Lawrence and Donald Brown.

19 VI

20 Pursuant to NRS 128.105(1)(b)(5), MELISSA LAWRENCE and DONALD BROWN pose the
21 risk of serious physical, mental or emotional injury to SAMANTHA JAY LAWRENCE, NIKKI RAE
22 BROWN, HEIDI RENEE BROWN, and WYATT CARL BROWN if they were to be returned to their
23 parent or parents. After observing the demeanor and credibility of the witnesses at trial over a period of
24 ten days and weighing the evidence presented, the Court found that Samantha Lawrence was physically
25 abused over a period of years by Donald Brown, that Melissa Lawrence knew of the abuse, and that
26 neither Donald Brown nor Melissa Lawrence had addressed the physical abuse. The parents presented
27 no evidence whatsoever to support their theory that Samantha caused the injuries to herself. Although
28 the parents were hampered in their testimony by invocation of their Fifth Amendment rights, the Court
found the State presented sufficient independent evidence that the abuse occurred and that the parents

1 failed to address the abuse in therapy. Because there was severe, ongoing abuse in the home for a period
2 of years, and because that issue has not been addressed or remedied by either parent, the risk of further
3 serious physical, mental or emotional injury to the subject minors remains. Therefore, this fault ground
4 applies to the detriment of Melissa Lawrence and Donald Brown.

5 VII

6 Pursuant to NRS 128.105(1)(b)(6), MELISSA LAWRENCE and DONALD BROWN have
7 made only token efforts to avoid being unfit parents and to eliminate the risk of serious physical, mental
8 and emotional injury to SAMANTHA JAY LAWRENCE, NIKKI RAE BROWN, HEIDI RENEE
9 BROWN, and WYATT CARL BROWN. The evidence presented at trial indicated that both parents
10 attended assessments, classes and therapy during the course of this case, but that neither parent ever
11 acknowledged that Samantha was abused. Despite the number of services the parents attended, none
12 was aimed at addressing the ongoing, severe abuse of Samantha in their household or at preventing a
13 recurrence, which was the primary objective of their respective case plans for reunification. The number
14 of services is irrelevant if none of them is engaged for the purpose of making true behavioral change.
15 The Court finds the parents engaged in mere token efforts to avoid neglect, to avoid being unfit parents
16 and to eliminate the risk of serious physical, mental or emotional injury to the children; thus this fault
17 ground applies to their detriment.

18 VIII

19 The presumptions of NRS 128.109(1)(a) and (2) apply to the detriment of MELISSA
20 LAWRENCE and DONALD BROWN. SAMANTHA, NIKKI, HEIDI, and WYATT have remained
21 out of the home for more than 14 of the previous 20 months; thus, the Court presumed that MELISSA
22 LAWRENCE and DONALD BROWN demonstrated only token efforts to care for the subject minors,
23 pursuant to NRS 128.109(1)(a). Based on the time elapsed, the Court also presumed that termination of
24 parental rights is in the best interest of the subject minors, pursuant to NRS 128.109(2). The subject
25 minors had remained outside the home for 30 months by the start of the trial. At that point, the burden
26 was on the parents to show that the presumptions had been rebutted. The Court finds that Melissa
27 Lawrence and Donald Brown failed to rebut the presumptions. At trial, both parents invoked their Fifth
28 Amendment privilege to refrain from answering questions about the abuse due to the pending criminal

1 case, as is their right. However, the Court finds that the State presented ample independent evidence
2 that the abuse occurred and that it was not addressed sufficiently in therapy. Neither parent presented
3 evidence to support their theory that Samantha caused the injuries to herself, nor did they present
4 evidence of any good reason as to why they could not address the primary objective of their case plans
5 in the 30-plus months that their children remained in foster care. Based upon the severity and repetitive
6 nature of the abuse, along with the fact that neither parent demonstrated the insight or behavioral change
7 necessary to protect the children from future abuse, there is no evidence that the children could reunify
8 with their parents in the near future. Therefore, the time presumptions apply to the detriment of Melissa
9 Lawrence and Donald Brown.

10 IX

11 The Court finds that the Petitioner has proved by clear and convincing evidence that the interests
12 of Samantha, Nikki, Heidi and Wyatt would be best served by the termination of the parent-child
13 relationship absolutely and forever. In making the finding as to the children's best interest, the Court
14 considered the children's "continuing need for proper physical, mental and emotional growth and
15 development," as required by NRS 128.005(2)(c). The Court also considered the requirements of NRS
16 128.105(1) and (2), 128.107 and 128.108, taking into account the current placement of the children, the
17 ages of the children and the developmental, cognitive and psychological needs of the children. The
18 children are in a foster home that is an adoptive resource. Testimony at trial indicated the children are
19 bonded to the foster family, integrated as family members, and thriving in their care. These children need a
20 stable, loving home, free from physical and emotional abuse. Although Heidi and Nikki testified that they
21 wanted to return to their parents, both indicated that if they were to return to their home, they would want
22 it to be free from the violence that was present prior to their removal. The evidence presented at trial
23 indicated that the parents could still not provide such a home after 30 months of involvement with DFS,
24 while the foster family has provided them a safe, loving environment for more than two years. The foster
25 mother, Jacqueline Wolff, testified at trial that she and her husband are willing to continue to do so until
26 the children reach the age of 18. Therefore, it is in the children's best interest for parental rights to be
27 terminated and to be adopted by the foster family.

XI

Petitioner has proved by clear and convincing evidence that the parental rights of MELISSA LAWRENCE, DONALD BROWN, JOHN DOE, and all other persons claiming paternity of SAMANTHA should be terminated as to all the subject minors, and the subject minor children should be declared free from the custody, care and control of the parents, based upon parental fault and best interest of the children.

XII

Any conclusion of law construed to constitute a finding of fact is hereby adopted as a finding of fact to the same extent as if it had been so designated.

ORDER AND DECREE

In view of the foregoing Findings of Fact and Conclusions of Law, it is hereby

ORDERED, ADJUDGED AND DECREED that the parental rights of MELISSA DAWN LAWRENCE, aka MELISSA DAWN BROWN, aka MELISSA BROWN, aka MELISSA D BROWN, aka MELISSA LAWRENCE, aka MELISSA D LAWRENCE, aka MELLISSA D LAWRENCE, DONALD EDWARD BROWN, aka DONALD BROWN, aka DONALD E BROWN, aka DON BROWN, aka DONALD D BROWN, JOHN DOE, and all other persons claiming paternity of SAMANTHA JAY LAWRENCE are terminated absolutely and forever as to the subject minors SAMANTHA, NIKKI, HEIDI and WYATT; it is further

ORDERED, ADJUDGED AND DECREED that SAMANTHA JAY LAWRENCE, NIKKI RAE BROWN, HEIDI RENEE BROWN, and WYATT CARL BROWN are declared free from the custody and control of MELISSA DAWN LAWRENCE, aka MELISSA DAWN BROWN, aka MELISSA BROWN, aka MELISSA D BROWN, aka MELISSA LAWRENCE, aka MELISSA D LAWRENCE, aka MELLISSA D LAWRENCE, DONALD EDWARD BROWN, aka DONALD BROWN, aka DONALD E BROWN, aka DON BROWN, aka DONALD D BROWN, JOHN DOE, and all other persons claiming paternity of SAMANTHA JAY LAWRENCE; it is further

ORDERED, ADJUDGED AND DECREED that the custody and control of SAMANTHA JAY LAWRENCE, NIKKI RAE BROWN, HEIDI RENEE BROWN, and WYATT CARL BROWN are

1 vested in the Department of Family Services of the State of Nevada with authority to place the minor
2 children for adoption; it is further


3 **ORDERED, ADJUDGED AND DECREED** that the County of Clark pay the costs and expenses
4 in connection with this proceeding particularly including the costs of publication of notice heretofore
5 ordered by this Court and such Findings of Fact and Recommendations are hereby made an Order of the
6 Eighth Judicial District Court of Nevada, Juvenile Division.

7
8 Dated this 14th day of December, 2016.

9
10 
11 **DISTRICT COURT JUDGE** *mb*

12
13
14 Submitted by:

15 **STEVEN B. WOLFSON**
16 District Attorney

17 
18 By: **JANNE HANRAHAN**
19 Chief Deputy District Attorney
20 Juvenile Division
21 Nevada Bar No. 9053
22 601 N. Pecos Road, #470
23 Las Vegas, NV 89101
24 (702) 455-5320

25 JH/ha/trr
26
27
28

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION - JUVENILE
CLARK COUNTY, NEVADA


CLERK OF THE COURT

In the Matter of the Parental Rights as to:

SAMANTHA LAWRENCE,
NIKKI RAE BROWN,
HEIDI RENEE BROWN,
WYATT CARL BROWN,
Minors.

CASE NO: D-15-510944-R
DEPT. NO. K
COURTROOM 22

DECISION

Trial for the underlying Petition to Terminate Parental Rights in this matter was conducted over the course of over ten days, concluding on September 23, 2016. Present at the Trial were the Petitioners, the Department of Family Services ("DFS"), by and through the case worker Maryte Tallent ("Maryte") represented by Deputy Clark County District Attorney's Janne Hanrahan and Amity Dorman. The Respondent mother, Melissa Lawrence ("Melissa"), was present and represented by her attorney, Michael Gowdey, Esquire. The Respondent father, Donald Brown ("Donald"), was present and represented by his attorney, Robert Draskovich, Esquire. The subject minors, Samantha Lawrence ("Samantha"), born on July 6, 1998, was represented by her Court Appointed Attorney, Amy Honodel. Heidi Brown ("Heidi"), born on January 4, 2004, Nikki Brown ("Nikki"), born on January 4, 2004, and Wyatt Brown ("Wyatt"), born on May 30, 2009, were represented by their Court Appointed Attorney, Lauren Calvert. At the conclusion of the Trial, the matter was taken under advisement to enable the Court to fully consider the evidence presented. Having considered the evidence that was received in this case; the

1 Court finds that the requisite legal basis to terminate the parental rights of Melissa
2 Lawrence and Donald Brown has been met.

3
4 The subject minors were initially brought into protective custody on January 8,
5 2014. This family has a significant history with CPS beginning in 2008. There have been
6 fourteen different mandated reports of abuse. At the time of removal in January of 2014,
7 Samantha Lawrence had many severe belt marks, linear in shape of differing ages on her
8 back and a black and blue eye. The parents have denied abuse in the home. On July 30,
9 2014, Melissa and Donald entered a plea of no contest to a Third Amended Petition.¹ The
10 state agreed that anything divulged during the course of any recommended treatment shall
11 not be used against the parents should any criminal charges exist or arise out of these
12 allegations. Testimony was taken from three of the children, including Samantha, Nikki
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15 ¹ On July 30, 2014, the parents pled no contest to a Third Amended Petition. The Third
16 Amended Petition was filed on August 12, 2014 in Case No. J-14-319202-P2 and states in relevant
17 part as follows:

18 (c) In December 2013, the subject minor Samantha was found to have injuries that were
19 characterized as "definite abuse" by a physician specializing in child abuse; the injuries included
20 bruising and/or abrasions and/or loop marks and/or linear marks of differing ages to her back; the
21 injuries were such that they could not have occurred without a deliberate but unreasonable act or
22 failure to act by the person or persons responsible for the subject minor's welfare; see NRS
23 432B.450;

24 (d) In December 2013, Donald Brown physically abused the subject minor Samantha by hitting
25 and/or striking and/or beating her with a belt and/or other object and/or his hands, resulting in
26 the injuries described above;

27 (e) Over the course of the past six years, CPS has been called to the home on multiple occasions as
28 a result of reports of injuries to Samantha;

(f) Donald Brown mentally injured the subject minor Samantha by causing her to experience
extreme fear, anxiety and emotional distress related to the ongoing physical abuse;

(g) Melissa Lawrence failed to protect Samantha despite her knowledge of the ongoing physical
abuse by Donald Brown;

(h) Melissa Lawrence mentally injured the subject minor Samantha by failing to obtain counseling
and/or therapy for her to address the severe emotional distress caused by the ongoing physical
abuse by Donald Brown;

(i) The subject minors Heidi, Nikki and Wyatt are deemed to be unsafe in the home due to the
ongoing abuse of Samantha pursuant to NRS 432B.330 (1)(c);

(j) Donald Brown is presumed to be an unfit caregiver for the subject minors pursuant to NRS
432B.555; Donald Brown was convicted of felony manslaughter and Corporal Punishment of a
child in relation to the death of his infant child in the 1980's.

1 and Heidi. Testimony was also taken from Dr. Sandra Cetl, a pediatrician who evaluates
2 concerns of child physical abuse and sexual abuse, regarding the physical injuries to
3 Samantha.
4

5 Due to neither parent taking responsibility for the abuse that the oldest child
6 Samantha sustained during the pendency of the juvenile case, DFS has not been able to
7 reunify the children with either parent. The children have been under the care of the Court
8 for over 30 months. The children have languished in foster care since their removal. A
9 Termination of Parental Rights petition was filed against both parents on March 6, 2015.
10 The State must establish by clear and convincing evidence that parental fault exists and
11 that the children's best interest would be served by termination of parental rights.
12

13 The Court finds that Melissa and Donald have not abandoned the children as
14 defined in NRS 128.012 as they have made sufficient efforts to communicate and visit
15 with the minor children. A no contact order was entered in the criminal case and neither
16 parent was allowed to have contact with the children. The Criminal Court had concerns
17 regarding the parents speaking with the children since the children are witnesses in the
18 criminal case. This Court also entered a no contact order for the parents since there were
19 concerns that the parents were telling the children what to say to authorities. Both parents
20 have maintained consistent contact with the children and there has been no showing that
21 Melissa or Donald intended to forego their parental rights. The court cannot find that the
22 parents abandoned the children.
23

24 The Court finds that the parents are unfit parents as defined in NRS 128.018 and
25 NRS 128.105 (1)(b)(3). The children have been out of care of the parents for over 30
26 months. Pursuant to NRS 128.105 (1) (b) (4), the parents have failed within a reasonable
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1 period of time to remedy substantially the conditions which led to the children being
2 placed in foster care, even though appropriate and reasonable efforts have been made on
3 the part of state agencies and others to return and reunite the children with their parents.
4 On July 18, 2014, Dr. Cetl testified at the preliminary hearing in the criminal case. The
5 transcripts from that hearing were admitted as evidence in this TPR Trial. Dr. Cetl
6 testified that she saw multiple injuries on Samantha that were consistent with a
7 recognizable pattern of a loop injury. There were loop marks as well as straight marks
8 indicating some type of blunt force trauma with an implement. She continued to testify
9 that the implement that typically leaves loop marks is either a cord or some type of belt.
10 She testified that some of the marks were already quite advanced healing and some were
11 very fresh. The Court finds that the children were removed from the home as a result of
12 the parents' actions. The parents pled no contest to these actions at the Adjudicatory
13 Hearing in the underlying Juvenile case as noted above.
14

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16 Samantha testified at length during the trial about the continued abuse she endured
17 by Donald. She testified that the abuse consisted of being hit in the back and face with a
18 belt by Donald; having to stand on her head; having to sit against the wall without a chair
19 for 30-40 minutes as punishment; having to clean excessively and pick weeds; and getting
20 a knife thrown at her hand which caused a stab wound. Further, she testified that Donald
21 caused her to sustain broken teeth; restricted her food intake; and called her names.
22 Samantha also testified that Melissa hit her with a belt on several occasions. According to
23 Samantha's testimony, Donald began hitting her in the third grade. CPS was called on
24 several occasions. Samantha testified that she was told what to tell CPS by Donald. She
25 also testified that she lied to the Dentist when her tooth was broken. She told the Dentist
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1 that she was playing football and tripped, since she was told by Donald what to tell the
2 Dentist. Samantha testified that in November of 2008, she was hit across the face by
3 Donald with a belt. Melissa put make-up on Samantha's face to cover up the injuries.
4 When CPS asked Samantha about the marks on her face, Samantha told CPS that her
5 brother Wyatt caused her to fall on the dresser. Samantha testified that another incident
6 occurred that same month when Donald hit her across the face with a belt. She went to
7 school with make-up on her face to cover the injuries and when CPS questioned Samantha
8 she told CPS that her dog jumped on her. When asked why she wasn't truthful with CPS,
9 Samantha stated she was scared what would happen to her when she got home. Samantha
10 testified that on December 1, 2009, she got a cut on her wrist due to Donald throwing a
11 butter knife at her while she was drying dishes. The knife cut into her skin. She testified
12 that she didn't tell the truth at the preliminary hearing regarding this incident. Samantha
13 testified that in January 2011, she sustained an eye injury due to Donald making her stand
14 on her head for approximately 30-40 minutes. When she was made to stand on her head
15 for long periods of time, she testified that she would get puffy eyes and red blotches all
16 over her face. Samantha testified that she told CPS that she got hit with a teddy bear when
17 asked about her eye injury. Samantha further testified that in December of 2011, she was
18 removed from her Junior High School because she was talking to her counselors about the
19 punishment and what was going on at home. When asked why she would lie to CPS and
20 her teachers, Samantha testified she was afraid of what would happen if she told the truth
21 and her parents found out.
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25 A letter that Samantha wrote regarding an injury sustained from a BB gun was
26 admitted into evidence. The letter states that Donald shot her hand with a BB gun because
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1 she asked him if she could eat a candy cane. In the letter, Samantha states that 3 or 4 days
2 after she was shot with the BB gun she went to the Hospital where a splint was put on her
3 hand because it was swollen. Surgery was needed to get the BB out. The letter states that
4 she told the hospital that she shot herself with the BB gun because Donald told her to say
5 that even though it wasn't the truth. When questioned by defense counsel as to why she
6 made different statements prior to this trial, Samantha testified that she was scared and
7 really upset at the preliminary hearing. According to Samantha, Donald told her what to
8 tell her teachers and CPS about how her injuries occurred and Melissa was present most of
9 the time when Donald told the children what to tell CPS. Samantha was asked about the
10 last beating that caused the children to be removed. Samantha testified that she created a
11 story that she fell off of the trampoline and that was how she got the marks on her back.
12 When asked why she didn't tell the truth, Samantha testified that she thought she would
13 get into a lot of trouble by her parents if she told the truth about her injuries. Samantha
14 testified that while on the telephone with Donald when he was in jail, he wanted her to tell
15 the story that she hit herself on the back with an extension cord because she didn't get a
16 cell phone for Christmas. Samantha testified that she and her siblings would have to repeat
17 the stories over and over again until they got it right without hesitation. She stated that at
18 one of the visitations after removal, Donald told her that if they stuck with the stories they
19 were told to say, the family would get back together. Samantha testified that she and her
20 siblings saw their parents fight and they would argue a lot. She continued that it was scary
21 when her mom was mad, because her mom would break things. The Court finds
22 Samantha's testimony to be credible.
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1 Samantha's therapist from Healthy Minds, Janet Nordeen, testified at trial. Ms.
2 Nordeen has been Samantha's therapist for over two years. She stated that she diagnosed
3 Samantha with PTSD due to an extensive time period of traumatic events. She continued
4 to testify that she never thought of Samantha as a danger to herself or others. Samantha
5 was resistant to sharing her family history and protective of her parents. When Samantha
6 felt safe with Ms. Nordeen and understood that she would not have to return home, she
7 began disclosing the abuse she had endured. Ms. Nordeen testified that Samantha
8 disclosed that she was shot in the hand with a BB gun; pushed into a wall by Donald; lost
9 her two front teeth due to Donald's abuse; and hit with a pipe and a belt by Donald.
10 Samantha disclosed that this occurred on a regular basis. Testimony revealed that Melissa
11 was at work and Donald was home with the children when the abuse occurred. In the
12 beginning, Samantha denied abuse by Donald. However, over time, she disclosed more
13 abuse. The Court has taken into consideration that Samantha first denied the abuse.
14 Samantha wrote a letter to Donald (State's Exhibit 11) detailing years of abuse, after she
15 found out that she would not have to return to her parents care. The therapist testified that
16 some children disclose abuse right away while other children never disclose abuse. She
17 stated that when she made her diagnosis, she took into consideration Samantha's high
18 anxiety, her distractibility, and her desire to talk about anything except the abuse.
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21 The Court also took into consideration the testimony of Laura Brown, Nikki's
22 Healthy Minds therapist. Ms. Brown testified that she is qualified to make a diagnosis
23 through the DSM. She testified that she diagnosed Nikki with PTSD. She made this
24 diagnosis based upon Nikki having flashbacks, avoidance and mood issues. She stated that
25 Nikki was very guarded, hesitant, and avoided discussing feelings. As therapy progressed,
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1 Nikki became more open with Ms. Brown. Nikki described the physical abuse to
2 Samantha as "beatings by her dad." Ms. Brown testified that when Nikki discussed the
3 abuse, her demeanor was such that she did not make eye contact, lowered her head, and
4 she shut down. Ms. Brown testified that her primary reason for diagnosing Nikki with
5 PTSD was because of what happened in the home. The treatment plan for Nikki consisted
6 of processing her trauma; developing coping skills; and further developing a relationship
7 with her siblings. She testified that she changed Nikki's disorder from adjustment disorder
8 to PTSD eight months after she saw Nikki because Nikki met the full criteria for PTSD.
9 She testified that her diagnosis was not made due to Nikki's lack of contact with her
10 parents. She continued to testify that Nikki wants to live with her parents. Ms. Brown
11 testified that Nikki made it clear that there was abuse in the home.
12

13 Lynetta Cooley, Heidi's Healthy Minds therapist, testified as to Heidi's treatment.
14 She testified that Heidi was originally diagnosed with adjustment disorder with mixed
15 depression and anxiety. She stated that this diagnosis is made when there is a change, such
16 as a removal. She continued to testify that Heidi met the criteria under the DSM 5 for
17 PTSD. Heidi's symptoms consisted of hypervigilance, irritability, avoidance when talking
18 about events, intrusive thoughts, and disruption to social and family life. Initially, Heidi
19 was very guarded in her therapy. Ms. Cooley testified that Heidi talked about Samantha's
20 abuse on her own. She talked about Samantha not having the same amounts of food as the
21 other children, and that Samantha would get up in the middle of the night to eat. She
22 discussed the incident when Samantha went to the garage and brought back a pipe that
23 Donald hit her with while the other children ran into the other room. Ms. Cooley testified
24 that in therapy, Heidi would draw pictures or play games. Heidi drew a picture of a pipe
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1 and a knife. She testified that when Heidi talked about the abuse in the home, Heidi would
2 speak fast to get it out. She would also take a big breath and blow it out. Heidi told Ms.
3 Cooley that her mother knew about the abuse. When asked at the trial if this contributed to
4 Heidi's PTSD, Ms. Cooley replied "yes." Ms. Cooley testified that Heidi felt lighter after
5 she discussed the abuse in therapy and it helped her anxiety to be able to discuss it. Ms.
6 Cooley stated that Heidi would like to go home to her parents but she wants it to be
7 different. Specifically, Heidi does not want any more hitting or fighting in the home.
8

9 The Court finds that both Melissa and Donald were placed in a difficult position of
10 testifying at the TPR trial while there is a criminal trial pending. Both parents pled the 5th
11 Amendment when questioned by the District Attorney's office regarding anything having
12 to do with the abuse to Samantha. Despite the parents pleading the 5th Amendment, the
13 Court finds that there was an abundance of evidence regarding the abuse to Samantha and
14 the trauma to Heidi and Nikki. This Court finds that physical abuse occurred in the
15 household and physical abuse counseling was necessary in order for reunification to
16 occur. The State has proved by clear and convincing evidence that Donald physically
17 abused Samantha and Melissa knew about the abuse. This abuse renders the parents
18 unable to provide the children with a safe home. There is no evidence in the record that
19 either parent has addressed the physical abuse problem.
20

21 NRS 128.106 (1)(f) provides that when determining neglect or unfitness of
22 a parent, the court shall consider the conviction of a parent for commission of a
23 felony, if the facts of the crime are of such a nature as to indicate the unfitness of
24 the parent to provide adequate care and control to the extent necessary for the
25 child's physical, mental or emotional health and development. NRS 128.106 (1)
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1 (g) further provides that when determining the neglect or unfitness of a parent, the
2 court shall consider whether the child, a sibling of the child or another child in the
3 care of the parent suffered a physical injury resulting in substantial bodily harm, a
4 near fatality or fatality for which the parent has no reasonable explanation and for
5 which there is evidence that such physical injury or death would not have occurred
6 absent abuse or neglect of the child by the parent. Here, the court finds that
7 Donald was convicted of felony manslaughter and corporal punishment of a child
8 in relation to the death of his infant child in the 1980's. The court has considered
9 this when determining unfitness in this case.
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12 The Court finds that pursuant to NRS 128.105(1) (b) (5), a risk of serious physical,
13 mental or emotional injury is posed to the children if they were to be returned to the
14 parents care. The Court finds by clear and convincing evidence that Samantha was
15 physically and emotionally abused in her home. The Court has relied on the testimony of
16 the children, the children's therapists, and the testimony of Dr. Cetl. Testimony revealed
17 that Donald Brown was convicted of Corporal Punishment of a Child and Voluntary
18 Manslaughter of his biological daughter as an infant. The Court took into consideration
19 that since 2008, fourteen different mandated reporters called CPS stating that Samantha
20 had bruises, cuts and black eyes. The Court does not believe the parents theory that
21 Samantha has mental health issues and that she caused the abuse to herself. There has
22 been no showing by the defense whatsoever that Samantha caused any of her own injuries.
23 If over the last eight years, Samantha was causing her own injuries and there were over 13
24 different reports to CPS, the Court questions why Melissa would not have taken her
25 daughter to a pediatrician, neurologist, psychologist, psychotherapist or psychiatrist to
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1 determine why she would cause herself such harm. There was no evidence presented that
2 Samantha caused her own injuries. Ms. Maryte Tallent, the DFS caseworker assigned to
3 this case, testified that early in the case, Donald told her that Samantha caused injuries to
4 herself. To the contrary, Heidi and Nicki testified to the abuse they witnessed their father
5 inflicting upon Samantha. Heidi testified that she witnessed Samantha getting hit with a
6 belt by Donald on the back and the buttock. She stated that her father told Samantha to go
7 to the garage to get him something to hit her with. Also, Heidi testified that she witnessed
8 Samantha being hit on her hands with a spatula by Donald. The Court finds the children's
9 testimony credible. The theory that Samantha injuries were self-inflicted was not
10 supported by any evidence. The Court took notice of the crisscross bruises that were
11 determined to be old and new on Samantha's back. Additionally, foster mother to all the
12 children, Jackie Wolfe, testified that Samantha is not a violent person and is extremely
13 protective of her siblings. She also testified that she has had the children in her care for a
14 long time and that Samantha is not aggressive. When asked if Samantha had ever tried to
15 harm herself, she replied "no."

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18 There was testimony that Samantha was injured while in Ms. Wolfe's care.
19 Testimony revealed that Samantha was transported to Boulder City Hospital due to her
20 injuring her pelvic region. Attorneys for the parents tried to illicit testimony that Samantha
21 is clumsy. Ms. Wolfe testified that Samantha was on a bike riding with her sister and
22 others when she fell over on the bike. She was appropriately taken to the Hospital and
23 treated. There was no report by any doctor at the hospital of possible abuse. Samantha had
24 bruises from soccer and football, the two sports she played in high school. She played the
25 goalie position and got hit in the head. She had symptoms of concussions and she was
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1 seen by a doctor. Again, these injuries did not lead to any abuse allegations. The Court
2 finds that Samantha was treated appropriately by Ms. Wolfe. According to the testimony
3 of Ms. Wolfe, Samantha is a good kid who has taken some honor classes and has A's and
4 B's. She believes Samantha to be very naive and innocent. Ms. Wolfe testified that Nikki
5 doesn't like to talk about things and is quiet. Nikki received a presidential letter and had
6 all A's and a B+. Ms. Wolfe testified that Wyatt loves his mom and dad.
7

8 The Court also took into consideration Mari Parlade's testimony. Ms. Parlade is
9 employed with the Legal Division of DFS as the Custodian of Records. She testified that
10 each call to the CPS hotline has a separate report number that is kept in a database known
11 as UNITY. During a five year period, from March 2008 through December 2013, there
12 were 14 intake reports for this family. On December 10, 2014, there were two intake
13 reports for the same incident. She continued to testify that in March 2008, a mandated
14 reporter called regarding allegations of abuse to Samantha's face. Specifically, both of
15 Samantha's eyes had two inch wide bruises. In May of 2008, there was another mandated
16 report that Samantha had a bruise on her left cheek. In approximately September or
17 October 2008, there was an information only report that Samantha had a chipped tooth.
18 On November 7, 2008, there was a report from a mandated reporter that there were bruises
19 on Samantha's face; specifically her right eye was black. Ms. Parlade testified that on
20 November 24, 2008, an investigation was completed since Samantha went to school with
21 a black eye and make-up on her face. At this time, Samantha was 10 years old. There was
22 a cross report with the same concerns from another reporter. On December 1, 2009, there
23 was a mandated report disclosure. There was an allegation that Donald threw a butter
24 knife at Samantha and there was a cut on her wrist. This was found to be unsubstantiated.
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1 On February 22, 2010, another mandated reporter reported that Samantha had a black eye
2 and stitches on her left eyebrow. This was found to be unsubstantiated. On December 6,
3 2010, another mandated reporter reported that Samantha had a black and green colored
4 bruise around her entire eye. This was informational only. On January 27, 2011, Ms.
5 Parlade testified that a mandated reporter reported bruises on both of Samantha's eyes. On
6 January 28, 2011, another mandated report was unsubstantiated when Samantha came to
7 school depressed with a different demeanor. On March 1, 2011, a mandated reporter
8 called with concerns that Samantha had a puffy red left eye. This was informational only
9 and there was no investigation. On December 9, 2011, a report came into the CPS hotline
10 that Samantha had marks and bruises and that her parents withdrew her from school. This
11 was information only. On January 19, 2012, Samantha missed 27 days of school and there
12 was concern of educational neglect. On December 10, 2013, CPS received two calls. The
13 first reporter reported a bruise on Samantha's eyes. The second report was from a
14 mandated reporter that there was a mark near Samantha's left eye. This report resulted in
15 an investigation. Ms. Parlade testified that there were a total of 14 calls, all from mandated
16 reporters. The testimony of Samantha, Heidi and Nikki corroborate that Samantha was
17 not injuring herself and that Donald caused the injuries. The children were told to say that
18 the injuries happened in a way that was untrue in order to protect both Melissa and
19 Donald.
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23 The Court finds by clear and convincing evidence that Samantha has been
24 physically and mentally abused by her parents. Specifically, Samantha endured abuse
25 throughout her childhood as testified to by herself and her sisters, Heidi and Nikki. The
26 Court finds that Melissa Lawrence knew about the abuse and did nothing to protect
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1 Samantha from Donald's repeated physical and emotional abuse. During the trial, the
2 Court heard phone conversations between Melissa and Donald while they were in jail in
3 2014 after the removal of the children. In these phone conversations, Donald accused
4 Samantha of lying, stealing, and playing games. Melissa continually disparaged
5 Samantha by saying "her own father wants nothing to do with her"; "she feels sorry for
6 the poor sap who ends up with Samantha"; and "Samantha was lucky that she wasn't in
7 front of her fucking face when she wrote the letter." She also called Samantha a "killer
8 kid" and said Samantha "has a brain of a fucking peanut." Also, Melissa said that anyone
9 who is around Samantha is in "grave danger" since she said Samantha is a danger to
10 society. She also accused Samantha of causing her own injuries and suffering from a
11 mental disorder.
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14 The Court finds that both Melissa and Donald completed a Red Rock
15 Psychological Risk Assessment. The court finds that even though both parents completed
16 services and an assessment, the assessment reports that both parents are at a high risk to
17 re-offend. Donald was recommended to engage in Anger Management and Domestic
18 Violence treatment. He was also recommended to engage in individual therapy specific to
19 his physical abuse. Melissa was recommended to engage in individual therapy to address
20 physical abuse.
21

22 Pursuant to NRS 128.105 (1)(b)(6), the court finds that the parents have made only
23 token efforts to prevent neglect of the children, to avoid being unfit parents, and to
24 eliminate the risk of serious physical, mental or emotional injury to the children. NRS
25 128.109 sets forth presumptions that apply to findings of parental fault and best interests
26 of the child when a child has resided outside of the home for an extended period of time.
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1 Specifically, NRS 128.109 provides that if a child has been placed outside her home for
2 14 of any 20 consecutive months, it is presumed that the parents have engaged in no more
3 than token efforts to care for the child and it must be presumed that it is in the best interest
4 of the minor child that the parental rights be terminated.
5

6 The Court finds that both parents have engaged in their case plan. The Court finds
7 that despite engagement in their services, neither parent has the insight or behavioral
8 change to protect these children from abuse. The Court heard testimony concerning a long
9 history of abuse upon Samantha that was witnessed by Heidi and Nikki, affecting the lives
10 of all of the children in the household. Both parents to this day have denied physical
11 abuse, believing that Samantha caused these injuries to herself. More than ample
12 opportunity has been given to both parents to correct the behavior that brought this family
13 into care. Ms. Tallent testified that both parents completed a family risk assessment. When
14 asked what the assessment revealed, she testified that both Melissa and Donald had an
15 increased risk for physical abuse. Both parents completed the Family Risk Assessment at
16 Red Rock Psychological Health in late 2014. Donald's report states that due to Mr.
17 Brown's HIGH risk for physical abuse/neglect recidivism and the clinical impressions, the
18 following recommendations be made: Donald should submit to a Domestic Violence
19 Evaluation and follow all recommendations made by the evaluator, attend anger
20 management/impulse control classes and follow all recommendations made by the
21 facilitator, should continue weekly individual therapy to address his position of denial and
22 history of criminal behaviors and he should continue not to have contact with his children
23 until he is meeting the requirements of his DFS case plan and his risk of abuse is
24 decreased. The Court reviewed Melissa's evaluation by Red Rock. Melissa is HIGH risk
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1 for physical abuse/neglect recidivism and the recommendations consisted of Melissa
2 continuing in weekly individual therapy to address her position of denial, creating a
3 therapeutic safety plan with the help of a trauma specialist to identify triggers, coping
4 skills, and relapse prevention. It was also recommended that Melissa continue to not have
5 contact with her children until she is meeting the requirements of her DFS case plan and
6 her risk of abuse is decreased.
7

8 Melissa and Donald attended therapy at Healthy Minds. The recommendations
9 from Red Rock were to address denial, identify triggers, and a relapse prevention
10 program. Per the Healthy Minds letters dated April 28, 2016 which was admitted into
11 evidence, David Sanchez, Psy.D, LMFT wrote that Mr. Brown and himself often process
12 thoughts related to the loss and grief he experiences from being separated from his
13 children as well as the anxiety he experiences over the thought of potentially having his
14 parental rights taken away. A similar letter for Melissa was admitted into evidence. The
15 Court finds that the therapy that Melissa and Donald received at Health Minds is not the
16 same as individual therapy to address the parent's denial of abuse. The Healthy Minds
17 therapy did not address physical abuse. Ms. Tallent testified that she spoke to Donald and
18 advised him that the Healthy Minds therapy was family therapy and not individual therapy
19 to address physical abuse. The Court reviewed both the ABC Therapy Completion Report
20 for Melissa and Donald for mental health. Both parents had successfully completed the
21 program. The comments for Donald state that he learned to identify challenges, and
22 replace biased, fearful self-talk with positive, realistic, and empowering self-talk.
23 Melissa's comments state that she learned to undergo gradually to a repeated imaginal
24 exposure to the feared negative consequences predicted by worries of her children's well-
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1 being and develop alternative reality-based predictions. Ms. Tallent testified that the
2 parents completed the ABC assessment on their own. The Court notes that this
3 assessment does not address triggers, abuse of a child, protective capacity, or coping
4 skills. The Court understands that the parents have completed parts of their case plan
5 objectives. However, they have not addressed the physical abuse that occurred in the
6 home. The Court further took into consideration that the family never had a chance to
7 engage in family therapy.
8

9 The Court does not find that the children are safe with their parents. There are still
10 grave safety concerns of physical abuse that have not been addressed. It comes down to
11 the credibility of the testimony of the parents and the witnesses. Ms. Tallent testified that
12 the objective was for the parents to resolve their legal matters; provide for the physical
13 and emotional needs of the children; and provide a home free from physical abuse. The
14 Court notes that the primary objective for this case was to provide the children with a
15 home free from physical abuse. Additionally, the parents had to follow all the
16 recommendations from Red Rock and understand the impact of physical abuse on the
17 children's well-being. The parents went through many classes and assessments, but at this
18 time the Court does not find that the children are any safer now than they were at the time
19 of removal. The main issues of physical abuse have not been addressed. The Court has
20 taken into consideration that the parents completed classes and therapy. However, as
21 evidenced in the reports and testimony, neither parent has addressed their denial of the
22 abuse and how to prevent it from happening again. The Court took into consideration Dr.
23 Cetl's testimony from the Preliminary Hearing that was admitted into evidence as well as
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1 the testimony of Samantha, Nikki and Heidi. The Court finds that Samantha was seriously
2 injured throughout her childhood and that it was not caused by her own actions.

3
4 The Court finds that the presumptions in NRS 128.109 (1) (a) and (2) apply in this
5 case and the parents did not rebut the presumptions. The children were placed outside of
6 their home on January 8, 2014 and have remained outside of their home since that time.
7 The Nevada Supreme Court in the case of *In re Parental Rights as to A.P.M.*, 131 Nev.
8 Adv. Op. 66, 356 P.3d 499 (2015), held that nothing in NRS 128.105 prohibits the district
9 court from finding parental fault if a parent has completed his or her case plan. This
10 Court's job is to make sure children are safe. This Court believes that the children love
11 their parents. However, based upon the severity and repetitive nature of the abuse along
12 with neither parent having the insight or behavioral change to protect these children from
13 abuse, the court does not believe that the children can reunify with their parents in the near
14 future.
15

16 Pursuant to NRS 128.105(1), 128.107 and 128.108, the best interest of the children
17 is served by terminating the parental rights of Melissa Lawrence and Donald Brown. In
18 determining what is in the children's best interest, this Court must consider the children's
19 continuing need for "proper, physical, mental and emotional growth and development."
20 NRS 128.005 (2)(c). Pursuant to NRS 128.105 (2), the court has considered the
21 placement options for the children; the age of the children; and the developmental,
22 cognitive and psychological needs of the children. The children have been out of care for
23 over 30 months. The children have been in the care of a foster family who is an adoptive
24 resource. The testimony revealed that the children are very bonded to the foster family
25 and the children are thriving in the care of the foster family.
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1 Jackie Wolfe, foster parent to the children, testified as to how the children came
2 into care. She testified that at first there was a clear division between Samantha and her
3 siblings, Heidi, Nikki and Wyatt. There was a strained relationship but it is now better.
4 She stated at first Nikki was quiet and Heidi was vocal. When the children were first
5 placed with Ms. Wolfe and her husband at St. Jude's, Samantha and Heidi argued a lot.
6 Heidi was mad about being in foster care. When Samantha arrived to her home, she had
7 frequent panic attacks. During the evening, Samantha had hard time breathing and her
8 chest felt heavy. There were times at soccer when the coach would call Ms. Wolfe and
9 tell her that Samantha had lost it and she was crying. She testified that Samantha did not
10 want to talk about her past. She testified that there was one night in particular when
11 Samantha expressed she was angry. Ms. Wolfe testified that she encouraged Samantha to
12 journal since she was crying a lot. Ms. Wolfe told the court that Samantha does not talk a
13 lot, but that Heidi talks about Samantha's relationship with her parents. When Samantha
14 does talk, Heidi corrects Samantha about the abuse. It appears that Heidi remembers a lot.
15 She testified that Samantha has two false teeth. Samantha told her that Donald knocked
16 her teeth out. Heidi would correct Samantha and say it is not one tooth but two teeth. She
17 went on to testify that Heidi stated that her mom knew that Samantha was cut with a butter
18 knife and that Donald did it. While the children love their parents and want to go home,
19 the children have done remarkably well in their foster home. The children want to go
20 home to a home free of violence. Unfortunately, there is no showing that the issues that
21 brought the children into care 33 months ago are any different now. These children need a
22 stable loving home free from physical and emotional abuse, which is found in their current
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1 placement. The children are integrated into their placement. The adoptive resource has
2 provided these children with a safe loving environment free of violence.
3

4 The State has proved by clear and convincing evidence that parental fault exists in
5 this case and that it is in the best interest of the children that the parental rights of Melissa
6 Lawrence and Donald Brown be terminated. The District Attorney's office shall prepare
7 Findings of Fact and Conclusions of Law consistent with this decision and submit an
8 Order to the Court for signature within 10 days.

9 IT IS SO ORDERED.

10 Dated this 14th day of November, 2016

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13 CYNTHIA N. GIULIANI
14 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that on the day of filing, I emailed, mailed and/or delivered to the Clerk's Office a copy of the Decision Order, which was placed in the folder of:

Amity Dorman, DDA

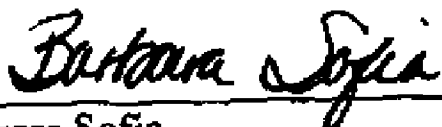
Janne Hanrahan, DDA

Michael Gowdey, ESQ

Robert Draskovich, ESQ

Lauren Calvert, ESQ

Amy Honodel, ESQ


Barbara Sofia
Judicial Executive Assistant, Dept. K

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE)
PARENTAL RIGHTS AS TO)
S.L; N.R.B; H.R.B. AND W.C.B)

No. 71873

Electronically Filed
Jan 04 2017 09:47 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

DONALD BROWN,)
Appellant,)
vs.)

DOCKETING STATEMENT CIVIL APPEALS

STATE OF NEVADA)
DEPARTMENT OF FAMILY)
SERVICES; S.L.; N.R.B.; H.R.B.;)
AND W.C.B.,)
Respondents.)

GENERAL INFORMATION

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

WARNING

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

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

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

1. **Judicial District:** Eighth Judicial District **Department:** K
County: Clark **Judge:** Cynthia N. Giuliani
District Ct. Case No: D-15- 510944-R

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

Attorney: Robert M. Draskovich Telephone: (702) 474-4222
Firm: Turco & Draskovich, LLP
Address: 815 S. Casino Center Boulevard
Las Vegas, Nevada 89101
Client(s): Donald Brown, Appellant

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

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

Attorneys: Janne Hanrahan, Chief Deputy District Attorney
Amity Dorman, Chief Deputy District Attorney
Telephone: (702) 455-5320
Firm: Steven Wolfson, District Attorney
Address: 601 North Pecos Road
Las Vegas, Nevada 89101
Client(s): The State of Nevada, Department of Family Services

4. **Nature of disposition below:**

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

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

- ☒ Child Custody
☐ Venue
☒ Termination of parental rights

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

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

N/A

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

Trial to terminate parental rights.

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

- 1) **Whether Appellant's Constitutional rights against self-incrimination was pitted against his ability to defend himself against the petition to terminate his parental rights. Because Appellant has a pending criminal case arising from the same incidents which served as the basis for the petition to terminate his parental rights. Appellant was forced to invoke his Fifth Amendment privilege against self-incrimination when he was compelled to testify in this trial to terminate his parental rights. When he invoked the privilege, an adverse inference was sought by the District Attorney for his refusal to answer each question, and was permitted to be argued by the trial judge. This pitted Appellant's Fifth Amendment rights against his right to associate with his children.**

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

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

N/A XX Yes No
If not, explain

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

☐ Reversal of well-settled Nevada precedent (on an attachment, identify the cases(s))

☒ An issue arising under the United States and/or Nevada Constitutions
☒ a substantial issue of first-impression
☐ an issue of public policy
☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
☐ A ballot question
If so, explain:

The Fifth Amendment privilege against self-incrimination is pitted against Appellant's rights as a parent to maintain his parental relationship with his children, as his refusal to answer questions that might incriminate him was held against him in the trial to terminate his parental rights.

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

NRAP Rule 17(a)(12) sets forth that the Nevada Supreme Court shall hear and decide cases involving the termination of parental rights. This case involves the termination of parental rights.

14. **Trial.** If this action proceeded to trial in the district court, how many days did the trial last? 9 days

Was it a bench or jury trial? Bench Trial

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

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from:** December 14, 2016.

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

N/A

17. **Date written notice of entry of judgment or order served December 14, 2016**

Was service by:

- ☐ Delivery
☒ Mail/Electronic/Fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

(b) Date of entry of written order resolving tolling motion

(c) Date written notice of entry of order resolving motion served _____

Was service by:

- ☐ Delivery
☐ Mail

19. **Date notice of appeal filed: December 13, 2016.**

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

December 13, 2016 – Notice of Appeal filed by Donald Brown.

December 14, 2016 – Notice of Appeal filed by Melissa Lawrence.

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

☒ NRAP 3A(b)(1) ☐ NRS 38.205
☐ NRAP 3A(b)(2) ☒ NRS 233B.150
☐ NRAP 3A(b)(3) ☐ NRS 703.376
☐ Other (specify) _____

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

The district court issued its final judgment terminating Petitioner's parental rights. NRAP 3A(b)(1) applies because the final judgment was rendered in the same court where the action to terminate parental rights was commenced. NRS 233B.150 allows Appellant to take review of the final judgment of the district court by appeal to the Supreme Court, which is the court of competent jurisdiction as set forth in NRAP 17(a)(12).

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

(a) Parties:

**Donald Brown
Melissa Lawrence
Nevada Department of Family Services**

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

All parties in the district court are parties to this appeal.

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

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

☐ Yes
☐ No

25. If you answered “No” to question 24, complete the following:

(a) Specify the claims remaining pending below:

Compensatory damages claims; punitive damages claims. The judgment fails to expressly award compensatory damages to plaintiffs and plaintiffs can recover such award from Defendant Goodyear. The Court’s judgment also fails to rule upon or otherwise address the jury verdict on punitive damages in favor of Defendant Goodyear.

(b) Specify the parties remaining below: All Plaintiffs and Defendant Goodyear.

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

☒ Yes

☐ No

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

☐ Yes

☒ No

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

The order is independently applicable under NRAP 3A(b), and under NRS 233B.150.

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

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

VERIFICATION

I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief.

DONALD BROWN

Appellant

January 3, 2017

TURCO & DRASKOVICH, LLP

Counsel of Record

/s/ Robert M. Draskovich

ROBERT M. DRASKOVICH, ESQ.
Nevada Bar No. 6275

CERTIFICATE OF SERVICE

I certify that on the 28th day of December, 2016, I served a copy of this completed docketing statement upon all counsel of record:

☐ by personally serving it upon him/her; or

☒ by mailing it by first class mail with sufficient postage prepaid to the following address(es):

Janne Hanrahan
Deputy District Attorney
Juvenile Division
janne.hanrahan@clarkcountyda.com

Lauren Calvert, Esq.
lauren@morrisandersonlaw.com

Amy Honodel, Esq.
ahonodel@lacs.org

Amity Dorman
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Michael I. Gowdey, Esq.
mgowdey@aol.com

Dated this 3rd day of January, 2017.

/s/ Erika W. Magana

An Employee of Turco & Draskovich, LLP