A No, it was --

Q -- said you're --

A No, it was -- there was never a normal conversation when we spoke with Heather or Maryte, really. I mean, it was -- it was obvious to us at the very beginning from the comments that had been said that we had no caseworkers and -- and no supervisor either, I believe in this whole case, we never had anybody that we could --

Q Well, Brenda Hughes (ph) has been the supervisor since last August, has she not?

A Yes, ma'am. She has.

Q How many conversations have you had with her?

A Very few, just exchanging presents for the children.

Q Did you bring up your concerns with her?

MR. GOWDEY: Objection, vague as to the word concerns. Which concerns specifically are we talking about?

MS. HANRAHAN: Well, the one that --

THE COURT: Sustained.

MS. HANRAHAN: -- we're talking about --

THE COURT: Just be specific.

MS. HANRAHAN: -- where Maryte --

THE COURT: Okay.

BY MS. HANRAHAN:

Q And Ms. Tallent told you that you were never getting your children back. Did you have a conversation with Brandy Hughes about that?

A I don't think so. I'm very careful of what I say to CPS because it always gets turned around.

Q And between the time we got here last and today, what did you do to prepare or to remember this conversation?

A I looked at my notes.

Q And when were those notes written?

A I started around July of '14 or June of '14. I started taking notes for --

Q But weren't you also recording things? Didn't Ms. Lawrence repeatedly tell Ms. Tallent that she was recording conversations? You didn't record that one?

A Our house is under surveillance if that's what you mean.

Q I -- under surveillance --

A We're not under surveillance. It's under -- what do you -- audio and video and there's a big door -- there's a big sign by our front door that says -- that states it is.

Q So -- but you didn't record this conversation other than to write it down yourself?

A Well, we were on a telephone in the truck in front of our lawyer's office. No, ma'am. And to record anything

I understand is against the law anyway without telling the other person.

MS. HANRAHAN: I have no further questions.

THE COURT: Okay.

MR. DRASKOVICH: I have no follow up.

MR. GOWDEY: Nothing.

MS. HONODEL: No questions, Your Honor.

THE COURT: All right. Thank you.

THE WITNESS: Thank you.

(WITNESS EXCUSED)

MR. DRASKOVICH: Next, we call David Gennis who's just outside

THE COURT: David Gennis? Okay.

MR. DRASKOVICH: It was Sanchez, but his name as changed.

MR. GOWDEY: Oh, okay.

THE COURT: Gennis? Okay.

(WITNESS SUMMONED)

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

THE WITNESS: I do.

THE CLERK: State your name for the record.

THE WITNESS: David Patrick Gennis.

THE CLERK: Thank you.

THE COURT: Can you spell your last name for me just so we have it?

THE WITNESS: Absolutely. G-e-n-n-i-s.

THE COURT: Thank you.

DR. DAVID GENNIS

called as a witness on behalf of the Respondent, have been first duly sworn, did testify upon his oath as follows on:

DIRECT EXAMINATION

BY MR. DRASKOVICH:

Q Mr. Gennis, why don't you tell us a little bit about yourself starting with your education.

A Absolutely. So I'm a doctorate of psychology. I practice as a therapist in the state of Nevada under my license as a licensed marriage and family therapist. The State of Nevada has approved me as a primary and secondary supervisor for licensed marriage and family therapist interns as well as clinical professional counselor interns and I completed a two year post doctoral certification in infant and family clinical practice from the Harris Infant Mental health Training Institute in Phoenix, Arizona.

Q And how are you currently employed?

A I am -- I'm an applied behavioral analysis director and clinical supervisor at Sunrise Behavioral Health, LLC.

Q To back up just briefly, psychology is the study of human behavior.

A Yes.

Q And it's -- and what you do through your work is you apply well accepted scientific principals to specific factual scenarios.

A Every day.

Q Through your course of employment, have you come into contact with Mr. Brown?

A Yes, I have.

Q And that's him sitting behind me?

A Yes, it is.

Q How was it that you came into contact with Mr. Brown?

A I was a full-time employed therapist with Healthy Minds and Healthy Minds assigned me to work with Mr. Brown in the second week of September of 2014.

Q Okay.

A And at that time, we initiated family therapy without child present with the intention hopefully that we would be moving forward in providing family therapy between

his children and Mr. Brown and Mrs. Lawrence.

Q Did that ever occur?

A Family therapy between the children and Mr. Brown and Mrs. Lawrence did not occur.

Q And why would that be important for that to occur?

A For -- to move forward in the reunification process.

Q Is it possible for the family to reunify without these family group sessions?

A We would -- I would advise that we would allow to have family therapy so that we could work on healing the relationships so that we could move forward and -- and move the children into the home.

Q Is this type of group family therapy beneficial for the children?

A Absolutely.

Q Is it beneficial for the parents?

A Absolutely.

Q You stated that you first came into contact with Mr. Brown in September of 2014.

A Correct.

Q Was he referred to you?

A Yes, he was.

Q Through your entity Healthy Minds.

A Healthy Minds, yes.

Q And who made this referral?

A So the Department of Family Services referred the sibling group, the children to Healthy Minds to receive clinical services. And as part of the project model in which Healthy Minds provides services is that it's inclusive to include the bio parents as we're working towards family reunification to provide family therapy without child present, to work on enhancing their protective capacity as well as their parental skills so that we can work towards providing family therapy.

Q What occurred following the referral and your meeting Mr. Brown in September of 2014?

A So we've only had one child and family team meeting that was offered to Mr. Brown and Mrs. Lawrence during my almost two years of providing family therapy without child present to Mr. Brown.

At that time, I -- it was a come together between the Department of Family Services and Mr. Brown and Mrs. Lawrence to discuss how we can -- how the team could work to move forward and to hopefully move forward in the reunification process.

And then we've had -- which I was participatory in one meeting of professionals where the two teams -- so due

to the no contact order that there's two teams at Healthy Minds that was providing clinical services to the family. There's the children's team where each child has an assigned individual therapist and they would meet monthly per the Healthy Minds project model with Maryte or another representative from DFS and there was the parental team that consisted of myself, Dana Day (ph), licensed clinical social worker, and then the clinical director, Melissa Polier (ph), a licensed clinical social worker. We would have separate meetings due to the no contact order being in place.

And so at that time at the meeting of professionals wherein DFS was involved in all the children's clinicians as well as myself, every clinician recommended that family therapy was clinically indicated and could be beneficial.

Q What would you describe as no contact order in the context of the reunification and efforts of the Browns --

A Well, it certainly --

Q -- and Ms. Lawrence?

A -- did not allow any conversation to occur or healing or repairing a relationships upon the children being removed from the custody of Mr. Brown and Mrs. Lawrence.

Q How often have you seen Mr. Brown since September of 2014?

A So I saw Mr. Brown from the second week of September 2014 through the last week of July of 2016 and I provided Maryte Tallent a court report summary that summarized the number of sessions that we have had as well as all the additional services that Mr. Brown had participated over that almost two year period.

Q How many sessions, ballpark, have you had with Mr. Brown?

A It was over 80 sessions.

Q 80 sessions. And how would you describe his participation?

A Mr. Brown has routinely weekly showed up to participate in family therapy without child present. He is extremely invested in reunifying with his children. So what much of those 80 plus sessions that we would talk about is what he would be learning and all those additional services that were recommended to him through his assessment at Red Rock.

So Mr. Brown has completed parenting classes, he has completed individual therapy, he has completed domestic violence classes, he has completed parenting offender classes.

And so based upon what he would learn in these courses over the course of almost working with me for two

years, we would discuss what insight he was learning from participating in all these additional services and how that would benefit him as a dad; henceforth, moving forward with the ultimate goal I hoped of reunifying with his children.

Q How would you describe his progress?

A I think Mr. Brown -- when we first met, he's a big guy. He can be -- he can present as a little overbearing and stern. And through all this course work that he's participated in and meeting with me for almost two years weekly that he's demonstrated a lot of insight in terms of how to foster a healthy relationship with young children, in terms of positive discipline, in terms of how to manage the tone and the pitch of his voice and that there's still positive ways that he can convey his message in parenting his children safely without having to come across as being stern or tough.

Q Based upon your training, education, and experience, is he a fit parent?

A Based upon Mr. Brown's commitment and all the course work classes that he's completed almost over the past two years, his commitment to meet with me weekly and to listen to me and challenge him, as a parent myself, I think that he's a fit parent to reunify with his parent -- his children.

Q Based your training, your experience, and your education, is he able to provide an abuse free home?

A I believe so, yes.

Q Based upon your training, experience, and education, would it be in his children's best interest to be in his home?

A I do believe it's in the children's best interest to return to the care of Mr. Brown and Mrs. Lawrence.

Q And why would that be? Based upon your training and experience.

A So I have provided mostly clinical services to the foster care children and their families over the past 15 years and I have never worked with a family or a couple or caregivers parents that have been so invested in terms of reunifying with their children and following through with what has been asked of them and more. So -- and based upon their commitment to want to reunify with their children, I -- I can't see that any other home would be a benefit to have these children be placed in.

MR. DRASKOVICH: Thank you. I have no further questions.

THE COURT: Okay.

MS. DORMAN: Thank you.

//

CROSS EXAMINATION

BY MS. DORMAN:

Q Mr. Gennis, just to be clear, you have never met Mr. Brown's children, is that correct?

A That's correct.

Q Yet, you're testifying what's in their best interest today?

A So I'm testifying based upon --

Q Yes or no, sir?

A -- my work with Dr. --

Q You're -- you're --

A And it's actually Dr. Gennis. So yes, I'm --

Q Yes or no, sir?

A -- testifying from providing family therapy without child present, so I have never had the opportunity to observe Mr. Brown interact with his children directly.

Q Okay. So -- so listen to my question. You've never met his children, is that correct? Yes or no?

A No, I may have met his children over the two year term of my employment at Healthy Minds; however, I am not the individual therapist.

Q Okay. When did you meet his children?

A They would come to the Rancho office at Healthy Minds and it's very plausible that I have met them in

crossing when they would come --

Q My speci --

A -- for therapy services.

Q My specific question to you is when did you meet his children?

A I'm sure I had physically seen his children over the course of the past two years being an employee at Healthy Minds as they were brought in for their therapy appointments.

Q Okay. So you're sure you've seen them but you can't tell me when you met them, is that correct?

A That is correct.

Q Okay. But you're testifying as to what is in their best interest today, yes or no?

A Based upon my work with the parents, yes, I am.

Q Okay. Now you are not a trauma therapist, is that correct?

A Actually, no. I am certified in a cognitive behavioral therapy trauma informed care.

Q Did you talk about that when you were asked about your qualifications?

A I have lots of qualifications and I'm trained in lots of models of therapy and if I spoke about that, we would be here for another hour.

Q Okay. My specific question was did you speak about that in your credentials?

A I'm -- I'm doing so right now, ma'am. Thank you. So yes --

Q My question to you --

A -- I am trained in --

THE COURT: Hold on. Hold on.

A -- trauma informed care.

THE COURT: Hold on. Just try to answer her questions and then --

Q Try to answer --

THE COURT: -- Mr. -- Mr. Draskovich or Mr. Gowdey or somebody else can ask questions that you want the Court to get across.

Q My specific question to you is did you talk about that in your initial recitation of your credentials today?

A No, I did not.

Q Okay. Now you -- you said that Mr. Brown was referred to you by DFS, is that correct?

A Healthy Minds, correct.

Q Okay. Now isn't it true that only the sibling group was referred, not Mr. Brown?

A So Healthy Minds has a contract with the Department of Family Services to be the primary provider of

clinical services to children that are in foster care. And so it is part of the project model which Maryte can speak to in great detail that the -- the biological parents who would be referred for family therapy without child present because the goal was family reunification in September of 2014.

Q My specific question to you was was Mr. Brown referred to you by DFS?

MR. GOWDEY: Objection --

A I --

MR. GOWDEY: -- asked and answered.

MS. DORMAN: He hasn't answered it.

THE WITNESS: I would --

MS. DORMAN: And that's the problem.

THE WITNESS: -- say yes.

THE COURT: Overruled. Yeah, just answer, because --

MS. DORMAN: Okay.

THE WITNESS: Yes.

THE COURT: -- I heard that the primary contract with DFS is for the children.

BY MS. DORMAN:

Q Okay. So it's your testimony that the primary contract with DFS is for the children, but that DFS specifically referred Mr. Brown to you --

A That's for the family.

Q -- for therapy. I'm asking about Mr. Brown specifically. He was specifically referred to you for therapy, for Healthy Minds?

A Through Healthy Minds, yes.

Q By DFS.

A Yes, because DFS is our contract holder.

Q Okay. Now did they refer him to you for physical abuse counseling?

A No, it was for family therapy without child present.

Q Okay. And so you were not providing physical abuse therapy to Mr. Brown?

A So Mr. Brown and I would talk about positive discipline practices as far as discussing his protective capacity in terms of what the allegations are, why the children were removed from Mr. Brown and Mr. Lawrence (sic). So talking about his -- and assessing his protective capacity as a parent, talking about different ways, parenting strategies, talking about self-care coping skills absolutely is part of our 80 plus session conversation.

Q Okay. So you specifically provided physical abuse therapy to Mr. Brown, is that your testimony?

A Yes.

Q Okay. All right. So let's talk about that physical abuse therapy that you have provided to Mr. Brown. Okay. So multiple times today you have testified and multiple times you have put into writing that you were providing family therapy without children present, is that correct?

A That's correct. Yes.

Q But today, you're testifying that you have provided specifically physical abuse therapy to Mr. Brown.

A So that was part of our discord (sic), that was part of our conversation in our therapy sessions and to --

Q And that's been your understanding since September -- since September of 2014?

A Yes.

Q Okay. Now in October and November of 2014 while you were treating David (sic) -- sorry, Donald. Were you aware he had a family risk assessment with Red Rock Psychological?

A Yes, I was.

Q Did you review that?

A I have reviewed that and I know that there was multiple revisions to that evaluation.

Q Oh, you know that there were multiple revisions through Red Rock --

A Yes.

Q -- family risk assessment? When were those?

A Mr. Brown reported to me, because there was inaccuracies in the report and that it was requested that those inaccuracies be changed, because part of the information that was presented in that report was not true per --

Q And that's --

A -- Mr. Brown's report.

Q -- per Mr. Brown's report?

A Yes.

Q Okay.

A And -- and there were --

Q So did you ever see --

MR. DRASKOVICH: I would object --

Q -- an amended --

MR. DRASKOVICH: -- and ask that he be allowed to answer the question as she interrupted him.

THE WITNESS: And there were three actually revisions. There was actually three reports that came out of Red Rock.

BY MS. DORMAN:

Q Did you ever see those --

A Yes --

Q -- revisions?

A -- I did.

Q Okay. Do you have them with you today?

A No, I don't, because I'm no longer an employee at Healthy Minds and that medical record is owned by Healthy Minds.

Q Would it surprise you to know that the DFS was never provided with any revisions of the Red Rock Psychological -- or the Red Rock family risk assessment?

A It would actually surprise me a great deal that DFS is not in possession of any of the documentation of all the work that Mr. Brown has completed over the past two years.

Q No, I'm specifically asking you, Dr. Guinness (sic), about the three revisions you said there were to the family risk assessment.

A Gennis, not Guinness like the beer. I am -- would be shocked that Maryte and her supervisor is not in possession of -- of those revised assessments made by Red Rock.

Q Okay. So it's your testimony under oath that they exist and you've seen them.

A Yes.

Q Okay. Now you said you reviewed this family risk

assessment, is that correct?

A From Red Rock.

Q When was that?

A That was -- it would have been back in 2014. That was one of the first services that actually Mr. Brown completed because out of that came recommendations which then encouraged Mr. Brown to complete additional services.

Q I'm sorry, I missed when you said you reviewed it.

A In 2014.

Q What day?

A I don't know what day, ma'am. I don't --

Q What month?

A -- remember --

Q What month?

A -- when it was completed.

Q When was that?

A In November, I believe.

Q Okay. So you reviewed it in November.

A The first copy.

Q You reviewed in November, yes or no?

A I believe so. When it was completed in 2014.

Q Okay. Now this family risk assessment assesses what?

A Well, it assesses the parents' parental capacity

in terms of safety and -- and it recommends specific services in regards to what they believe the parent needs to complete to support them in potentially moving forward and increasing their protective capacity and hopefully reunifying with their children.

Q Okay. So you're aware that the family risk assessment at Red Rock Psychological Health did indicates that it was to assess his amenability to treatment, his critical relapse, risk factors, and family safety issues due to allegations of child abuse --

A Correct.

Q -- is that correct?

A Yes.

Q So that would be important to you providing physical abuse therapy to Mr. Brown --

A Absolutely.

Q -- isn't that correct?

A Absolutely.

Q Okay. So were you aware of the documentation that Red Rock reviewed before doing this family risk assessment?

A I'm aware that DFS made the referral and that they submitted documentation from their records --

(DUE TO TECHNICAL DIFFICULTIES, RECORDING ABOVE STOPPED DURING TESTIMONY)

(COURT RECESSED AT 11:18 AND RESUMED AT 11:18)

A -- the allegations against Mr. Brown. And that was the information to my knowledge that they had possession prior to Mr. Brown arriving to have that initial assessment completed.

Q So my specific question was what documentation was that?

A I don't know. Maryte can speak to that.

Q So you don't know what documentation they reviewed.

A No, I'm not aware of what the intern therapist at Red Rock, what recommendation that individual reviewed.

Q The -- I'm not talking about a recommendation. I'm talking about the documents they reviewed. You're not aware of the documents they reviewed?

A I can't speak to what Maryte or DFS submitted to Red Rock Counseling to have --

Q But you -- but you reviewed this document.

A Yes.

Q And they said in it what they reviewed.

A In 2014.

Q They said in it what they reviewed, is that correct?

A In 2014.

Q Yes or no? They said in it what they reviewed?

A I'm going to assume that they -- it -- that the report indicates yes.

Q Okay. Now would it surprise you to know that they reviewed the disposition repot before they took his family risk assessment?

A That would not surprise me, no.

Q Did you review the disposition report?

A Yes.

Q When was that?

A Back in 2014.

Q Not since then?

A No.

Q Okay. Were you aware that during this -- you -- you just testified that you've read not only this but the three subsequent changes to --

A Uh-huh (affirmative).

Q -- this document, correct?

A Yes.

Q Okay. So you're aware then that during the clinical interview Mr. Brown stated to Red Rock I've got some -- I've said some terrible things to Samantha and I can't believe I swatted Wyatt and the other kids and hurt him. Do you recall that?

A Mr. Brown has admitted to swatting the children on their behind and has admitted to using a certain voice, yes, and that has been part of our conversation in therapy, absolutely.

Q So you recall reading that in this.

A Yes, and we've actually talked about that though in great detail over the course of our two year relationship with each other.

Q Okay. We'll get to that. We'll get to that. But my specific question is you recall reading that in this document, is that --

A Yes.

Q -- correct? Okay. You also recall reading in this document that Mr. Brown stated he told Samantha she would end up a crack whore in North Town, right?

A I don't remember Mr. Brown making that statement.

Q You don't remember it being in this Red Rock?

A I -- I don't remember him making that statement.

Q Okay. Do you have any reason to disbelieve me that it's in this statement? Would you like to look at this?

A No, if you're telling me that it's in that record, then I'm going to take your -- that it is.

Q You don't recall that?

A No, I don't.

Q Okay. So you didn't work on those terrible statements --

A So --

Q -- that he made?

A So I have -- I haven't recently reviewed that. The first time I reviewed that was 2014. And so --

Q Well, no. you said that you reviewed the subsequent revisions.

A Yeah, but Mr. Brown and I talked about his language and how that it's -- he needs to use a sensitive approach, strength based language, and that he can still convey what he needs to convey in terms of motivating his children to make positive behavioral changes and he doesn't need to do that in a stern or tough way through intimidation or fear.

Q But you weren't aware that he called Samantha a crack whore in North Town.

A I don't recall. I don't recall.

Q Okay. Now in the Red Rock report, Mr. Brown indicated he was in prison from the ages of 21 to 26 for voluntary manslaughter of his eight month old daughter. So you were clearly aware of that?

A Yes, I was.

Q Okay. Did you ever ask to see his confession with regard to that?

A No, I did not.

Q Okay. You didn't think that it was important to note what he confessed to in January of 1984?

A I was told that legal statutes is that that is something that I should not even be talking about.

Q Who told you that?

A An attorney.

Q Which one?

A I don't -- I can't recall which attorney.

Q Your attorney, his attorney, DFS' attorney?

A That that was past the statute of limitations in terms of that crime.

Q No, my question is which attorney told --

A I don't --

Q -- you that?

A I don't recall.

Q You don't recall having a discussion with an attorney about his conviction and the attorney telling you you shouldn't discuss that at all? You don't remember who that was?

A No, I don't.

Q You don't remember who that person worked for?

A It could have been an attorney representing Mr. Brown or Mrs. Lawrence.

Q It could have been.

A Yes.

Q Okay. So then you're not aware that as part of the J case he actually pled no contest to those convictions.

A I'm aware that in the criminal case that the family -- the couple pled no contest.

Q No, in the J case, the criminal case that's still going on. So you're aware that in the J case he pled no contest to this conviction, yet you were told not to touch it in therapy.

A So when you say the J case, are you referring to why I was brought in today --

Q Correct.

A -- and why I'm testifying --

Q No.

A -- today?

Q You're testifying in a TPR.

A Okay.

Q I'm talking about the underlying J case with the disposition report and the case plan --

A Uh-huh (affirmative).

Q -- and the CFT you attended that you testified you

attended. In that case, he pled no contest to the criminal convictions, you didn't know that?

A That was -- and that was I believe advised by his attorneys. Uh-huh (affirmative).

Q Okay.

A I was aware of that.

Q But yet, you were told not to touch that in therapy by his attorneys.

A We did not discuss that in therapy, no.

Q Okay. So is there some kind of statute of limitations in psychology about what you can discuss with regard to killing a child?

A No.

Q Okay.

A None that I'm aware of.

Q Okay. So it wasn't important to you to know how his eight-month-old daughter had gotten second and third degree burns on her right hand.

A No, and actually, I was not aware of the actual injuries that his daughter sustained, although I was aware that he was in prison for --

Q No, that wasn't for the death, Doctor. That was another separate injury that he pled guilty to. You weren't aware of that?

MR. DRASKOVICH: Objection as to mischaracterizes he --

A No.

MR. DRASKOVICH: -- plead guilty. It's no contest. It's an inappropriate question.

THE COURT: Okay. Sustained. So just clarify --

MS. DORMAN: He pled guilty in the criminal case. The JOC's in evidence.

MR. GOWDEY: Was it -- it was the same case though. It was a separate allegation in the same case.

THE COURT: Okay.

MR. GOWDEY: Not a separate case.

THE COURT: Okay.

MS. DORMAN: I didn't say it was a separate case. I said it wasn't the injury that caused the death.

THE COURT: Okay. Continue.

THE WITNESS: No, I wasn't aware.

BY MS. DORMAN:

Q So you weren't aware that he pled guilty to having the burns on the daughter's --

A No.

Q -- hand --

A No.

Q -- and that he pled guilty --

A No.

Q -- to killing her.

A No, I was not.

Q You didn't think that was important?

A I think that is very important, but if I'm going to continue working as a clinical ther -- therapist, if -- if I don't believe that people can change, I'm in the wrong business.

Q Well, how do you know if they can change if you didn't even know what he did?

A Well that was 30 years ago, correct?

Q So time changed him? Is that what I'm --

A I'm --

Q -- to understand?

A I'm -- I'm believing that Mr. Brown has changed over the past 30 years and that he's not the same person that he was 30 years ago.

Q But again, how do you know if you didn't even know what he did?

A No, that is true. I did not know what you just shared with me.

Q Okay. So you didn't know that he confessed that he grabbed the baby by the neck and threw it down on a blanket and there was a screwdriver under the blanket and

she hit her head and died.

A No, I did not know that.

Q You didn't know that, but you believe he's changed.

A I do believe that Mr. Brown presents with protective capacity today.

Q No, your testimony was that he changed. So I'm asking you after knowing that, what you didn't know before, it's still your testimony that he's changed.

A I believe so, yes.

Q Okay. Now -- so again, in this document, he --

A Uh-huh (affirmative).

Q -- refused to talk about that, do you recall that?

A Yes.

Q Okay. And do you recall that Red Rock put that down as a risk factor in his future risk for physical abuse?

A Uh-huh (affirmative).

Q Okay. So you understand then that he confessed to that in 1984, but in 2014 when he did this, he told Red Rock that she was acting lethargic and stopped breathing and refused to talk about it further.

A Uh-huh (affirmative).

Q You're aware of that.

A That Mr. Brown refused to talk about it further?

Q Not only that, but that he told Red Rock she was lethargic and stopped breathing.

A Yeah, I'm aware of that.

Q Okay. So --

A I --

Q -- as you sit here today, she was lethargic and stopped breathing is completely different than what he confessed to in 1984, right?

A Absolutely.

Q That's concerning, right?

A Yes, it is.

Q Okay. But you didn't know that prior to --

A No.

Q -- right now.

A No, I didn't.

Q Okay. So you didn't work on the child's death at all in therapy.

A No.

Q And you didn't work on the fact that he had taken responsibility in '84 but now is not.

A We had talked about --

MR. DRASKOVICH: Objection as to taken responsibility. That's a mischaracteri -- he said said he wasn't going to talk about it anymore, but it's not that

he's denying it happened.

BY MS. DORMAN:

Q Well, specifically what the Red Rock -- Rock report says is that he reported to Red Rock she was lethargic and stopped breathing. That's not what happened.

MR. DRASKOVICH: Objection, relevance. Okay.

THE COURT: I'll sustain that objection, but based on how your characterized it. So if you want to ask him a question that's more specific, then he can answer regarding the word responsibility.

MS. DORMAN: Okay.

THE COURT: You can go ahead.

BY MS. DORMAN:

Q Would it have been important to you that in 1984 he confessed to grabbing an eight-month-old child by his neck -- by her neck, throwing it down and the child dying and later when he's asked about it in a family risk assessment he says they're lethargic and stopped breathing? Would that be concerning to you?

A I think that would be very relevant information for --

Q Okay.

A -- me to have been -- to have known.

Q But to be clear, you didn't have that information.

A No.

Q Okay.

A Not what you disclosed in terms of those details.

Q Okay. Were you aware that he reported during the Red Rock report being arrested in Colorado twice for incidents involving his ex-girlfriend?

A Yes.

Q You were aware of that. Did you work on domestic violence issues with him?

A So Mr. Brown has completed I believe 26 domestic violence classes that came out of I believe that recommendation. And so as part of our conversation, what he would learn and out of those 26 classes, we would have some discord in -- in family therapy without child present.

Q So you talked about it -- talked with him about what he learned --

A And how --

Q -- in the domestic violence classes --

A And how he then --

Q -- is that correct -- let me finish.

A Yes, ma'am. And how he could apply that.

Q Okay. What --

A And --

Q -- did he say about that?

A Well, and it's my understanding actually, and you can correct me if my understanding is incorrect, that Mr. Brown has actually never been -- I don't know the legal terminology, convicted of --

Q Doctor, my --

A -- domestic violence.

Q -- specific question to you is what did Mr. Brown say about what he learned in domestic violence?

MR. DRASKOVICH: And I would object and invoke the privilege. This is his counselor.

MS. DORMAN: You can't have him testify and then invoke the privilege about what he said during the counseling sessions. You can't have him testify that he's fit to return to his child and then invoke a privilege when we talked about the specific things he said in therapy. If that's going to be the case, I'd ask you throw out the entirety of his testimony.

MR. DRASKOVICH: And I'd like her to cite a legal basis for making that request. He can talk about the progress that he made, changes he's made and not get into specific --

MS. DORMAN: How can he --

MR. DRASKOVICH: -- statements.

MS. DORMAN: -- talk about changes he made without

saying the specifics of --

MR. DRASKOVICH: He just did.

MS. DORMAN: -- what he said?

MR. DRASKOVICH: He did without a problem in his direct.

THE COURT: Okay. So they called him for a specific reason as their witness in -- in their -- in their case. There is a privilege that he can invoke. So as far as --

MS. DORMAN: What about the release he signed?

MR. DRASKOVICH: And that release was to the J case. We keep making these instinctions. Accordingly, he has -- has immunity at the J case, but then doesn't carryover to the P -- TPR hearing. Well, then why should the waiver or the release carryover?

MS. DORMAN: Why should you be allowed to call somebody to elicit testimony that's favorable to you and then block me from cross examining that -- the basis of that testimony?

THE COURT: What release did he sign, just to the Department of Family Services?

MR. DRASKOVICH: Yes.

THE COURT: Well, if he signs a release to the Department of Family Services, it's under release to the

Department of Family Services that they need that information just like the Red Rock report needs that info -- like anything in the Red Rock report. It's the same thing that he's giving them the -- the ability to for good and for bad to go over what it is that was in their notes and progress. So that's a little bit different.

In other words, you're not -- it was -- it was -- the therapy was done for this case. It was meant for this entire case having the referral from the Department. So therefore, there is -- there is no surprise that what Mr. Brown or any litigant has learned in any type of treatment whether it be alcohol, substance abuse, physical abuse. That information is relevant to everybody in this case to determine what it is that has been benefitted in order to hopefully show the -- the Department and the Court that the reason he went to -- to you was beneficial.

So you did sign a -- there was a sign released then, Ms. Tallent, that -- for Healthy Minds for --

MS. TALLENT: Yeah, the --

THE COURT: -- his therapist.

MS. TALLENT: Mr. Brown signed the release, the release, so we're able to get the letters that Mr. --

THE WITNESS: It's okay.

MS. TALLENT: Dr. Gennis sent to us, so that's the

reason why he was able to set us up any -- any documentation on the progress of his sessions. So we do have those release -- well, Healthy Minds has those releases signed.

THE COURT: We usually find this when the other opposing side calls a witness and that witness claims the privilege, but at this point, I don't know how you can pick and choose what -- what questions. So I mean, we need to know everything about how the progress of Mr. Brown, you being his -- his treating doctor, what's happened since the -- you know, the time that he's been your patient. So I think that's their --

MS. DORMAN: And I would just --

THE COURT: -- precedent or --

MS. DORMAN: -- point our NRS 49.249. If a marriage and family therapist is required to testify in an administrative or court related investigation or proceeding involving the welfare of his or her client or of the minor children of his or her client, there's no privilege.

THE COURT: So you started talking about what you did with him in treatment and so now I think they were just speaking about the specific incidents of what he's learned and how the DV issues were hopefully resolved. So you can continue.

MS. DORMAN: Right.

BY MS. DORMAN:

Q So what did he express to you about that?

A Okay. So what Mr. Brown and I discussed -- so I adopt the practices of the Department of Family Services in terms of safety, well-being, and permanency. And so I practice from a clinical perspective that there should be never any hitting whatsoever in terms of disciplining a child. And that's in line with the philosophy of the Department of Family Services. So what we discussed is that if there has been physical discipline, which Mr. Brown has admitted to --

Q Sir, I -- I don't know if maybe you've lost the train of thought. I specifically asked you what did he discussed about what he learned in his DV counseling.

MR. DRASKOVICH: And I would object that he's putting into context. She's not allowing him to answer the question.

MS. DORMAN: It's not answering my question. My specific question that we just had a huge discussion about was what did he say he learned in DV counseling. That's it.

THE COURT: Okay. So can you answer that question? And if you need to lead up to that, you can, but that's the question that's presented.

THE WITNESS: Okay. Mr. Brown has shared with me

that he has learned -- I mean, not to use fear and intimidation in regards to his parenting style and that he has learned through those 26 DV classes how to parent from a different perspective to promote intimacy in his relationship with his children.

BY MS. DORMAN:

Q Okay. Now we're going to return to that idea of fear and intimidation, because you keep saying that a lot that he's learned not to use fear and intimidation, is that correct?

A Yes.

Q Okay. You were aware then too when you reviewed this Red Rock family risk assessment that Donald's family was in the high risk range to re-offend for physical abuse, is that correct?

A When you say Donald's family, are you referring to Mr. Brown and Mrs. Lawrence?

Q Well, I'm specifically referring to Mr. Brown's family risk assessment.

A Yes, that --

Q That was in the --

A -- that --

Q -- high risk range.

A That was the outcome of that -- of their

assessment.

Q Okay. So tell me how specifically you worked on lowering that risk.

A So with Mr. Brown, we discussed coping skills in terms of him how he can emotionally regulate himself. Life at its best is challenging, and we all know that, and so we discussed coping skills and ways that he can manage his emotional regulation when he would come home from a long day at work and if there was four kids running around the house and there was chaos how to work as a team and to help the children get in line in terms of what the expectations of their family rules and their family culture is. So we discussed to -- how to do that in a positive way.

Q Okay. Specifically, what were his specific coping skills?

A Okay. So for Mr. Brown, giving him a self-directed timeout. So they have a pretty substantial sized backyard where he can go in the backyard and take a timeout to take some deep breaths and to collect himself and smoke a cigarette before he would then -- and even -- and promoting the children to give them an opportunity to take a timeout to relax, to calm down, to de-escalate as well so that the family can come back together and have a conversation that is productive and beneficial and

meaningful for all family members.

Q Okay. So after this, did you reassess his risk?

A So I think throughout our two year relationship, part of my role was to always reassess his risk as well as reassess what he is learning from participating in all his courses as well as meeting with me week after week.

Q So did you reassess his risk?

A Well, and you say reassess his risk. I reassessed his ability to parent in a safe and appropriate way week from week after week.

Q So what's his risk assessment today?

A I don't believe that Mr. Brown that if he was to reunify with his three minor age children as I'm aware, sadly that his oldest child has aged out of the system, that they would not at risk of physically being harmed.

Q Okay. So let me -- let me make sure I've got this right. You -- you testified that you took him from high risk to re-offend for physical abuse down to there's no risk to his children today.

A I think it's minimal and -- and this is over a two year period.

Q Okay. So when did you reassess his risks specifically and put it in writing?

A So I have progress notes that you're welcome to

subpoena through Healthy Minds. And so this assessment process occurs in every time you meet with the patient.

Q Okay. Well, specifically are you aware the risk assessment tool that Red Rock used?

A No, I'm not.

Q Did you use that same tool to --

A No.

Q -- reassess his risk?

A No.

Q Okay. And again, we're going to talk about what you put in writing, but my question to you is have you ever submitted anything in writing to DFS or to the Court indicating that his risk, that you reassessed his risk and it's minimal?

A So Healthy Minds allowed me to submit a court summary report to the Department of Family Services. That's the document that they allowed me within the parameters of their policies and procedures to submit to Maryte upon her request.

Q And -- and you're talking about the April 2016 document?

A She has multiple court report summaries from me.

Q Okay. So we'll get to that, but it's your testimony that you reassessed his risk and he's minimal risk

to re-offend for physical abuse.

A That -- that is my assessment.

Q Okay. So we'll get to that. Now you previously indicated that you were aware that Mr. Brown pled no contest to criminal convictions, is that correct?

A Yes.

Q Okay. Were you also previously aware that he pled no contest to causing injuries to Samantha?

A Yes, I was.

Q Okay. And you understand then that this means that this Court has to assume those allegations are in fact true.

A That's the responsibility of Child Protective Services is to investigate those allegations, yes.

Q I'm -- I'm speaking about specifically after he pled no contest, were you aware that this Court has to assume that those allegations he pled no contest to are true?

MR. DRASKOVICH: Objection.

Q Were you aware of that?

MR. DRASKOVICH: Calls for a legal conclusion.

MS. DORMAN: How can he treat him if he's not treating -- if he's not assuming the allegations are true?

MR. DRASKOVICH: Calls for a legal conclusion.

That's -- they're apples and oranges.

THE COURT: Sustained. I don't know that he knows how the process works at the adjudicatory hearing phase.

MS. DORMAN: Well, let me rephrase.

BY MS. DORMAN:

Q Were you aware that this Court was going to treat those allegations as true?

MR. DRASKOVICH: Objection, relevance.

THE COURT: Overruled. That's --

MR. DRASKOVICH: Thank you.

THE COURT: -- important for us to know.

BY MS. DORMAN:

Q Were you aware that this Court was going to treat those allegations as true?

A Yes.

Q Okay. So then it would be important if we're treating those allegations as true and you're the provider of physical abuse therapy --

A Uh-huh (affirmative).

Q -- it would be important to address those allegations in therapy, is that correct?

A Yes.

Q Okay. So let's talk a little bit about what you knew about those allegations. Were -- is Mr. Brown in

denial of causing those injuries still today?

A Yes.

Q Okay. So fair to say, we're treating them as true, he's still in denial of those, right?

A He is not assuming responsibility for those CPS reports for those alleged incidents.

Q Okay. But you still place his risk level as minimal.

A From my work with him over the past two years.

Q Des -- despite the fact that he remains in denial.

A Those are the alleged allegations.

Q Actually, your prior testimony was that you understand that we would be treating them as true, right?

A According to the court legal law, but I don't believe that they were ever substantiated.

Q Okay. Let me make this very clear. You previously testified that you understand that this arena would treat them as true, is that right? It was your testimony.

A I believe that's the -- the role of the Department of Family Services and protecting children.

Q Okay. And he remains in denial of those, correct?

A Correct.

Q And you're still placing his risk level as

minimal --

A I am.

Q -- to the other children.

A I am.

Q Okay.

A So may I speak?

Q No, it was just a yes or no question. Did you address his continued denial in therapy?

A Yes, we discussed those allegations.

Q And what was discussed?

A So those are I believe unsubstantiated allegations. And so we had a conversation around them.

Q I'm sorry, I'm sorry. Let me back up. It's now your testimony that you believe those allegations are unsubstantiated?

A Per the CPS investigations -- so as a clinician, may I explain to you my role as a clinician?

Q No. No. No.

A So --

Q My -- I'm trying to understand -- you previously testified that you understood this arena would treat the allegations as true, but now you're saying that you understood them to be unsubstantiated. Do I have that right or do I have that wrong?

A I understand your legal perspective, but the clinician's perspective is different.

Q Okay.

A So it's CPS' duty to investigate and to determine if -- if these allegations of abuse, trauma, harm are to -- true and accurate. It is my understanding under oath and testimony and on record that those previous CPS investigations were unsubstantiated.

Q Okay. So I'm not talking about a previous CPS investigation. I'm talking about the incident that brought him to you, to your attention through the Department of Family Services.

A The removal of the four children.

Q Correct. So he maintains in denial of that specific incident, is that --

A Yes.

Q -- correct?

A Yes.

Q Okay. Do you believe that specific incident to be unsubstantiated?

A Yes, I do.

Q Okay. And that's the position you took during the entire time that you were treating him, is that correct?

A As I got to know Mr. Brown, yes.

Q Okay. So as you're treating him -- and your -- your belief is that these allegations are unsubstantiated.

A Based upon the CPS reports which said they were unsubstantiated.

Q So okay. Let's talk about which CPS reports you read that indicated this incident were unsubstantiated.

A I believe there was seven reports, I think.

Q Seven? What were they called?

A I don't know what they were called.

Q But you read all -- it's your testimony under oath that you read all seven of those.

A There was seven previous investigations.

Q Sir, please -- please try to focus.

MR. DRASKOVICH: Objection.

Q I am telling you --

MR. DRASKOVICH: He is -- he's answering her question.

MS. DORMAN: He's not answering my question.

MR. GOWDEY: It --

MR. DRASKOVICH: But -- but I would object then. It's -- her question is vague.

MR. GOWDEY: She's badgering the witness with the -- with the please try to focus. That is --

THE COURT: Well, I think --

MR. GOWDEY: -- completely unnecessary.

THE COURT: I think -- okay. So what we got so far is that they're talking about the lot -- the -- the issue that brought all the kids into care. This --

MS. DORMAN: Correct.

THE COURT: -- and --

MS. DORMAN: And he keeps wanting to return to prior --

THE COURT: Okay. So let's --

MS. DORMAN: -- allegations.

THE COURT: -- focus on because that's not -- at this point, that's the question is regarding the incident of the removal which was I believe if I'm not mistaken December of 2013.

MS. DORMAN: Correct.

THE COURT: So let's focus on that, because that's what the referral was for. Anything else you want to talk about from the past seven that you were talking about, maybe your attorneys will -- will question you or she'll get to that. But let's focus on the removal in December of 2013.

MS. DORMAN: Right.

THE COURT: Okay.

BY MS. DORMAN:

Q So the incident that brought him into the

attention of the Department of Family Services, which I've said previously, and the incident that caused him to be referred to you, do you believe that incident is unsubstantiated?

A Yes.

Q Okay. And that's the position that you've taken in treating him, is that correct?

A Yes.

Q Okay. So for the 80 sessions that you've been treating him, he denies harming Samantha and you accept that as true, is that correct?

A Yes.

Q Okay. But previously you testified that you understood that this arena would accept those allegations as true, is that correct?

A Yes, that's your role to assume that those allegations are true.

Q Okay. Did you ever take a look at the injuries that Mr. Brown pled no contest to causing?

A No.

Q Okay. Do you never saw this (indicating)?

A No.

Q You never saw this (indicating) black eye?

A No.

Q You never saw these (indicating) marks to Samantha's back?

A No.

Q You never saw this (indicating)?

A No.

Q Okay. So you never saw the injuries that he was allowed -- alleged to have caused. You knew this arena would accept them as true. You accepted that they were unsubstantiated through Mr. Brown's report to you and it's still your testimony that he's a minimal risk to return to his children.

A Yes.

Q Okay. So it's fair to say you didn't address the physical abuse of Samantha in therapy at all.

A Mr. Brown disclosed that he did not do those injuries to Samantha.

Q So you left it alone.

A We discussed that, I explored it further and he continued to deny that he did not do those injuries to Samantha.

Q And you believed him.

A Yes, I did.

Q Okay. Now during the first 90 days that you had this case, so between September and December of 2014, did

the -- the calls speaks for itself. Didn't you agree on the call. Well, we heard the call. The call speaks for itself.

THE COURT: Okay. But I think she's allowed to ask that question. And -- and this -- I mean, at trial --

MS. HANRAHAN: I mean, if --

THE COURT: -- she can --

MS. HANRAHAN: -- he wants to clarify --

THE COURT: Right.

MS. HANRAHAN: -- what he -- that's --

THE COURT: So it's -- you can ask -- you can ask the question and you can answer the question. So I'll overrule the objection, although there was -- I'll overrule the objection from Mr. Gowdey.

BY MS. HANRAHAN:

Q So you agree with her when she said that -- those things about Samantha, correct?

MR. DRASKOVICH: And I'll direct my client not to answer and invoke his Fifth Amendment.

A I invoke my Fifth Amendment.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Now in another one of those calls that were played during Ms. Lawrence's testimony from a call on June 4th, 2014, you agreed with her when she said she wanted Sam out of her house and didn't even want her in the same house with the other three kids, did you not?

A I invoke the Fifth.

MS. HANRAHAN: I'll ask for the negative inference. And Your Honor, I -- we won't play the calls again. I'll just direct the Court's attention to those as specified by the date --

THE COURT: Okay.

MS. HANRAHAN: -- from Ms. Lawrence's testimony.

THE COURT: All right. That's fine.

BY MS. HANRAHAN:

Q And then when Ms. Lawrence referred to these injuries to Samantha's back as a bruise she did to herself, you agree with that as well, did you not?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And then on another one of those calls when Ms. Lawrence said the people at St. Jude's better watch for

Samantha, you agreed and said that Samantha was manipulating everyone right now, didn't you?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative --

MR. DRASKOVICH: Same objection.

MS. HANRAHAN: -- inference.

MR. DRASKOVICH: Same objection.

MS. HANRAHAN: And that call was June 3rd, 2014.

BY MS. HANRAHAN:

Q Mr. Brown, you didn't really hide your negative feelings about Samantha in front of the other kids either, did you?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

THE COURT: Okay.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Both Heidi and Nikki testified that they saw and heard you beating Sam, didn't they?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And Ms. Tallent testified that Wyatt told her you would use your black belt to hit Samantha?

MR. DRASKOVICH: Hearsay -- you know, I'm just going to invoke the -- direct my client to invoke the Fifth.

A Invoke the Fifth.

MS. HANRAHAN: I'll ask for the negative inference.

BY MS. HANRAHAN:

Q And --

MR. DRASKOVICH: Same objection.

Q -- is it true -- during Heidi's testimony, she stated that you essentially encouraged the other kids to dislike or treat Samantha differently, is that true?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Would you agree that encouraging your three biological children to treat Samantha differently or badly is not really meeting any of the kids' emotional needs?

A I invoke the Fifth.

MR. DRASKOVICH: Same objection.

MS. HANRAHAN: And I'll ask for the negative inference.

BY MS. HANRAHAN:

Q Would you agree that that shows no empathy for any of the children?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Would you agree -- do you recall the -- the girls' therapist all testified -- or the twins' test -- therapist testified that it was emotionally harmful for them to witness Sam being abused?

A I invoke the Fifth.

MS. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Now there is a -- do you recall a jail call with Melissa on March 16th, 2014 where you told her that you

would never forgive Sam ever in your life? Do you recall that conversation?

A I invoke the Fifth.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q Now that other one is referring to Sam, correct?

MR. DRASKOVICH: I'm object to speculation, unless -- unless we hear the whole -- whole tape. I don't feel comfortable with the negative inference or denial or that or anything else without hearing a little more of that.

MS. HANRAHAN: Let's see if we can rewind it back.

THE COURT: Okay.

MR. GOWDEY: You know, I don't -- I -- I don't want to be here all day or all week or all month, but picking out small snippets of jail call conversations without surrounding text -- context --

MS. HANRAHAN: Okay. We'll play the whole thing.

MS. DORMAN: That's not how it works. If they want to play part of the jail call, they could have spent the hours and hours and hours that we spent listening to the jail calls and say wasn't the entirety of the statement that you'll never forgive your son David or whatever.

MR. DRASKOVICH: I move there's not a name and it's unclear of who he's referring to and where it's the

State's burden. We object to a very small snippet with no context at least in reference to who it's referring to.

MS. DORMAN: That's exactly why she asked him who was it referring to and he's pleading the Fifth.

THE COURT: So it doesn't mention anyone's name on there on that particular recording.

(PAUSE)

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q So when you talked about that other one that you will never forgive, who were you talking about, sir?

A I do not recall.

Q You don't recall somebody that you were never going to forgive, ever, never?

A This was one of the worst times in my life here. I don't remember. It was pretty emotional.

Q Well, this was March 2014, two months before Sam wrote that letter, isn't that right, sir? I mean, at this point in March 2014, Sam was still supporting everything you wanted her to say, isn't that correct?

MR. DRASKOVICH: Objection, calls for speculation. He's in jail.

THE COURT: Sustained.

BY MS. HANRAHAN:

Q To your knowledge as of March 2014, had Sam told DFS that you had abused her?

A I was in jail. I don't know.

Q Had Sam written that letter yet that stated May 2014?

A I don't know.

Q But it was submitted in May 2014. What -- what was it that you felt like you might need to forgive Samantha for at that point?

MR. DRASKOVICH: Objection, assumes facts not in evidence for that.

THE COURT: Sustained.

BY MS. HANRAHAN:

Q Had Samantha done anything to you directly that you felt caused you to be in jail? Was that -- is that what you were talking about?

MR. DRASKOVICH: I'm going to direct my client not to answer that question and invoke the Fifth Amendment.

A I invoke my Fifth Amendment.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: All right.

BY MS. HANRAHAN:

Q Do you still feel that way about Samantha, sir?

MR. GOWDEY: Objection, assumes facts not in evidence.

MS. HANRAHAN: Do you still have --

MR. DRASKOVICH: She never established he felt that way towards Samantha, so --

MS. HANRAHAN: Well --

THE COURT: Sustained, because that's -- that's vague.

BY MS. HANRAHAN:

Q The names that you called Samantha in the jail calls, the agreement with Ms. Lawrence when she said negative things about Samantha in the jail calls, would you not agree that those indicated a pretty negative attitude about Sam?

MR. DRASKOVICH: I'm going to --

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

THE COURT: Okay.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And assuming those things indicate a negative

attitude towards Sam, do you feel that way about her today?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And in fact, you're still blaming Samantha for the situation that you're in, isn't that correct?

MR. GOWDEY: Objection, assumes facts not in evidence.

MR. DRASKOVICH: And I'm --

MS. HANRAHAN: Well --

MR. DRASKOVICH: I'm going to direct my client not to answer in an abundance of caution of the Fifth Amendment.

MS. HANRAHAN: So what are we doing?

MR. DRASKOVICH: I invoke the Fifth.

MS. HANRAHAN: Okay.

MR. GOWDEY: Well, she can --

MS. HANRAHAN: Then I'll ask for the negative inference.

THE COURT: I'm -- I'm going to sustain your objection, because the way the question is -- there's -- you're assuming facts in evidence that he was -- he was blaming. And he's never testified that he -- he was blaming

her for the situation, because we don't know who was on the other side of -- or who is referring to on that call.

MS. HANRAHAN: Well, let me ask another question.

BY MS. HANRAHAN:

Q And you're still trying very hard in the criminal case to prove that Samantha's crazy, aren't you?

MR. DRASKOVICH: And I'm going to object and direct him not to answer. It's an inappropriate question.

MS. HANRAHAN: Your Honor, I don't know how it's inappropriate. I mean --

MR. GOWDEY: Well --

MS. HANRAHAN: I mean, his -- that's what they already said they're trying to do in the criminal case. They're trying to get a psychological --

THE COURT: I'm going to sustain that as --

MS. HANRAHAN: -- exam of the victim.

THE COURT: -- to the word crazy, because I don't know that anyone said that that's --

MR. GOWDEY: And -- and --

MR. DRASKOVICH: No.

MR. GOWDEY: -- again, the -- the defense in a criminal case has no burden to prove anything. So --

MS. HANRAHAN: I didn't ask her that.

MR. GOWDEY: -- shifted -- shift that -- that is

burden shifting is what it's doing is by -- by pinning him down and say you're trying to prove this or that in the criminal case when you -- the Defendant in any criminal case has no obligation to prove anything except in affirmative defense which we have not to this point asserted. So I think it's just an improper question all the way around.

MS. HANRAHAN: They acknowledged -- they're pursuing a theory that there's something mentally wrong with Samantha, and I'll withdraw the word crazy --

THE COURT: Okay.

MS. HANRAHAN: -- but that appears to be the assertion, not trying to prove, asserting that Samantha has mental health issues.

MR. DRASKOVICH: I would object as to relevance in this proceeding.

MS. HANRAHAN: Well, the relevance again Your Honor is his attitude towards Samantha and the blaming of Samantha for all forensic this.

MR. DRASKOVICH: And I would submit that requesting his position in a criminal trial is an inappropriate question to ask.

THE COURT: Sustained.

MS. HANRAHAN: Well --

THE COURT: You can talk about this trial, but

it's a little cross -- much of a crossover for the criminal trial.

BY MS. HANRAHAN:

Q All right. So when you were still incarcerated at the Clark County Detention Center in 2014, you came up a theory that Samantha was suffering from borderline personality disorder, didn't you?

MR. DRASKOVICH: And I'm going to direct my client not to answer this question and invoke the Fifth Amendment.

MS. HANRAHAN: And I'm going to ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

MS. HANRAHAN: Let's -- let's listen to that.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q So was that your theory after talking to a fellow inmate that Sam had borderline personality disorders?

MR. DRASKOVICH: And I -- and I'm going to object to the question. I'm going to direct my client not to answer and invoke his Fifth Amendment due to the opening and pending criminal case.

THE COURT: Okay.

A Invoke the Fifth.

MS. HANRAHAN: And I'll ask --

A I'm sorry.

MS. HANRAHAN: -- for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT:

BY MS. HANRAHAN:

Q And so you were here when Sam's therapist testified, correct?

A Yes, ma'am.

Q You heard that testimony? And you were here when Ms. Tallent testified, correct?

A Yes.

Q And you were here when the foster mother testified, correct?

A Yes, ma'am.

Q Do you have any idea why none of those three people who have had significant interaction with Samantha for the past two years have seen anything or can testify that they've seen any issues with her in regard to serious mental health?

MR. GOWDEY: Objection, calls for speculation. Does she have any idea why none of those other people --

THE COURT: Sustained.

MR. GOWDEY: -- have testified to that --

THE COURT: Sustained. Sustained.

BY MS. HANRAHAN:

Q Is it still your theory that this young girl is manipulating all these professional people?

MR. DRASKOVICH: Direct my --

MR. GOWDEY: Objection, misstates -- misstates his prior testimony. He's never testified that she's manipulating anybody.

MS. HANRAHAN: Oh.

MR. GOWDEY: It just --

MS. HANRAHAN: Did we not listen to that call? Can you play this one?

MS. DORMAN: Uh-huh (affirmative).

MR. DRASKOVICH: It's -- it's -- I -- I would submit that it's a moot issue because I'm going to direct him not to answer it, so -- the Fifth Amendment.

THE COURT: All right. So there's a question posed to you and then you'll answer it and the advice of your attorney --

THE WITNESS: I invoke my Fifth.

THE COURT: Okay.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same ongoing objection.

BY MS. HANRAHAN:

Q So the bottom line, how does all of that comport with the requirement of your case plan to show empathy for the children?

MR. DRASKOVICH: If you -- if -- if Ms. Hanrahan can please just repeat the question.

Q How does all of that, the negative statements about Sam, the -- trying to assert that she has some sort of serious mental health issues --

MR. DRASKOVICH: And -- and I would object that --

Q -- how does that --

MR. DRASKOVICH: -- misrepresents what he has asserted through pleadings or otherwise

MR. GOWDEY: Testimony.

MS. HANRAHAN: He -- we just heard a jail call where he said that she has borderline personality disorder.

MR. DRASKOVICH: She -- he didn't state that she didn't. He talked about an inmate that had someone that knew something about that. And he didn't diagnose her, he didn't say she had it. So I say it misrepresents what was under --

MS. HANRAHAN: He -- he --

MR. DRASKOVICH: -- recording.

MS. HANRAHAN: -- specifically told Ms. Lawrence talk to your attorney about it. And clearly, the idea was she has this issue and -- and that's why I'm here today.

MR. GOWDEY: Assumes facts not in evidence.

THE COURT: Sustained. I --

MS. HANRAHAN: Your Honor, I think overall though the calls show that he had a very negative attitude towards --

MR. GOWDEY: Again --

MS. HANRAHAN: -- Samantha.

MR. GOWDEY: -- this is -- this is argument. This is -- this is best --

MS. HANRAHAN: No.

MR. GOWDEY: -- reserved for closing.

THE COURT: Okay.

MR. GOWDEY: What --

MS. HANRAHAN: And --

MR. GOWDEY: -- Ms. Hanrahan thinks the --

MS. HANRAHAN: I'm asking --

MR. GOWDEY: -- calls show.

MS. HANRAHAN: -- him -- I'm asking him whether -- first of all, he can't answer because -- he can't answer any of the questions I ask about whether he has a negative attitude towards Samantha. So we played the jail calls and

the jail calls say what they say and now I'm asking does he think that any of that, the jail call conversations, let's just focus on that, indicate empathy toward all the children and an understanding of their emotional needs.

MR. GOWDEY: Is that --

MS. HANRAHAN: Let me just --

MR. GOWDEY: -- a new question?

MS. HANRAHAN: -- ask that.

THE COURT: All right. You can answer --

MS. HANRAHAN: I'm --

THE COURT: -- that.

MS. HANRAHAN: I'm restricting it to the jail calls.

THE COURT: Okay.

THE WITNESS: I didn't hear a question.

BY MS. HANRAHAN:

Q Do you think that those jail calls and the comments made about Samantha on the jail calls indicate empathy toward all your children or understanding of all the children's emotional needs?

A Well, first of all, this -- none of the phone calls were about all the children. And I love all --

Q What about --

A -- my children --

Q -- just Sam?

A -- including Samantha very much.

Q Do you think that -- those calls indicate any empathy towards Sam? Yes or not? It's a yes or no question.

A Well, I'll take the Fifth.

MS. HANRAHAN: Okay. So first he answered the question and -- and now he's taking the Fifth. I'll ask for the negative inference.

THE COURT: Okay.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

MR. GOWDEY: Now I'm not sure it's appropriate to comment on somebody's Fifth Amendment constitutional right not to incriminate themselves and shake your head and say first he answered a question and now he's taking the Fifth. I just don't think --

MS. HANRAHAN: Well --

MR. GOWDEY: -- that's appropriate --

MS. HANRAHAN: -- Your Honor --

MR. GOWDEY: -- under the circumstances.

MS. HANRAHAN: I don't -- I mean, my point was that he answered the question essentially and then took the Fifth. I -- I -- you know, you -- you -- either it's going

to lead to criminal consequences or it's not. So you either assert it or you don't assert it.

THE COURT: Okay. All right.

MS. HANRAHAN: And I didn't object. I didn't make a -- a thing out of it, but if Mr. Gowdey wants to do so, we can.

MR. GOWDEY: I'm sorry, make a thing out of what? Out of -- out of your ex parte comment that first he asserted the -- he answered the question and then he's --

MS. HANRAHAN: Is he arguing --

MR. GOWDEY: -- taking the Fifth --

MS. HANRAHAN: -- with me --

MR. GOWDEY: -- with the shake of the head?

MS. HANRAHAN: -- Your Honor?

THE COURT: Okay. So it sounded as if --

MS. HANRAHAN: Is he talking to me?

THE COURT: It sounded --

MS. DORMAN: Right.

THE COURT: -- as if --

MS. DORMAN: And it's not ex parte. We're all here.

THE COURT: It sounded as if you were questioning him why he would state something and then -- and the second part of it plead the Fifth which he as a right to do, so I

don't want it to be a --

MS. HANRAHAN: Absolutely.

THE COURT: -- a battle of --

MS. HANRAHAN: Never did anything --

THE COURT: -- the attorneys.

MS. HANRAHAN: -- but --

THE COURT: And we'll move forward.

BY MS. HANRAHAN:

Q So moving to the first and as Ms. Tallent said most important objective on your case plan and that was provide a home free from physical abuse. Would you agree with that?

A Yes.

Q And under measurement for success, there are a few sentences, would you agree with that?

A Yes, ma'am.

Q And would you agree that the first one says no further reports of physical abuse in the home?

A Yes, ma'am.

Q And again, would you agree that that one was something that can only be accomplished once the children were returned to the home?

A Yes, ma'am.

Q So moving onto the -- the next sentence, Mr. Brown

completed physical abuse classes and followed all the recommendations. Now you completed those classes at Red Rock, correct?

A Yes, ma'am.

Q And after you completed those classes at Red Rock, you received a recommendation to get a family risk assessment, is that correct?

A Yes, they did it backwards.

Q All right. And did you also did the family risk assessment, correct?

A Yes, ma'am.

Q And would you agree the assessment found that you were at high risk for physical abuse recidivism?

A At Red Rock, you have to be found at --

Q Yes or no?

A -- at high risk, because --

Q Yes or no --

A -- of the clause in there.

Q -- sir? The answer is yes or no. Would you agree that the assessment found that you were at high risk for physical abuse recidivism?

MR. DRASKOVICH: And I ask that --

Q Yes or no?

MR. DRASKOVICH: -- he would be allowed to answer

her question. It's not simply a yes or no question.

MS. HANRAHAN: But it --

MS. DORMAN: It is a yes or no --

MS. HANRAHAN: It is a yes --

MS. DORMAN: -- question.

MS. HANRAHAN: -- or no question. And Your Honor, they can elaborate any way they want in --

THE COURT: Yeah.

MS. HANRAHAN: -- their own questioning.

THE COURT: I'll have you answer yes or no because that's a specific question with a yes or no answer. And then there may be a follow up that will allow you to talk more about what you want to say or your attorneys are there to ask you questions when it's their turn?

THE WITNESS: What was the question? I'm sorry.

BY MS. HANRAHAN:

Q The assessment found that you were at high risk for physical abuse recidivism, right?

A Yes, ma'am.

Q Now in that interview that you did for that assessment with Red Rock, would you say that you were open and honest with the evaluator?

A Yes, ma'am.

Q Isn't it true that in that report it indicates

that you said your daughter Amanda when she became lethargic and stopped breathing?

MR. DRASKOVICH: I'm going to direct my client not to answer that question based upon the Fifth Amendment and additionally, Judge, read portions of the report and then asking him to comment on it I would submit is inappropriate. We want to have the author of the report come in and testify.

MS. HANRAHAN: Well, Your Honor, this is his opportunity to say if that's wrong. I mean, it -- it's perfectly appropriate for me to ask him about something that's in a report where he was interviewed for the content of the report. I'm asking him if that's what he said.

MR. DRASKOVICH: And due to the District Attorney's Office having an open criminal case still against him, I'm going to direct him to not answer that question and invoke the Fifth.

MS. HANRAHAN: That's fine.

THE COURT: Okay. So are you want -- are you invoking your Fifth Amendment?

THE WITNESS: Yes, ma'am.

THE COURT: Okay.

THE WITNESS: I invoke my Fifth.

MS. HANRAHAN: All right. And I'll ask for the

negative inference --

MR. DRASKOVICH: And I'll object to that.

MS. HANRAHAN: -- and then direct the Court's attention to the Red Rock evaluation.

THE COURT: Okay.

BY MS. HANRAHAN:

Q That doesn't accurately described what happened to Amanda, does it, that she became lethargic and stopped breathing?

MR. DRASKOVICH: And I direct my client not to answer.

THE COURT: Okay.

THE WITNESS: Plead the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

THE COURT: Okay.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Wouldn't you agree sir that an assessment that is intended to determine your risk for physical abuse of a child should have included details as to how you caused the death of Amanda?

MR. DRASKOVICH: Objection, inappropriate question. She's imputing to him details for a report that

he didn't authorize and the report could speak for itself.

MS. HANRAHAN: I -- I'm not sure of the objection? Sorry.

MR. DRASKOVICH: He needs to be a percipient witness. This should be a report that he authored. To ask him questions concerning what someone wrote or failed to write and then impute, it's -- it's an inappropriate question. He's not in a position to answer that. He's not a percipient witness. He didn't author this document.

THE COURT: Okay.

MR. DRASKOVICH: And it calls --

MS. HANRAHAN: I mean --

MR. DRASKOVICH: -- for a conclusion, a medical conclusion and a psychological conclusion.

MS. HANRAHAN: I -- I think it calls for a logical conclusion that a risk assessment should include details -- a risk assessment as to physical abuse would include details of -- of a prior physical abuse case. And he is a person, you know, what -- a witness. He was there.

THE COURT: Okay. So you could -- because what you're asking about is relevant to why he was evaluated at Red Rock, that line of questioning is appropriate in this termination case. But based on what's happening in the criminal case -- you have the right -- you have the right to

ask that question in a termination of parental rights trial when the underlying allegations is physical abuse.

So it's relevant to my case or this case in -- in civil court, but it's going to have possible issues in his criminal case. So I think as we were -- been doing all along, you have the right to ask, you have the right to answer how your attorney tells you to.

THE WITNESS: The Fifth Amendment.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And so even without providing the details of Amanda's death, you were found to be at high risk by Red Rock, correct?

MR. DRASKOVICH: Abundance of caution, I'm going to direct my client to assert the Fifth.

A Invoke -- assert the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q So there was some recommendations from that Red Rock assessment as well, do you recall that?

A Yes, I do.

Q And would you agree that one of them was to get a domestic violence evaluation and follow the recommendations?

A Yes, ma'am.

Q And you did that, correct?

A Yes, ma'am.

Q At ABC?

A Yes, ma'am.

Q And another one was to attend anger management impulse control classes and follow the recommendations.

A Yes.

Q And you did that at Red Rock?

A Yes, ma'am.

Q And then another recommendation was continue in weekly individual therapy to address your position of denial and history of criminal behavior. Now that one you haven't done, correct, sir?

A Yes, I have.

Q And where did you do that?

A Well, for five months, we thought that it was being done at Healthy Minds then at CFT, we were told that's not individual therapy anymore, that -- and the whole time

we thought it was. Then we went to ABC where we were referred from --

Q So --

A -- Maryte --

Q -- the question was --

A -- with ABC.

Q -- where did you get that?

A ABC --

Q ABC.

A -- and Healthy Minds.

Q And Healthy Minds. And as you stated, you were made aware that the individual therapy recommended by Red Rock was specifically meant for you address physical abuse, correct, in that you talked about that CFT where you were told, is that -- that's what you're talking about?

A We were told to have individual therapy.

Q And do you recall a CFT in January of 2015, a meeting where your attorney Mr. Prokopius at the time, your therapist from Healthy Minds Heather Richardson, Maryte Tallent were present. Do you recall that CFT?

A Yes, ma'am.

Q And do you recall what was discussed at that CFT?

A That the individual therapy that Healthy Minds and myself and Melissa thought we were doing was not actually

individual therapy.

Q Well, it -- isn't it in fact what you were told that it was a different kind of individual therapy from what Red Rock recommended? Isn't that in fact what you were told?

A No, we were told it was family therapy.

Q All right. Family therapy without the client --

A Yes.

Q -- without --

A Without children, yes.

Q Right. Okay. And at that meeting, do you recall that both Heather Richardson and Ms. Tallent told you and Mr. Sanchez, your therapist, that he was to provide family therapy without the child present only, that his therapy that he was providing was not what Red Rock was asking for? Do you recall that conversation?

A Red Rock was never brought into it, but yes, I remember that conversation.

Q And it was at that point that you decided to go to ABC Therapy for the evaluation?

A I believe I was already going. I don't remember the timeline, but I believe I was already going to domestic violence. I already done the assessment. I was going to the classes at ABC. And I contacted -- I believe it was

Heather and she said that I could go to ABC for the -- for my individual.

Q But you -- you went and had an eval -- you and Ms. Lawrence both went and had an evaluation there, correct?

A Yes, ma'am. At ABC.

Q At ABC. And then you called DFS and asked for a referral for the therapy that was recommended?

A No, ma'am.

Q Do you know of a reason why the date of your evaluation at ABC Therapy predates the date of the referral from DFS?

A It does in Red Rock too and they were -- I was told that we could use like they did in Red Rock, use the notes from one that was sent from Heather. She -- at Red Rock used the notes from the classes to do my assessment, because they couldn't get a hold of Maryte.

Q The notes from what classes?

A The individual classes that I did in Red Rock before I did the assessment.

Q Well, we're talking about --

A I know --

Q -- ABC.

A -- but they did the same thing in ABC. They told us to use the DV files because there -- the -- the DV files

are the exact same thing as what they had sent over later.

Q And those didn't have anything about Ms. Lawrence or any of that information for her, correct?

MR. GOWDEY: Objection.

A Yes, it did.

MR. GOWDEY: Calls for speculation.

MR. DRASKOVICH: Unless he knows.

THE COURT: I mean, if you can answer that question and you're not guessing or speculating, then you can answer it, but if you are guessing, don't.

THE WITNESS: Yes, I believe so. That -- that -- he -- well, he did know about Melissa. He had gotten -- well, like I said, he couldn't get a hold of Maryte. He tried three times.

BY MS. HANRAHAN:

Q Who is he? Mr. Gallegos?

A William Gallegos.

Q Was that your therapist at ABC?

A Yes, ma'am.

Q And when you met in session with Mr. Gallegos when you did start your individual therapy, was it with him?

A Yes.

Q And you went for the 10 sessions? You were recommended for 10 sessions in the evaluation, correct?

A Yes, ma'am.

Q And do you recall what that evaluation indicated as a diagnosis or issue that had to be addressed?

A No, not word for word, no.

Q Would you -- would it refresh your recollection to take a look?

A Yes, ma'am.

MS. HANRAHAN: This is the ABC evaluation.

THE COURT: Okay.

Q Is that referring to your recollection?

A I don't remember the question, ma'am.

Q There was an issue identified that would be addressed for you by ABC Therapy, wasn't there?

A Yes, child abuse and neglect.

Q Well, above that, sir, isn't there sort of a diagnosis or --

THE COURT: Ms. Hanrahan, come back to your microphone because --

MS. HANRAHAN: Oh.

THE COURT: -- you're not being recorded.

MS. HANRAHAN: I'm sorry. I'm sorry.

THE COURT: If you want to review the tape --

MS. HANRAHAN: Correct.

THE COURT: -- I won't be able --

MS. HANRAHAN: I'm going to --

THE COURT: -- to hear you.

MS. HANRAHAN: -- copy this for him.

Q The reason for the assessment, sir -- all right, in the mental health evaluation report, it first recommends the 10 individual mental health counseling sessions, correct?

A Yes.

Q And then it talks about what those are based on and Mr. Gallegos indicates that you suffer from moderate separation anxiety disorder, correct?

A That's -- yes.

Q And then the diagnostic summary also states separation anxiety disorder.

A Yes.

Q All right. So in your sessions with Mr. Gallegos, let's see, he did the evaluation and then provided the therapy, correct?

A Yes.

Q Did you talk about physical abuse of Samantha in your home with Mr. Gallegos?

MR. DRASKOVICH: I direct my client not to answer that question based upon his Fifth Amendment privilege.

A The Fifth Amendment. Excuse me.

MS. HANRAHAN: And I'll ask for the negative inference.

THE COURT: Okay.

MR. DRASKOVICH: We object to that.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Did you work with Mr. Gallegos to come up with a relapse prevention plan for how to keep abuse from happening again in your home?

MR. DRASKOVICH: And I would allow him to answer yes, but to not to the latter part again.

MS. HANRAHAN: He just told him what the answer was, yes?

MR. DRASKOVICH: It's an inappropriate question given the --

MR. GOWDEY: It assumes facts not in evidence.

MS. HANRAHAN: And I mean --

MR. DRASKOVICH: It's like assuming --

MS. HANRAHAN: -- you can't say I will allow him to answer yes. I mean --

THE COURT: Well -- well, he's -- he's objecting to the again part, because that -- he's assum --

MR. GOWDEY: Assumes facts not in evidence.

MR. DRASKOVICH: And requires him to basically say

I -- there was abuse in the home with an open --

THE COURT: Correct.

MR. DRASKOVICH: -- criminal case --

THE COURT: Correct.

MR. DRASKOVICH: -- pending.

THE COURT: And that -- all right.

MS. HANRAHAN: Well, that's why he has the Fifth Amendment privilege, right?

MR. DRASKOVICH: And -- and that's why I'm objecting to the way it's being used in this proceeding.

MR. GOWDEY: And it's abusive.

THE COURT: Okay.

MS. HANRAHAN: It's abusive.

MR. GOWDEY: Yes.

THE COURT: Okay. So you can --

MS. HANRAHAN: I'm allow to ask any question as far as I know, Judge, and he's allowed to take the Fifth.

MR. DRASKOVICH: And that's upon --

MS. HANRAHAN: And I'm allowed to ask for the negative inference.

MR. DRASKOVICH: And I object because it's a compound question.

THE COURT: Okay. So break up the question so he can answer it specifically and see where his answers go.

BY MS. HANRAHAN:

Q Did you come up with a relapse prevention plan for how to keep physical abuse from happening in your home again?

MR. DRASKOVICH: Objection, the same objection, again, which assuming it occurred previously and I'm directing him not to answer that.

MS. HANRAHAN: Your Honor, he pled no contest to the petition. He was told by the Judge that it was treated as true and that his case plan would be based upon that --

THE COURT: Okay.

MS. HANRAHAN: -- treating of the plea as -- or the petition as true.

MR. DRASKOVICH: And he's being asked a compound question. There's two elements to that question.

MS. HANRAHAN: Did you come up with a relapse prevention plan for how to keep it from happening again was my question. That is not compound.

MR. DRASKOVICH: Again, it is. There's two questions. Did you -- did you come up with a relapse plan, one, and then there's a --

MS. HANRAHAN: For how to -- the plan is for how to keep it from happening again.

MR. DRASKOVICH: And it must --

MS. HANRAHAN: That's a relapse prevention plan. It's not compound. It's all one thing.

MS. DORMAN: And it never happened. You don't need relapse prevention if it's never happened before.

THE COURT: So the question is appropriate. You can answer the question.

MR. DRASKOVICH: And I'm going to direct my client to --

THE WITNESS: I'll take the Fifth -- excuse me, the Fifth.

THE COURT: Okay.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q What did you learn in your counseling with Mr. Gallegos about the effects of physical abuse of one child on the other children in the household?

MR. DRASKOVICH: I object as -- as to vague as to -- are we talking in general or specifically to this family? It's a vague question.

BY MS. HANRAHAN:

Q Did you learn anything specifically to your family

with regard to the effects of physical abuse on the other children in the household if one child is abused?

MR. DRASKOVICH: And I guess we'll readdress this. So my -- I'm going to direct him based upon my -- type of question, he's going to have to assert the Fifth.

THE COURT: Okay.

THE WITNESS: I assert the Fifth.

THE COURT: Okay.

MS. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q What did you learn in your counseling sessions with Mr. Gallegos about your triggers for physical abuse?

MR. DRASKOVICH: I say it assumes facts not in evidence.

MS. HANRAHAN: These were the things that he was supposed to address in his individual counseling, Your Honor. So I'm just asking if he learned those things or what he did learn about them. I can lay some foundation.

BY MS. HANRAHAN:

Q Did you talk about what your triggers for physical abuse might be with Mr. Gallegos at all?

A We talked about triggers, but not if they would be

specifically my triggers, but what's -- what would trigger somebody to commit child abuse.

Q So just in a general sense, you talked about triggers --

A Extensively.

Q -- for physical abuse.

A Yes.

Q Talking --

A Stress --

Q -- about yours specifically?

MR. GOWDEY: Objection, asked and answered.

THE COURT: Sustained.

MS. HANRAHAN: Your Honor --

THE COURT: He said not necessarily his. He's saying he talked about triggers with Mr. Gallegos in general.

BY MS. HANRAHAN:

Q What did you learn from Mr. Gallegos if anything about coping skills?

A How to -- kind of like circumstances is the way he would -- he would talk to me, like if he -- when you come home and if you're stressed to -- here, I'll give yourself a -- a timeout of the children or, you know, get on your nerves to give them a timeout, you take a timeout for

however long it takes, even if you need to remove yourself from the house to do -- you know, to do so, have a, you know, somebody like a neighbor, you know, that you trust to come into the home and for me to like -- to leave the home. We discussed things that you could say to a child that -- that you could really hurt their feelings or, you know, and -- and use appropriate discipline.

Q Okay. So those -- those were the coping --

A Those --

Q -- skills --

A Well --

Q -- that you talked about with him?

A Yeah, and there's quite a bit more. It's just I --

Q All right. Well, you did get a completion report from ABC Therapy that was provided to DFS, didn't you?

A Yes, ma'am.

Q And do you recall what that said about what was addressed in your therapy? I don't think that's -- that you have that. Let me --

A No, I don't. I don't have it here either.

MS. HANRAHAN: If I may approach, Your Honor.

Q A completion report from ABC. Do you -- would you agree that that completion report says that in the comments

section that you learned to quote, replace biased fearful self-talk with positive, realistic, and empowering self-talk?

A Yes, that's what it says.

Q And would you agree that in the comments section, it also says that you learned quote, problem solving strategies for realistically addressing worries?

A Yes.

Q So essentially, sir, would you agree that what it says is you learned how to feel more empowered and not worry so much? Is that pretty much what it says there?

A Well, besides the abuse --

Q That's a yes or no question, sir.

A No, it's not.

Q That's not what you think it says? It doesn't say anything about physical abuse, does it, on that piece of paper?

A No, he was addressing --

Q Yes or no, please, sir. Does it say anything about physical abuse on that piece of paper in your --

MR. GOWDEY: Objection, the piece --

Q -- completion report?

MR. GOWDEY: The piece of paper speaks for itself.

MS. HANRAHAN: Well --

MR. GOWDEY: These are papers --

MS. HANRAHAN: -- that hasn't --

MR. GOWDEY: -- previously --

MS. HANRAHAN: -- been admitted into evidence yet --

MR. GOWDEY: Well, then maybe --

MS. HANRAHAN: -- Your Honor.

MR. GOWDEY: -- you should --

MR. DRASKOVICH: Well, and we --

MR. GOWDEY: -- admit it.

MR. DRASKOVICH: -- would agree -- we would agree to have it admitted.

MS. HANRAHAN: All right.

THE COURT: Well, it's not up to me to admit it. It's up to someone --

MS. HANRAHAN: I'm going to --

THE COURT: -- offer it for --

MS. HANRAHAN: I'm going to -- yes, I'm going to ask the evaluation as --

THE COURT: Okay.

MS. HANRAHAN: -- well as the -- as well as the completion report from ABC Therapy.

MR. GOWDEY: No objection.

MR. DRASKOVICH: No objection.

THE COURT: Okay.

(STATE'S EXHIBITS 26 AND 27 ADMITTED)

MS. HANRAHAN: And I would direct the Court's attention to the fact that physical abuse is not addressed in there. This is going to be 2 --

THE CLERK: The 26th and 27th.

BY MS. HANRAHAN:

Q All right. So let's just -- back to the case plan, measurement for success, under objective one. The next thing is that reports from the providers are positive and providers report that they have observed behavioral changes, would you agree with that?

A It's what it says.

Q And your ABC report does say that you demonstrated emotional growth, doesn't it? I guess I took it took soon.

A Yes, it went --

Q Do you recall that?

A Yes, it went from an eight to a zero, yes.

MS. HANRAHAN: Can I get that completion report back?

THE CLERK: Sure.

Q Could you show me on this report sir where it says you went from --

A It's not --

Q -- eight to --

A -- the full --

Q -- a zero?

A -- report.

Q The completion report is not the full report?

A No, ma'am. It's not.

Q The completion report that was -- this is what was provided to the Department of Family Services though, correct?

A The Department of Family Services received a lot more than that one piece of paper.

Q Do you yourself have more than that piece of paper from ABC Therapy?

A Yes.

Q And did you provide it to the Department of Family Services?

A No, we were told by -- by the Judge once that -- the Hearing Master to go down and sign a release because they had waited for well over 12 months before they even address -- before they even addressed ABC.

Q Did you provide the Department of Family Services with the full report that you said you have?

A Yes, ma'am. Yes.

Q Who did you give it to?

A I gave it to Heather.

Q Heather?

A Heather Richardson.

Q When did you give that to her?

A I do not recall. Right when we had finished.

Q Did you provide it to your attorneys?

A Yes.

Q So they have copies of that full completion report?

A They should have, yes.

Q Okay. Well, let's move on.

MS. HANRAHAN: For the record, I never received anything in discovery to that effect.

Q The next sentence in the measurements for success -- well, let's -- let's go back to that. It does say on that piece of paper that was provided to DFS that you demonstrated emotional growth, correct?

A Yes, it does.

Q And again, that report also indicates that that's in the area of thinking positively about yourself, isn't that what it says?

A Yes.

Q Would you agree that your diagnosis from ABC, we talked about this before, after looking at the evaluation

was separation anxiety disorder?

A That's what was wrong -- well, they said what was wrong with me, yes.

Q Okay. So --

A And depression.

Q -- this therapy was related to your feelings about being separated from your children, correct?

A No, ma'am. It was on child abuse and neglect.

Q Any idea why it doesn't say that anywhere on the --

MR. GOWDEY: Objection.

MR. DRASKOVICH: Objection.

Q -- documents?

MR. GOWDEY: Calls --

MR. DRASKOVICH: Calls --

MR. GOWDEY: -- for speculation.

MR. DRASKOVICH: -- for speculation.

MR. GOWDEY: She's -- she's asking why the report writer didn't put something and she's asking him why the report writer didn't put something in there. That's a question that's clearly --

MS. HANRAHAN: I'm asking --

MR. GOWDEY: -- better directed --

MS. HANRAHAN: -- if he knows. I'm simply asking

--

MR. GOWDEY: -- to the writer of the report.

MS. HANRAHAN: -- if he knows.

MR. GOWDEY: If I'm -- I'm not done laying the basis of my objection yet. It's clearly appropriately duress -- addressed to the writer of the report, not to the witness who's in front of this court now.

THE COURT: Okay.

MS. HANRAHAN: Your Honor, they may have talked about it and about what the report would say. That makes sense. And I'm asking if he has -- if he knows. I mean, he can say no, he doesn't know.

THE COURT: Right. Right. It's -- it is speculative if you can answer that question, because I don't want you to make something up, but you're saying the -- you're going in there for one reason. The papers state something about emotional growth. So we need to figure out if there's anything that we're missing here as far as why it's possible if you know, and you may not know that it doesn't have any of that information on there. So if you know that answer, I -- I would like to know it, and if you don't, then don't guess.

MR. GOWDEY: Your Honor, I would submit that the report indicates that he was in -- he was -- he was in

counseling for domestic violence.

MS. HANRAHAN: No. Your Honor, we're looking at the --

THE COURT: ABC.

MS. HANRAHAN: -- mental health and completion report, not the domestic violence.

THE COURT: This is from ABC.

MS. HANRAHAN: Yes.

THE COURT: Right. Okay.

MR. DRASKOVICH: Do you need -- do you need the question answered?

THE WITNESS: Yeah.

MR. DRASKOVICH: Or asked again? I'm sorry. I --

BY MS. HANRAHAN:

Q So the therapy that you had ABC -- well, the question there was do you have any idea why that report says that you're being treated for separation from your children, separation anxiety disorder, as opposed to what you said you were addressing.

A We addressed both.

Q I'm asking if you know why it's not indicated there on the completion report.

A Yes, ma'am.

Q Do you know?

A I don't know why it's not on that.

Q All right. Thank you. Would you agree that none of those documents from ABC or from Red Rock for that matter or Healthy Minds either say anything about how Samantha sustained these injuries to her back?

MR. DRASKOVICH: I --

A There is --

Q Do you agree that --

A -- no confidentiality.

Q -- none of those documents say anything about how she sustained those injuries?

MR. DRASKOVICH: I mean, I -- I --

A I don't know.

Q The answer is I don't know? Sorry, I didn't mean --

A What's the question?

Q The question is would you agree that none of the documents received by DFS from ABC, from Red Rock, from Healthy Minds, say anything about how Samantha sustained these injuries to her back?

MR. GOWDEY: Objection, the --

MS. HANRAHAN: Oh.

MR. DRASKOVICH: I object, lack of foundation. How does he know? I mean, do we have a foundation --

MR. GOWDEY: And it's --

MR. DRASKOVICH: -- here?

MR. GOWDEY: And it's a compound question. You're asking about ABC reports, you're asking Red Rock reports, you're asking about Healthy Mind reports, all in one question.

MS. HANRAHAN: Okay.

MR. DRASKOVICH: And she's assuming --

MS. HANRAHAN: Well, let's go --

MR. DRASKOVICH: -- that he knows --

MS. HANRAHAN: -- one by one.

MR. DRASKOVICH: -- what DFS received, so --

THE COURT: Okay.

MS. HANRAHAN: He does know what DFS --

THE COURT: Sustained.

MS. HANRAHAN: -- received because you guys got everything that DFS received, so --

BY MS. HANRAHAN:

Q I mean, referring specifically to the documents that we just took a look at from ABC, would you agree that nothing in either the evaluation or the completion report says anything about how Samantha got these injuries to her back? Do you want to look at those documents again?

A No, ma'am. I don't -- I don't know how to answer

that question.

Q Well, is there anything about how Samantha received those injuries on either one of those documents to your knowledge?

A From Red Rock or --

Q Yes or no?

A -- ABC?

Q ABC for now.

A Not that I know of.

Q And what about your Red Rock completion report and your Red Rock psychological -- or risk assessment? Do you recall if there's anything on either of those documents that talks about how Samantha received these injuries to her back?

MR. GOWDEY: Objection, the documents speak for themselves.

MS. HANRAHAN: Well, I'm asking him.

MR. GOWDEY: Well, I don't think it's appropriate given that the documents -- I mean, she's asking if there's anything on the documents. The documents are available to the court. They have been admitted.

THE COURT: Okay.

MS. HANRAHAN: And I'm asking if he knows if they say anything about Samantha's injuries.

MR. GOWDEY: And -- and I -- I would argue is it relevant whether he knows?

MS. HANRAHAN: It's very relevant. But I'll -- that's fine. I'll just direct the Court's attention to the Red Rock Psychological family risk assessment and completion report.

THE COURT: And that was already admitted?

MS. HANRAHAN: Yes.

THE COURT: Okay.

MS. HANRAHAN: Attached to a report that was admitted during Ms. Tallent's testimony.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Have you ever provided anything to the Department of Family Services orally or in writing that indicates that you have addressed the physical abuse of Samantha Lawrence in therapy?

MR. DRASKOVICH: And I'm going to direct my client to not answer that, assert his Fifth Amendment even though there is supposed -- this -- this confidentiality that was to be kept in therapy.

THE COURT: Okay.

MR. DRASKOVICH: So --

MS. HANRAHAN: Well, Your Honor, again, that's a

process that happens in the J case. This is the D case. It's a separate case according to this -- Nevada Supreme Court. So the fact that we're here means that it wasn't -- that stipulation wasn't taken advantage of in the J case. The --

MR. DRASKOVICH: And that's --

MS. HANRAHAN: the reason for the stipulation is for DFS and the Court to not just to be told okay, I went to therapy and I did it. The whole point of that stipulation is so that DFS can know that there was an acknowledgment, that it was addressed, how it was addressed and how it will be prevented. If we were at that stage, we wouldn't be in this proceeding right now.

MR. DRASKOVICH: And -- and actually, that's incorrect and we will address this in closing. If there's an immunity agreement to talk to providers concerning what alleged abuse had occurred and that was observed, then that's fine. We've only heard that he would admit it to a -- a DFS worker who regularly would come in in criminal cases and testify against defendants that do make that mistake of admitting them to them.

To assume that it wasn't addressed is in -- incorrect, number one. And number two, if it was addressed and there's a confidentiality agreement, why then would the

provider be putting that in reports and providing it to DFS, so --

MR. GOWDEY: And for --

MS. HANRAHAN: Your Honor, none of the -- none of these providers were even told about that stipulation, but aside from that --

MR. DRASKOVICH: Any --

MS. HANRAHAN: -- that's not the way it works down here when we make the stipulation. And neither of these attorneys were involved in it and neither of them has approached me about how do we do this when the Court and DFS in their case plan are requiring an acknowledgment, how does that work. Nobody has ever approached DFS to talk about that. And I -- I -- they can talk all day long about how things like that are done downtown. We're not downtown, we're here.

THE COURT: Okay.

MR. GOWDEY: I -- if -- if I might, I would note that Ms. Tallent when she was on the stand, Mr. Draskovich asked her if it was her understanding whether that stipulation would apply to her and her answer was no, meaning she would be free to come in to testify in proceedings with respect to whatever they --

MS. HANRAHAN: And whatever --

MR. GOWDEY: -- divulged to the therapist.

MS. HANRAHAN: -- she testified that she heard from a therapist would be hearsay and I'm sure they would be all over that. And there's also ways that we get around that if the attorneys actually take the affirmative step of trying to deal with it which was never done in this case nor was it done by the parents with DFS. Nobody ever came and said how does this work.

MR. GOWDEY: I'm -- I'm not aware that we're required to come to the district attorney to ask the district attorney to ask the district attorney's opinion on how something works.

MR. DRASKOVICH: Additionally --

MS. HANRAHAN: Well --

MR. DRASKOVICH: -- these health --

MS. HANRAHAN: -- you don't have to.

MR. DRASKOVICH: Additionally, these providers were referrals from DFS.

THE COURT: All right. Well, that's usually how it happens at -- in these cases because there's only so many providers in town that work with -- with these types of issues. So what was the question? As far as -- the issue is -- is -- I get what's -- I -- I mean, I get what's -- I get what's happening. I get -- I get this. I'm not -- I

get what's -- what's going on here.

MR. GOWDEY: It'll last eternally.

THE COURT: Is --

MS. HANRAHAN: I'll be happy to move on, Judge. I just have a few more questions.

THE COURT: Yeah, I think a lot of the testimony that we've had over the last several days, you know, obviously are repetitive, but I understand the reason why -- why you ask the questions and you definitely have the right to put on your case because it's your burden to -- to prove the allegations.

But with that being said, there's also a fine line with him testifying because there is a criminal -- pending criminal case which a lot of times is not the norm in some of these cases. So I respect the defense attorneys standing with their Fifth Amendment argument so it doesn't impede their criminal case.

So a lot of it is -- you have the reports that are admitted already. I think every report was remitted -- admitted from every provider. If there's one that's not, then it -- and those obviously speak for themselves if they were already been admitted.

So as far as Mr. Brown's testimony, I think -- anything that you can't already find or get from another

source, those are the questions we can focus on with him.
BY MS. HANRAHAN:
Q Okay. So let's go back to the measurement for success under objective one. The final one says Mr. Brown has acknowledged that Samantha was physically abused and the emotional damage that it has caused the children. That's a requirement of your case plan, would you agree, sir? I mean, it says that in your case plan, doesn't it?
MR. DRASKOVICH: And just so we're clear so I don't have to have him invoke, she's just asking him if he's aware that that's in the case plan.
MS. HANRAHAN: In the case plan.
A That's what it says here.
THE COURT: Okay.
Q So as you sit here today, have you acknowledged that Samantha was physically abused by you, sir?
MR. DRASKOVICH: And based upon the open criminal case, I'm going to --
A I invoke --
MR. DRASKOVICH: -- direct --
A -- the Fifth.
MR. DRASKOVICH: Thank you.
MS. HANRAHAN: And I'll ask for the negative inference.

THE COURT: Okay.

BY MS. HANRAHAN:

Q As --

MR. DRASKOVICH: Same objection.

Q -- we sit here today, are you able to discuss what triggered your physical abuse of Samantha and how it will be prevented in the future?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And as you sit here today, do you acknowledge that the physical violence in your home directed at Samantha was emotionally harmful to all your children?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

MS. HANRAHAN: I have nothing further, Judge.

THE COURT: Okay. All right.

MR. DRASKOVICH: Do you want to take a 10 minute recess if --

THE COURT: We can.

MR. DRASKOVICH: -- that's okay?

THE COURT: Okay.

MR. DRASKOVICH: I don't intend on being particularly lengthy.

THE COURT: That's fine. Yeah, that's fine. We can do that.

(COURT RECESSED AT 3:20 AND RESUMED AT 3:32)

THE COURT: Mr. Brown, come back up. And I believe it is somebody else's turn to ask you questions. You're still under oath. We won't swear you in again.

MR. DRASKOVICH: Thank you. Yes.

CROSS EXAMINATION

BY MR. DRASKOVICH:

Q Mr. Brown, we're going to start maybe with the latter part of your testimony and then work towards the beginning and start from there, okay? You entered into a case plan.

A Yes, sir.

Q And you were required to undergo various evaluations.

A Yes.

Q And after undergoing these various evaluations, recommendations were made.

A Yes, sir.

Q Have you followed all recommendations?

A As far as I know. Yes, sir.

Q Your various care providers, and we've heard in great detail on your direct. Who -- who referred you to these providers?

A DFS, CPS.

Q Did you attend all classes required?

A Yes, sir.

Q Did you fail to co -- to participate in your counseling?

A No, sir.

Q Did you sign a release allowing your providers to whom DFS had referred you to to receive reports from the counseling and various therapy sessions that you had undergone?

A Yes.

MS. HANRAHAN: I'm sorry, objection. I -- I don't follow that question. Could you repeat it?

BY MR. DRASKOVICH:

Q Did you sign a release in order for DFS to receive all reports from your Counsel?

A Yes, sir.

Q And your evaluations.

A Yes.

Q You've -- you undergone a substantial amount of counseling.

A An awful lot. Yes, sir.

Q Have you learned a lot?

A Yes, sir. I have.

Q If you're able to, estimate how many hours you have spent in counseling, in therapy, and undergoing evaluations, since the inception of this case plan.

A Months. I couldn't tell you in hours. Just with Healthy Minds over two years.

Q Do you want to be a good parent to your kids?

A Yes, sir.

Q Do you love your children? In the event they are to return -- in the event they are to return home, would you be able to provide an abusive free tranquil home setting?

A Yes, sir.

Q Your children were removed from your house on January 8, 2014, correct?

A Samantha was, yes.

Q Okay.

A I believe.

Q And when were the other children removed, give or take?

A The following week.

Q Okay. Middle of January 2014.

A Yes, after the judges said they could stay at home, yes.

Q On January 28th, 20 --

MS. HANRAHAN: Objection, I -- I don't think that states correctly the -- what happened in the case.

MR. DRASKOVICH: The minutes -- the J case will speak for -- I think we -- we have agreed we can cross reference that in closing.

THE COURT: I -- I don't know what Judge said that because they were removed, but let's just stick the --

MS. HANRAHAN: Right. And -- and --

THE COURT: -- everything but that -- that state -- that last statement, because I don't know where that comes from, but --

BY MR. DRASKOVICH:

Q And what we're going to do, Mr. Brown, is just going to lay out a timeline. Okay. We have court filings and we can ask the Court to take judicial notice of it, but a petition -- a J petition was filed in January 28th of 2014.

A Yes.

Q Do you agree with that? And a criminal complaint

was filed on February 10th, 2014.

A I believe so.

Q An amended criminal complaint was filed on March 12th, 2014?

A Yes.

Q Substantially increasing the criminal exposure that you faced.

MS. HANRAHAN: Your Honor, I'm --

Q You faced --

MS. HANRAHAN: -- going to object. Both attorneys jumped up as quick as they could when we referenced the criminal case. It has no relevance here. So I don't know why we're asking questions about the criminal case now. What relevance does it have what was filed when in the criminal case to this case?

MR. DRASKOVICH: And we are making a record in the event that this matter needs to be appealed of the --

MS. HANRAHAN: Well, they didn't want --

MR. DRASKOVICH: I'm --

MS. HANRAHAN: -- me making a record about the criminal case, but now we're going to make a record about the criminal case. But we're in a TPR and it's all different issues. So --

MR. DRASKOVICH: And -- no, they're intertwined.

They're both brought by the same office and they've worked in conjunction with the other two basically precluding him from defending himself --

MS. HANRAHAN: Your Honor --

MR. DRASKOVICH: -- on either side.

MS. HANRAHAN: -- he's testifying about his believes as to how the D.A.'s office works and --

MR. DRASKOVICH: And I'm entitled --

MS. HANRAHAN: -- it's --

MR. DRASKOVICH: -- to make my arguments.

MS. HANRAHAN: -- very wrong.

THE COURT: Okay. So hold on. Go ahead.

MR. GOWDEY: Well, I -- I would also state that Ms. Hanrahan has made a great deal out of their perceived failure to acknowledge that abuse has taken place in the house. Ms. Tallent has testified that absent such admission, the case plan could never be completed. So it is entirely relevant as to the potential criminal exposure that our clients are facing in this proceeding.

MR. DRASKOVICH: And in the event we need to proceed with an appeal, the very difficult juxtaposition that we have with the two cases. So -- and this is the only way I can make it part of this -- this record.

MR. GOWDEY: And as -- as far as I --

MS. HANRAHAN: Well, again, then I would ask what -- what was the objection to talking about their defense in the criminal --

MR. GOWDEY: We're --

MS. HANRAHAN: -- case.

MR. GOWDEY: We're not asking him to make substantive --

MR. DRASKOVICH: Upcoming --

MR. GOWDEY: -- admissions.

MR. DRASKOVICH: -- decisions in a trial, yes. Now this is laying out the criminal procedure, not the defense that's going to be presented at the --

THE COURT: Isn't the --

MR. DRASKOVICH: -- criminal trial.

THE COURT: -- same argument --

MS. HANRAHAN: Well, it's not.

THE COURT: -- if you start talking about the criminal -- anything having to do with the criminal case and that -- then he's up for possibility of going forward in that case that was brought up like six days -- six hearings ago, that could lead them to start opening up questions for him?

MR. DRASKOVICH: I'm not going to discuss any of the underlying conduct that's alleged to have occurred in

the criminal case. I'm just going to --

MS. HANRAHAN: Well --

MR. DRASKOVICH: -- be laying out the dates.

MS. HANRAHAN: -- he's already doing that.

MR. DRASKOVICH: I'm -- I'm laying out the dates of --

MS. HANRAHAN: But that -- they added more allegations. What does that have to do with anything? Sure. If you want to do the timeline, this was filed then. I don't care.

THE COURT: Well, it wasn't the same question as how many -- how many names of your children. That was -- that was talked about -- about -- if you -- if you answer that, it possibly could expose you to any and all questions in the criminal case. I just want to make sure that everything is appropriate in this case and there's no questions later on for his -- his other case.

MR. GOWDEY: The -- the relevance as to the amended complaint being filed are that the seriousness of the criminal case was ratcheted up dramatically by that second file.

THE COURT: Okay.

MR. GOWDEY: The necessity --

MS. HANRAHAN: Again --

MR. GOWDEY: -- this -- again, the necessiting -- necessitating the protection in the -- this case --

THE COURT: I know nothing --

MS. HANRAHAN: Nobody is arguing --

THE COURT: -- about the criminal case.

MS. HANRAHAN: -- about that.

THE COURT: I don't know anything about the criminal case and that you said that there's a stay about -- something about a -- a assessment for Samantha, but I know nothing about that. So I don't know that it was amended. I don't know anything about this.

MR. DRASKOVICH: I can --

THE COURT: If it's relevant to this case, you know,
like all questions, then that's proper. But I guess if you want to let me know why it is that we're talking about the criminal complaint, because I don't know. I mean, I don't know anything about that case.

MR. DRASKOVICH: We intend on -- and like I said, I don't want to sit here and talk about future issues that we're going to take up in this case or the criminal case, but we intend -- what's occurring in our case if we submit to the Court is constitutional and it's wrong.

THE COURT: In this case?

MR. DRASKOVICH: In both cases.

THE COURT: Okay.

MR. DRASKOVICH: What the District Attorney's Office is doing. And I'm wanting to make a record of that. They can disagree, we can have different arguments concerning the ultimate termination of parental rights or not, but I want to make a record of what has occurred here conjointly with what's occurring there and how the District Attorney's Office is precluding a family from defending themselves in a TPR case as a result of the actions of the deputies in the criminal case.

MS. DORMAN: How is that relevant? I mean --

MR. DRASKOVICH: I think the constitutions --

MS. DORMAN: -- it's a personal attack, I'll give you that. The -- this case has been full of personal attack. And I'm just second chairing for Janne, but I have been personally attacked by both attorneys. And now it's a big conspiracy between these attorneys and that attorney. How is that relevant to here?

THE COURT: Okay.

MS. DORMAN: But not that he can prove it.

MR. DRASKOVICH: It's -- it's --

MS. DORMAN: There's no conspiracy.

MR. DRASKOVICH: But the -- the --

MS. DORMAN: But it's not relevant.

THE COURT: Thank you.

MR. DRASKOVICH: We -- we've sat here for hours for their questions. I don't intend to be very long. I -- I want to layout a timeline and address the various filings in both cases.

MS. DORMAN: And we're just asking for relevance.

THE COURT: I'm trying to figure out where -- where the relevancy comes in.

MR. DRASKOVICH: There -- there's a presumption in this case. Obviously, if the -- if the children have not been with the parents for 14 of the previous 20 months, there's a presumption.

THE COURT: Right.

MR. DRASKOVICH: It's going to be our argument in an attempt to overcome at least in part that presumption that it was a result of the Criminal District Attorney's Office, the District Attorney's Office that precluded this reunification and this placement of the children in the home from happening.

MS. DORMAN: You know, that's --

THE COURT: Okay.

MS. DORMAN: -- a really big assumption, because last I checked, the Criminal District Attorney's Office

can't order no contact. The person who could do that is a judge. I don't even know what judge did it downtown. I am assuming a judge downtown did it. But there's no way a district attorney did a no contact order.

MR. DRASKOVICH: And --

MS. DORMAN: So again, it is not relevant to this case.

MR. DRASKOVICH: It's clearly relevant and when we get to the point in laying out our timeline, we have documents filed by the District Attorney's Office case stating that if the no contact order is lifted, the Browns and Ms. Lawrence will have unfettered unsupervised contact with their children.

MR. GOWDEY: Which is a material misrepresentation.

MR. DRASKOVICH: It is. And we had multiple --

MS. HANRAHAN: I don't even know what --

MR. DRASKOVICH: And we had multiple --

MS. DORMAN: They're talking about the criminal D.A.s. Again, they're not talking about us. They're talking about the criminal D.A.s.

MR. DRASKOVICH: Ms. Hanrahan was present on more than one of our arguments there before the judge.

MR. GOWDEY: And again, this --

MS. HANRAHAN: Maybe that's true --

MR. GOWDEY: -- issue -- this --

MS. HANRAHAN: -- but I -- I still -- I fail to see the --

MR. GOWDEY: The --

MS. HANRAHAN: -- relevance of -- but you know what? Let's establish a timeline of when certain documents were filed. That's fine. I -- I don't -- I don't think it's relevant, but if it's short and he wants to establish what documents were filed when, I --

THE COURT: Is that the line --

MS. HANRAHAN: -- really don't have --

THE COURT: -- of questioning --

MS. HANRAHAN: -- an objection.

THE COURT: -- that you're going to ask?

MR. DRASKOVICH: And -- and the hearings.

MS. HANRAHAN: But this whole theory about a conspiracy, I mean, you've heard this already in the J case multiple times how we're working together because we just -- I don't know, we just decided we didn't like these people --

MR. DRASKOVICH: And --

MS. HANRAHAN: -- and decided to do this.

MR. DRASKOVICH: And --

MS. HANRAHAN: Your Honor, this -- the case plan

here, the petition, everything here was decided upon and -- by this Court and not by any other court. And again, Judge's decisions were made in this case. The District Attorney makes arguments.

THE COURT: I think I want to take a quick break. I'm going to have the attorneys go out in the back for a second, because I think we need to kind of figure out what's happening.

(COURT RECESSED AT 3:43 AND RESUMED AT 4:21)

THE COURT: You got your walking set. It's fine. We'll continue where we left off.

MR. GOWDEY: Well, Judge, you are aware that I -- what time are we planning to stop? I have --

MR. DRASKOVICH: And based upon our off the record discussion, the issues that I was going to elicit through Mr. Brown will now be attached as an exhibit to a trial brief and there's no need -- I can rest.

MS. HANRAHAN: What? No, we're not doing --

MR. BROWN: No.

MS. HANRAHAN: -- a brief. She's going to -- she's going to --

MR. GOWDEY: Take judicial notice of --

MS. HANRAHAN: -- take judicial notice of the criminal --

MS. CALVERT: So --

MS. HANRAHAN: -- filings.

MR. DRASKOVICH: Okay. And the timeline.

MS. HANRAHAN: The brief.

(COUNSEL CONFER BRIEFLY)

MR. DRASKOVICH: I have no -- thank you, Mr. Brown. I have no further questions.

THE COURT: All right. Mr. --

MR. GOWDEY: I have --

THE COURT: -- Gowdey.

MR. GOWDEY: -- just a couple of questions.

CROSS EXAMINATION

BY MR. GOWDEY:

Q You had said on direct examination that as -- as part of -- you answered that Ms. Tallent had told you that you will never get your children back, is that correct?

A Yes.

Q When was that?

A I don't remember the exact date. It was on a phone call with Melissa and myself. We were on a inter -- what do you call it, a conference call, Melissa and I with Ms. Tallent.

MR. GOWDEY: I have nothing further.

THE COURT: Okay.

MS. HONODEL: I have no questions, Your Honor.

THE COURT: Ms. Calvert?

MS. CALVERT: Nothing.

THE COURT: Okay. Any redirect, quick redirect? There wasn't that many questions that they asked, so --

MS. HANRAHAN: Just a couple.

THE COURT: -- it shouldn't take that long.

REDIRECT EXAMINATION

BY MS. HANRAHAN:

Q Mr. Draskovich asked you if you followed all the recommendations that were made by all of the providers and you answered yes, correct?

A I think I said as far as I know. Yes.

Q But you didn't follow the recommendation from Red Rock to address your position of denial of the physical abuse in individual therapy, did you?

MR. DRASKOVICH: Getting -- once again, doing an abundance of caution with an open criminal case, I'm going to direct my client to --

A Plead the Fifth.

MR. DRASKOVICH: -- plead the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

BY MS. HANRAHAN:

Q And you testified that you've been with Healthy Minds for over two years, but again, that was family therapy, wasn't it?

A First five months, the therapist --

Q Your -- sorry --

A -- we thought --

Q -- that's a yes or no answer. That was family --

A That's a lot of --

Q -- therapy at Healthy Minds, correct? You were doing family therapy at Healthy Minds, correct?

MR. GOWDEY: If it's -- if it requires an explanation, he should be allowed to respond.

MS. HANRAHAN: If it requires an explanation, they can elicit it on --

A Not for the first five months. No, it was --

Q Your understanding about the first five months was different from DFS', wouldn't you agree?

A No, ma'am.

Q Since you had that --

MR. GOWDEY: Objection, calls for speculation.

BY MS. HANRAHAN:

Q Well, you testified that there was a CFT --

THE COURT: Sustained.

Q -- in January of 2015 where DFS informed you that

that individual therapy was not the same individual therapy that you were to get as a result of the Red Rock recommendations, right? You testified to that.

A That's the first time we heard of it, yes.

Q Okay.

A But prior to that, it was --

Q Thank you. Now Mr. Gowdey asked you Ms. Tallent told you you never -- that you would never get your children back. That's --

A Yes, ma'am.

Q -- your testimony.

A Yes, ma'am. It is.

Q She said that to you --

A Yes, ma'am.

Q -- in a phone call?

A Yes, ma'am.

Q But you can't remember when exactly?

A I have it in my notes.

Q And that's because it never happened, right?

MR. GOWDEY: Objection.

A It did too happen, ma'am.

MR. GOWDEY: Argumentative.

THE COURT: Sustained.

MS. HANRAHAN: I have nothing further.

RECROSS EXAMINATION

BY MR. DRASKOVICH:

Q Would reviewing your notes help you remember the exact date that you were told you were never going to get your kids back?

A Yes, I think it would.

Q Okay. And while that's being looked for, why don't you describe what was going on with Healthy Minds. And you can keep it to much greater than a yes or no answer, because we would like to get to the truth.

A For the first five months, we thought we were doing individual therapy.

Q Okay.

A Until we went to the CFT and then at the CFT, we were told you are not doing individual therapy, this is now family therapy.

Q And the CFT occurred in January of 2015?

A I believe so.

Q And that was the only CFT that you had in this case, is that correct?

A Yes, ma'am -- sir, sorry.

Q And after you were told that this therapy -- and this is what, two years ago, two and a half years ago, or a year and a half ago was not the appropriate therapy in DFS'

mind, what did you do?

A We continued going to the family therapy with Healthy Minds and then we went right over to the ABC and did what we were told to do.

MR. DRASKOVICH: Okay. If I can have the Court's indulgence just one moment.

THE COURT: Okay.

Q Do you -- do you have your notes here behind me in reference to the date that you were --

A That manilla envelope, a manilla --

Q Would it --

A That --

Q -- refresh your recollection if you looked at --

MS. HANRAHAN: Wait.

Q -- that manilla envelope?

MS. HANRAHAN: Are these notes that he wrote down himself? I mean --

MR. DRASKOVICH: Yes.

MS. HANRAHAN: -- what --

MR. DRASKOVICH: And -- and --

MS. HANRAHAN: I don't --

MR. DRASKOVICH: -- anything can be used to --

MS. HANRAHAN: Sorry, that --

MR. DRASKOVICH: -- refresh recollection.

MS. HANRAHAN: Sure, and -- but that's his -- that -- that's no more useful than his testifying that she said that. I don't --

THE COURT: Well, you asked the date. Someone asked the date.

MR. DRASKOVICH: There was an implication that it was a lie, because you couldn't remember the date and he said he couldn't remember. And she was specifically -- that's -- you can't remember because that was never said.

MS. LAWRENCE: It was one phone call that --

MS. HANRAHAN: And --

MS. LAWRENCE: -- I testified to. It was February 27th, 2015.

MR. DRASKOVICH: Yeah, well --

MS. HANRAHAN: She didn't testify to that.

MR. DRASKOVICH: -- now I'll withdraw the request.

THE COURT: Okay. All right. Any other questions for Mr. Brown?

MR. GOWDEY: No.

THE COURT: All right. No questions?

MS. HANRAHAN: One.

FURTHER REDIRECT EXAMINATION

BY MS. HANRAHAN:

Q Did you ever request another CFT in this case,

sir?

A We have requested numerous CFTs.

Q I won't even ask the dates that you requested those.

MS. HANRAHAN: I have nothing further.

FURTHER RECROSS EXAMINATION

BY MR. DRASKOVICH:

Q Mr. Brown, this case has been going on for what, two years?

A Over.

Q Over two years. You've had a lot of discussions with DFS?

A Yeah.

Q You've undergone a lot of therapy?

A Yes, sir.

Q Are you telling the truth that you did everything you could to try and get reunited with your children and follow your case plan?

A Yes, we have done above and beyond I -- I feel.

Q Did you try and file -- find alternate placement other than foster care?

MS. HANRAHAN: Wait. Your Honor, now we're way outside the scope of the one question I asked if he ever asked for another CFT.

MR. DRASKOVICH: I can recall him for two minutes and answer this in our case in chief. I just wanted to get it done now.

THE COURT: Okay. I mean, either way.

MR. GOWDEY: This is still technically their case. Mr. Draskovich is correct. We can just recall him.

THE COURT: All right. It's up to you. Either way. I mean, you're -- you can recall him or you can let him ask the questions now. It's up to you. Do you plan on having him testify?

MR. DRASKOVICH: I'm -- I'm sorry, Your Honor?

THE COURT: Was there any -- were you going to have -- is he one of your other three witnesses?

MR. DRASKOVICH: No. No.

THE COURT: Okay. So it's really up to you how you want to do this. You either do it now or you can recall him with the next date.

MR. DRASKOVICH: And I'll just do it now.

THE COURT: Okay.

MR. DRASKOVICH: Since the outset --

MS. HANRAHAN: Still, it's outside the scope.

MR. DRASKOVICH: Okay. Then I'll recall him and I'll bring in the notes that he made concerning the last conversation. I have no further questions.

THE COURT: All right. So is the State rested? No more witnesses out there?

MS. HANRAHAN: Your Honor, yes. I'm going to -- I -- I have a transcript of the preliminary hearing here.

THE COURT: Okay.

MS. HANRAHAN: We had stipulated to have the Court review the testimony of Dr. Setel (ph) --

THE COURT: All right. That's right.

MS. HANRAHAN: -- Whitney Luksaik, and the two twins. So what I have here is the preliminary hearing, a clean copy of the preliminary hearing transcript.

THE COURT: It was at the last hearing or the hearing before that everyone stip -- stipulated?

MR. DRASKOVICH: We did.

MS. HANRAHAN: Yes, the hearing before.

THE COURT: Okay. So you want -- you want to --

MS. HANRAHAN: So --

THE COURT: -- admit that?

MS. HANRAHAN: Yes.

THE COURT: That's Number 26?

MS. HANRAHAN: 26 --

THE CLERK: This is 28.

THE COURT: 28. Okay. All right. That'll be admitted based on the stipulation between all parties in

lieu of the testimony of those witnesses. All right.

(STATE'S EXHIBIT 28 ADMITTED)

MS. HANRAHAN: And with that, the State would rest.

THE COURT: Okay. All right. So we're set -- you -- you can go -- you can go back and sit with your Counsel.

THE WITNESS: Thank you, ma'am.

(WITNESS EXCUSED)

THE COURT: So to -- we're concluded for today. We -- we have tomorrow on -- on the docket.

MR. GOWDEY: Your Honor, to -- to the best of our knowledge, we're not going to be able to get our witnesses tomorrow. It's very short notice. We would ask -- have -- have you heard back from Erica (ph)?

MR. DRASKOVICH: I contacted my office at our lunch break and said find out when we can get any of the three witnesses here and going and I haven't gotten a message back.

THE COURT: Well, how many days do we need for this?

MR. DRASKOVICH: One.

MS. CALVERT: One.

MR. GOWDEY: We believe one day.

THE COURT: Okay. So I'm going to have to do --

let's -- for right now, I'm going to put you on calendar for Monday the 19th. So tell your wit -- witnesses to come on that date.

MS. HANRAHAN: I'm sorry, when?

THE COURT: Realistically, the next day that's -- it's just moving stuff around for me, but it's --

MS. DORMAN: I can't do the 19th. I have oral arguments.

THE COURT: Okay.

MS. DORMAN: I'd actually rather be here, but I don't think you can do anything about that.

THE COURT: No, I don't know about these cases. Let me do -- what is this one?

THE CLERK: There is the 29th for a possibility.

THE COURT: A what?

THE CLERK: The 29th.

MS. HANRAHAN: You know, I don't -- I don't know if I'm back in town. I'm out. I think I am. I think I'm back on the 29th.

THE COURT: That would be a great -- actually, a -- a good day, because there's less stuff set on that day. The only other thing I can think of is maybe the the 20 -- when are you going away?

MS. HANRAHAN: I have a conference from the 26th

til the 28th. Actually, I think my flight back is on the 29th. I'm not a hundred percent --

MS. CALVERT: On the 28th, I'll be in Vancouver.

THE COURT: Oh my.

MS. CALVERT: For Eng -- Trial Lawyers Association.

THE COURT: Okay.

MS. HANRAHAN: Is there the 23rd?

THE COURT: Why don't we do -- I'm going to -- I'm going to have to do -- oh, I don't even know. We're going to have to do -- how does the 22nd look?

MS. DORMAN: They have --

THE COURT: Thursday. Oh, that's the -- did I already give you that date?

MS. DORMAN: No, you didn't, but I -- I have to interview for the secretary.

THE COURT: Well --

THE CLERK: There's the 6th of October.

THE COURT: I really don't want to go that far out if I don't have to. Okay. So the 26th, I have two attorneys gone.

MR. DRASKOVICH: And I -- yeah, I start a two week jury trial on Monday the 3rd.

THE COURT: Okay.

MR. DRASKOVICH: October 3rd.

THE COURT: That's not good. I mean, that's --

MS. HANRAHAN: I mean --

THE COURT: What did we say --

(COUNSEL CONFER BRIEFLY)

THE COURT: What did we say about the 19th? Someone's gone?

MS. DORMAN: I have oral argument.

MR. DRASKOVICH: Oh, yeah. Oral arguments. Okay. And what did we say about the 22nd? Some of us sec -- what -- okay. So the 23rd -- we say the 23rd? 23rd? 23rd?

MR. GOWDEY: That should --

THE COURT: No?

MR. GOWDEY: -- work.

MR. DRASKOVICH: I'm good with the 23rd.

MS. DORMAN: I don't want to be the one -- I have interviews set. I'm going to have to move them, I guess. I don't know.

THE COURT: Well, because I got two attorneys out of town. I've got some trial for -- a trial -- a trial for two weeks.

MR. GOWDEY: And a trial on mine following the --

MR. DRASKOVICH: I have --

MR. GOWDEY: -- the week after -- the week -- into

the second of week of Mr. Draskovich's trial, i'm in trial as well.

MR. DRASKOVICH: I -- I have a two calendar call -- or actually, two trial set for September Monday 9 -- the 19th. They're both in the same court. They're both week long trials and the Judge said one's going to go over the other. It's Judge Herman.

MS. HANRAHAN: I -- how about the -- will the 22nd -- if -- because Amity can try to move her interviews.

THE COURT: Did we say something about the 15th? Did I ask about the 15th?

MR. DRASKOVICH: Of --

MR. GOWDEY: What day is that?

MR. DRASKOVICH: -- September?

MR. GOWDEY: That's --

THE COURT: Thursday.

MR. GOWDEY: -- next Thursday?

MR. DRASKOVICH: It's --

MR. GOWDEY: I'm okay with that.

MR. DRASKOVICH: I'm -- I'm okay with that. If we started --

MR. GOWDEY: I was already blocked out for that --

MS. CALVERT: I was blocked out for that --

MR. GOWDEY: -- for trial on that.

MS. CALVERT: -- too.

THE COURT: Are you --

MR. DRASKOVICH: We can start at 10:30.

THE COURT: Yeah --

MR. DRASKOVICH: It's --

THE COURT: -- we can, because I have the same --

MR. GOWDEY: See? We agreed.

THE COURT: Yeah, I'll block off the morning so we don't have anymore.

MR. DRASKOVICH: And in the event that I'm running, you know, I'm not going to be here at 10:30, I'll contact the Court. It may have to be 11:00. I just --

THE COURT: Could we do that, D.A.s and CAP attorneys?

MS. HONODEL: Yes.

THE COURT: So what did I say, September 15th to --

MR. GOWDEY: 10:30?

(COUNSEL CONFER BRIEFLY)

MS. HANRAHAN: Yeah, if -- Your Honor, can we do -- if they're going to recall Mr. Brown tomorrow in their case --

MR. GOWDEY: Not tomorrow. On the 15th. We're --

THE COURT: But I get -- I think what they're

saying is so you're not asking for another day afterwards. Can you get everybody done on --

MR. GOWDEY: Yes.

THE COURT: -- the 15th?

MR. GOWDEY: Mr. Brown -- Mr. Brown --

MS. HANRAHAN: Can we have four --

MR. GOWDEY: -- is probably 10 minutes, tops.

THE COURT: Okay.

MR. GOWDEY: And we have two therapists and we have one more witness.

THE COURT: Okay. All right. So as long as we can get done on the 15th.

MS. HANRAHAN: I would have said

THE COURT: Because those other date --

MR. GOWDEY: I believe should be able to rest on the 15th.

THE COURT: Okay.

MR. GOWDEY: And then of course we're going to have to schedule closing arguments.

THE COURT: So it doesn't really pay to come back tomorrow for 10 minutes of Mr. Brown. That's what you're saying.

MR. GOWDEY: I don't know, so --

THE COURT: Okay. Okay. All right. Well, that

-- that makes sense then. All right. So we have the 15th at 10:30.

MR. GOWDEY: Very good.

MR. DRASKOVICH: All right.

MR. GOWDEY: Thank you, Your Honor.

THE COURT: Thank you.

(PROCEEDINGS CONCLUDED AT 04:36:17)

* * * * * *

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



Adrian N. Medrano

TRANS

FILED
FEB 2 1 2017
CLERK OF COURT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

IN THE MATTER OF THE PARENTAL RIGHTS OF: SAMANTHA LAWRENCE, HEIDI BROWN, NIKKI BROWN, WYATT BROWN, Minors.	CASE NO. D-15-510922-R DEPT. E/K

BEFORE THE HONORABLE CYNTHIA GIULIANI
DISTRICT COURT JUDGE

TRANSCRIPT RE: TRIAL

THURSDAY, SEPTEMBER 15, 2016

APPEARANCES:

For the State of Nevada:	JANNE HANRAHAN, ESQ. AMITY DORMAN, ESQ. 8th Judicial District Court Family Division 601 N. Pecos Las Vegas, Nevada 89101 (702) 455-3794
The Respondent Father: For the Respondent Father:	DONALD BROWN ROBERT DRASKOVICH, ESQ. 815 S. Casino Center Blvd. Las Vegas, Nevada 89101 (702) 381-6590
The Respondent Mother: For the Respondent Mother:	MELISSA DAWN LAWRENCE MICHAEL GOWDEY, ESQ. 815 S. Casino Center Blvd. Las Vegas, Nevada 89101 (702) 471-0321
For the Minors Heidi Brown, Nikki Brown, and Wyatt Brown:	LAUREN CALVERT, ESQ. CAP Attorney 1220 Arizona St. Boulder City, Nevada 89005 (702) 292-3164
For the Minor Samantha Lawrence:	AMY HONODEL, ESQ. CAP Attorney 725 E. Charleston Blvd. Las Vegas, Nevada 89104 (702) 386-1070
Also Present:	MARYTE TALLENT Department of Family Services

INDEX OF WITNESSES

STATE'S WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
(None presented)				
RESPONDENT'S WITNESSES:				
DONALD BROWN	5	6	--	--
DR. DAVID GENNIS	13	21	114/142	121
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* * * * *

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LAS VEGAS, NEVADA THURSDAY, SEPTEMBER 15, 2016

PROCEEDINGS

(THE PROCEEDINGS BEGAN AT 10:52:10)

THE COURT: We're on the record. All right. This is case D-510944 in the matter of Donald Brown and Melissa Lawrence. We are here for the continuation of this trial. So I believe we -- the State has -- had rested and we're on to your side and whatever witnesses you plan on calling.

MR. DRASKOVICH: We're just going to call two witnesses today and we intend on resting today.

THE COURT: Okay. Great. All right. So do you have your first witness?

MR. DRASKOVICH: I do. And I'm actually going to just re-call Mr. Brown to the stand --

THE COURT: Okay.

MS. CALVERT: -- for a couple of moments.

(WITNESS SUMMONED)

THE COURT: All right. We'll -- we'll swear him in. It's a new day and we want to make sure he understands. All right. Thank you, Mr. Brown.

THE CLERK: Please raise your right hand. You do solemnly swear that the testimony you're about to give in this action shall be the truth, the whole truth, and nothing

but the truth, so help you God?

THE WITNESS: Yes, sir.

THE CLERK: State your name for the record.

THE WITNESS: Donald Edward Brown.

THE CLERK: You may have a seat.

THE WITNESS: Thank you.

DONALD BROWN

called as a witness on behalf of himself, have been first duly sworn, did testify upon his oath as follows on:

DIRECT EXAMINATION

BY MR. DRASKOVICH:

Q Mr. Brown, just briefly. We -- the last time we were in court, you had spoken about what DFS, a DFS worker had told you in reference to your children. Do you remember that line of questioning?

A Yes, sir.

Q And what DFS worker am I referring to?

A Maryte Tallent.

Q And what was it that she had told you in reference to your children?

A That we would never get them back, that she would also make sure that I would do the rest of my life in the penitentiary.

Q And what was the date that this conversation took

place?

A February '15. I believe it was the 27th. It was the last time we spoke to Ms. Tallent.

Q And was this in 2015?

A '15. Yes, sir.

Q And where did this conversation take place?

A Actually, in front of your office. We were in the front seat of the truck, my wife and myself, and the phone was on conference call.

Q Okay. So it was a telephonic conversation.

A Yes, sir.

MR. DRASKOVICH: Thank you. I have no further questions.

THE COURT: Okay.

CROSS EXAMINATION

BY MS. HANRAHAN:

Q Is it your understanding, Mr. Brown, that Ms. Tallent can send you to prison for life?

A Well, it's my understanding that's her wishes to do so from what she said to me.

Q And when was this conversation?

A February -- I believe it was the 27th, 2015.

Q 2015.

A Yes, ma'am. The last time we spoke on the phone.

We do not -- we haven't had any contact except through email with DP -- DFS or CPS.

Q Did you report that conversation to Ms. Tallent's supervisor?

A Ms. Tallent's supervisor, Heather Richardson, had pretty much informed us we were no longer supposed to have any contact except for -- through you with DFS or CPS.

Q And it was -- it was after that that you went to ABC Therapy, correct?

A Oh --

Q When you went to ABC Therapy in March of 2015, correct?

A I don't recall. I went there for assessment for domestic violence.

Q Did you -- but you had some conversation with Heather Richardson regarding that issue, didn't you, about getting the referral to ABC Therapy?

A I don't recall who I got it from. It was either Maryte or -- or Ms. Richardson.

Q And so to get that, you would have had to talk one of them, correct?

A Email, I believe. I believe. I'm not sure.

Q And so did you ever bring that up in a court hearing after that -- let's see, February 2015, did you

bring it up in the July 2015 court hearing that you have been told that by DFS?

A I don't -- I don't know.

Q Did you bring that up in the court hearing in January of 2016?

A I don't remember what we even went to court for on those dates.

Q Was it those -- were the dates of the review hearings. And then we just recently had one again, didn't we, in July of 2016?

A I believe so.

Q And was anything mentioned to the Judge at that point to the court that you had been told by DFS that you would never get your children back?

A I'm not sure.

Q And February of 2015, that was one month after a review hearing that was held in this matter in January of 2015, was it not?

A If you say so. I'm not sure. There's been so many court hearings. I can't --

Q Sure. Well, would you have any reason to disbelieve me if I said there was one in the middle of January 2015?

A No, ma'am.

Q And that was the hearing, wasn't it, where the court changed the permanency goal to termination of parental rights, correct?

A If you say so. I don't recall when that was done. I remember it was done, but --

Q Well, is it possible that you misunderstood Ms. Tallent?

A No, ma'am. No, ma'am. She called my son a piece of shit. We -- it -- it was a very, very bad phone call on her part, very bad. We -- we had mentioned my son and he was in the Marine Corps and she didn't understand how a piece of shit like my son could be in the Marine Corps. And there was numerous things said on that phone call.

Q And here (indicating) you're talking to Maryte Tallent.

A Yes, ma'am.

Q And what had you -- what had preceded that -- those statements? What had you said to her?

A Melissa was speaking to her about something with the children. I don't really recall.

Q Just a --

A I don't recall.

Q -- normal conversation and out of the blue she just --

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 71873/71889

Electronically Filed
May 30 2017 04:42 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

DONALD BROWN,
Appellant,
vs.

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

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

MELISSA LAWRENCE,
Appellant,
vs.

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

APPENDIX TO APPELLANTS' OPENING BRIEF
VOLUME V

Robert M. Draskovich, Esq.
TURCO & DRASKOVICH, LLP
Nevada Bar No. 6275
Telephone: (702) 474-4222
Michael I. Gowdey, Esq.
Nevada Bar No. 6994
815 S. Casino Center Boulevard
Las Vegas, Nevada 89101
Telephone: (702) 471-0321
Attorneys for Appellants

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XXIV. TRANSCRIPT RE: TRIAL 09/15/16 1190-1250

to invoke his Fifth from this point forward in reference to this line of questioning.

BY MR. HANRAHAN:

Q Now you -- you spoke with detectives at the time that Amanda was initially injured, correct?

A Invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Based upon our prior --

MR. HANRAHAN: There was one --

MR. DRASKOVICH: And we have an objection to that, just --

MR. HANRAHAN: Okay. Okay. Your Honor, now this -- again, we argued about this the other day. I am still trying to figure out what legal objection there is to my -- I guess on some level I object to him taking the Fifth. Okay. I'm not happy about it. But he gets to do that, it's his right.

THE COURT: Correct.

MR. HANRAHAN: It's my right to request the negative inference. Whether you give it or not is up to you. So what is the legal objection to -- to my asking for that negative inference? there is none. There is no legal objection.

MR. DRASKOVICH: Because of what the State of Nevada is doing in this case, we have an objection to this line of questioning. This negative inference is going to be drawn because they're simultaneously prosecuting him for a criminal case. So my objection is what the State of Nevada is doing is putting one constitutional right at odds with another constitutional right and therefore we're objecting to it on that basis. It's our submission that's the -- what the --

MR. GOWDEY: (Indiscernible).

MR. DRASKOVICH: -- pros -- what the State is doing both in this case and simultaneously in the criminal case is violating his -- his constitutional rights, so that's my -- the basis of my objection is.

MR. HANRAHAN: Well, the problem with that is that there is a constitutional right, not a constitutional right, but a right given by law for me to ask for that negative inference.

MR. DRASKOVICH: And based upon --

MR. HANRAHAN: And --

MR. DRASKOVICH: I'm sorry, go ahead.

MR. HANRAHAN: And, you know, if he's allowed to assert his Fifth Amendment privilege, I again have the case of -- I would cite to the case of Frances v. Wynn where the

court talked about that Fifth Amendment privilege, you can't assert it in every case, and the other side is entitled to ask for that negative inference.

I mean, that's -- that's a Nevada case. There are other cases on point that support that, my right to ask that question. And there's no legal objection to it. He can object to -- to it because he doesn't like it and then try to change the law or try to, you know, file an appeal, I guess, but there's no discussion that there's no -- no legal objection --

MR. GOWDEY: Here -- here's --

MR. HANRAHAN: -- here.

MR. GOWDEY: Here's the problem. We're not trying to stop her from seeking the inference. We are objecting to the request for the inference and of course, that is something that if this turns out to -- to be appealed, we are doing based on making an appellate record. Nobody is stopping her from asking for the inference. She seems to think that our objection means that she can't ask for it and she well knows better than that.

MR. HANRAHAN: What I think is what I think and you don't know anything about us.

MR. GOWDEY: Well, then -- then she should know that our objection is not stopping her from asking for the

inference.

THE COURT: I agree.

MR. HANRAHAN: Your Honor --

THE COURT: You can --

MR. HANRAHAN: -- if I can ask --

THE COURT: -- ask the questions and he's going to answer how he chooses and they're going to make an objection and --

MR. HANRAHAN: Well, what is the objection for?

MR. DRASKOVICH: I've -- I've laid -- and this is --

MR. HANRAHAN: Constitutional --

MR. DRASKOVICH: You're --

MR. HANRAHAN: -- issues of --

MR. DRASKOVICH: Yes, you're right. You're -- you're --

MR. HANRAHAN: -- something or another? Okay.

MR. DRASKOVICH: Because of the abusive --

MR. HANRAHAN: Never seen that one.

MR. DRASKOVICH: -- prosecution -- well, and maybe we're going to make new law with this case. It shouldn't happening what's happening and we want to preserve our record because our supreme court often times makes waiver of our objection and issue in denying an appeal and I don't

want that to occur in the event that this case is appealed.

MR. HANRAHAN: All right.

THE COURT: Let's continue.

BY MR. HANRAHAN:

Q Now so -- I don't even remember the last question. You spoke with detectives at the Imperial Beach Sheriff's Station on January 2nd, 1984 about this incident, correct??

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: And just to protect the record, I'm inserting objection as I've stated the basis before and I won't continue to state the basis.

THE COURT: I should -- I should make a ruling on those objections just because -- I'm going to -- I'm going to overrule the objection, but I understand why you're making it.

MR. DRASKOVICH: Okay.

BY MR. HANRAHAN:

Q All right. So in your initial interview with those detectives, Mr. Brown, you've blamed Amanda's head injuries on her two-year-old sister Rebecca, didn't you?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

BY MR. HANRAHAN:

Q And your story was that Rebecca stepped on the baby's chest and that's why she stopped breathing?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: I'll overrule that and we'll just keep going.

BY MR. HANRAHAN:

Q And then at some point after hearing from the doctors, you decided to tell the truth about what happened to Amanda, didn't you?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q And you told detectives that you picked the baby up by the throat and threw her down, isn't that right?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And --

THE COURT: Overruled.

Q And you told them her head landed on a screwdriver?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay. Overruled.

BY MR. HANRAHAN:

Q You told them it happened because you lost your temper, didn't you?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q now at the time of her autopsy, Amanda had multiple injuries, didn't she?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q She had a skull fracture, she had subdural hemorrhages, the front and back of her head, is that right?

A Invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q She had retinal hemorrhages and bruises on her neck?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q And then she was found to have older second and third degree burns to her right hand, wasn't she?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q How did Amanda sustain those second and third degree burns to her hands, sir?

A I invoke the Fifth.

Q Would you --

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Would you agree with the autopsy report that there was a line of distinct demarcation where the burns ended?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q You told the detectives that her hand just dropped into a pot of soup that was on the stove, didn't you?

A I invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference. MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And is it your testimony sir that she didn't immediately pull her hand back when it touched the hot liquid?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q And you told detectives that afterwards her skin was falling off her hand but you didn't think it was too bad. Isn't that --

A I invoke the Fifth.

Q -- what you told her?

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And you didn't take --

THE COURT: Overruled.

Q -- her to get treatment until the next day, correct?

A Invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q So as a result of Amanda's injuries in early January 1994, her head injuries, you were convicted of voluntary manslaughter, correct?

A I invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q And you were also convicted of corporal punishment of a child?

A Invoke the Fifth.

MR. HANRAHAN: Ask for the negative inference.

BY MR. HANRAHAN:

Q With --

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

Q With regard to that corporal punishment charge, sir, that was based on the burns to Amanda's hand, wasn't it?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q Have you been arrested other times in your life, sir?

A I invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q And you told a therapist at Red Rock Psychological that you had been arrest for domestic violence in Colorado, did you not, or domestic disturbance?

MR. DRASKOVICH: And I -- I object to this line of questioning. We've heard argument previously from the the State that supposedly there's immunity that occurs when they're going to counseling and now they're trying to invoke questions concerning what's said or not said during visit -- the counseling. So I would object. It's now -- once again, the State's contradicting itself in what they claim is the

law, yet -- than what they're trying to do in order to circumvent the law.

MR. HANRAHAN: Our stipulation was that any statements made regarding the injuries to Samantha in this case, the treatment providers would not be used against him in the criminal case downtown. That was the stipulation that we made at the beginning of this case.

Not talking about other issues in therapy and this has nothing to do with that criminal case either.

MR. DRASKOVICH: In reference to this --

MR. HANRAHAN: And he's taking the Fifth anyway.

MR. DRASKOVICH: In -- but in reference to this stipulation which I was not Counsel at the time, do we have a written stipulation or something -- memorialization of --

MR. HANRAHAN: It's in the minutes.

MR. DRASKOVICH: I'm going to instruct my client to invoke the Fifth in reference to this line of questioning.

MR. HANRAHAN: I mean, we already stipulated to admission of the Red Rock report in which his statements are memorialized in writing.

MR. DRASKOVICH: And I would just submit that this is redundant and it's unnecessary to ask him concerning these if the records have already been admitted.

THE COURT: Okay. So he pled the Fifth on that, so -- so -- okay, so once you signed your release from Red Rock through the ca -- through the J case, that -- all that information can come in. And since it was admitted anyway, it's already been admitted, they're just asking the questions which is allowed. And whether you plea the Fifth or not, that would be up to you, how you're going to respond, and then there will be an objection and then we'll have to decide on objection.

MR. HANRAHAN: All right. Well, let's -- let's turn to -- well, Your Honor, while I'm at it, and before I forget, I do want to ask to admit the judgment of conviction, a certified copy of the judgment of conviction dated June 29th, 1980 -- or July 2nd, 1984 for voluntary manslaughter and corporal punishment of a child.

THE COURT: Okay.

MR. DRASKOVICH: And I don't have a legal basis to object, I mean, so --

THE COURT: That'll be admitted. Do you know what number?

MR. HANRAHAN: I -- I don't know.

THE CLERK: 25.

THE COURT: 25.

(STATE'S EXHIBIT 25 ADMITTED)

BY MR. HANRAHAN:

Q Now with regard to the current case, who resided in your home in December of 2013, sir?

A Myself, Melissa Lawrence, Samantha Lawrence, Heidi, Nikki, and Wyatt Brown.

Q And do you recall in December 2013 that Clark County Child Protective Services investigator Yolanda Flores (ph) came to your home to talk to you about some injuries that Samantha had?

A Yes, I do.

Q Do you recall what injuries Samantha had at that time?

A I invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q And I'll just show you the -- what's previously been admitted as State's Exhibits 2 through 5.

MR. HANRAHAN: May I approach the witness, Your Honor?

THE COURT: Do you want to show them the -- just -- do they have it? Do they know? Okay.

MR. DRASKOVICH: We've -- we've seen them.

Q 235. Can you just take a look at those, sir? Let me know if you recognize what those photos depict.

A I'm going to invoke my Fifth.

MR. DRASKOVICH: Direct my client -- thank you.

MR. HANRAHAN: And I'll ask for the negative inference here.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q Can you tell the Court how Samantha got those injuries to her back that are depicted in that photo?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Can you tell the Court how Samantha got the black eye depicted in State's Exhibit Number --

A I invoke the Fifth.

Q -- 2?

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

MS. CALVERT: And I would object that it's obtainable from an alternative source which would be the testimony that Samantha --

MS. DORMAN: Is that a legal objection?

MR. HANRAHAN: I'm sorry, what?

MS. CALVERT: You're asking for the negative inference under -- I think it's Glazner (sic) which had previous said.

MR. HANRAHAN: Glanzer (ph).

MS. CALVERT: Glanzer.

THE COURT: She has the right to ask and then the corroboration is her -- a -- another person or -- or paper or pleading or something. So she can ask that and then the whole inference issue comes up as to -- if there's anything corroborating it later on and that possibly could be Samantha if she testified to something on the same line. So you can continue.

BY MR. HANRAHAN:

Q Now when you talked to Ms. Flores initially, you told her that Samantha sustained those injuries when she fell off a wall onto a trampoline, didn't you?

A Invoke the Fifth.

MS. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And Samantha -- you were here when Samantha testified, correct?

A Yes, ma'am.

Q And do you recall her testimony that she made up this story about the trampoline because she was scared of what you would do if she told the truth?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

BY MS. HANRAHAN:

Q Do you know why --

MR. DRASKOVICH: Same objection.

Q -- Samantha was afraid of what you might do?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Now you -- Samantha testified you were angry at her for making up that story, didn't she?

A Invoke my Fifth.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And she said because you told her that no one would believe it?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference on the last two.

MR. DRASKOVICH: Same objection the last two.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And were you worried that no one would believe that story because essentially that same story of falling off a wall had been used before in your prior case?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Did you then -- because you found that story unbelievable try to give Samantha a more believable story to tell?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q You wanted her to say that she did it to herself, correct?

A Invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q In fact, you caused those injuries to Samantha just as she testified, didn't you, sir?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Now you were made aware early in this case that a physician specializing in child abused determined that these injuries to Samantha's back were abusive in nature, aren't you?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And you are aware that the same physician opined that Samantha could not have gotten these injuries from falling onto a trampoline?

MR. GOWDEY: Objection, calls for a medical conclusion.

MS. HANRAHAN: I asked if he was aware that the same physician stated that Samantha couldn't have gotten the injuries from her father.

THE COURT: Overruled.

MR. GOWDEY: Objection, hearsay.

MS. HANRAHAN: It's -- how is it hearsay?

MR. DRASKOVICH: And object.

MS. HANRAHAN: I'm asking if he's aware that there was a doctor's opinion that the -- he -- that -- that the injuries could not have happened the way that she said.

MR. GOWDEY: If he's aware that there's an out of court statement made to -- to -- that -- that goes to the truth of the matter asserted, it's hearsay.

MS. HANRAHAN: Is awareness of whether the injury could be --

MR. GOWDEY: The underlying statement.

MS. HANRAHAN: -- accidental or not --

MR. GOWDEY: Underlying statement.

MS. HANRAHAN: -- is absolutely relevant to his actions later in the case with regard to his case plan.

MR. GOWDEY: Your Honor, he -- he -- she didn't --

MS. HANRAHAN: But it's an -- but it's an

MR. GOWDEY: The -- the question was you're aware that Dr. Setel or this -- this doctor stated that. That is hearsay.

MS. HANRAHAN: It's -- no, it -- I'm asking about his awareness of what -- whether this was a medical opinion.

THE COURT: Overruled.

MS. HANRAHAN: It's a medical --

THE COURT: You can -- you can answer that.

THE WITNESS: I'm going to invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And were you aware that doctor also said Samantha could not have caused these injuries to herself?

A Invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q As you sit here today, do you have any other explanation for those injuries to Samantha's back?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: I object and I submit it's speculative, so two prong objection.

MS. HANRAHAN: I'm asking if he has any other explanation for her injuries. That's a perfectly --

THE COURT: Overruled.

BY MS. HANRAHAN:

Q Did you seek any medical attention for any of Samantha's injuries in December 2013?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And now you told CPS a that time that Samantha got

this injury to her eye by hitting it on a cabinet, isn't that right?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And you stated that she was crying and you put ice on it for her, is that right?

A Invoke.

MS. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Now at that time, the twins backed up that story about the cabinet as did Samantha, correct?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And is that because you rehearsed with all of them what they would say to CPS?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Did you in fact perform drills as Heidi described them where you would pretend to be CPS and ask the kids questions?

MS. CALVERT: Objection, that -- I think that's -- I don't think she testified on those issues. Facts not in evidence, foundation.

MR. GOWDEY: Misstates her testimony.

MS. HANRAHAN: Well --

THE COURT: I believe the drills were -- the word drills were -- were used by somebody.

MS. HANRAHAN: The therapist.

THE COURT: But I just -- I -- and I believe it was Heidi.

MS. HANRAHAN: All right.

THE COURT: I don't know if she said those exact words.

BY MS. HANRAHAN:

Q So -- but Heidi -- but Heidi talked and said that

you would talk to them about what to say to CPS, is that true, sir?

A I invoke my Fifth.

Q Is it true that you would practice -- sorry, I -- that question was not clear, but --

THE COURT: Just restate it, because --

Q Is it true that you would practice with the children about what to say to CPS?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Now Samantha also testified that you told the rest of the family what to say to CPS, didn't she? Samantha also testified --

MR. GOWDEY: The testimony speaks for itself.

Q -- that you told the rest of the family what to say to CPS? Not --

A Is that --

Q -- just Heidi, but Samantha as well, right?

MR. GOWDEY: Your Honor --

MR. DRASKOVICH: And I --

MR. GOWDEY: -- Samantha's testimony speaks for

itself.

MR. DRASKOVICH: And I'm going to direct my client not to answer based on the Fifth Amendment.

THE WITNESS: I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

THE COURT: Overruled and --

MR. DRASKOVICH: Same objection.

THE COURT: -- and --

BY MS. HANRAHAN:

Q And in fact, even when you were in jail early in this case, you were doing your best to let everyone know what to say to the authorities, weren't you?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Were you worried that one of the kids would slip up and would tell the truth about what had been happening to Samantha?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And didn't you make efforts to get the other adults in the children's lives to remind them what they needed to do to protect you?

MS. CALVERT: Objection, vague and ambiguous as to other adults.

THE COURT: Sustained.

BY MS. HANRAHAN:

Q Well, let's -- did you have a conversation with your son David for example where you asked him to warn the children about something?

MR. DRASKOVICH: I direct my client not to answer.

A I don't recall. I -- I invoke my Fifth.

MS. HANRAHAN: I'll ask for --

MR. GOWDEY: Objection, vague as to something.

MS. HANRAHAN: Well, let's listen.

(AUDIO PLAYS IN COURTROOM)

Q So just to be clear, Mr. Brown, when you say what's her name, you're talking about Samantha, right?

MR. DRASKOVICH: I'm going to direct my client not to answer the question based on his Fifth Amendment right.

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

BY MS. HANRAHAN:

Q What was it that you wanted David to warn your children about, Mr. Brown?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Now you also had a conversation with Melissa Lawrence on March 16th, 2014 where you asked her to warn the children, didn't you?

A I don't recall.

MR. DRASKOVICH: And I'm telling my client not to answer these questions based upon your Fifth Amendment.

A I invoke my Fifth. All right.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

MS. HANRAHAN: Then we can listen to that one.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q So -- and again, just to be clear, when you said

-- you said instead of using dumb shit, you were referring to Samantha, correct?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And again, what was it that you wanted Ms. Lawrence to warn them about?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Then you also wanted your daughter-in-law Alicia to remind the kids not to talk, didn't you?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Did you have a conversation with Alicia Brown on March 21st, 2014 where she told you that an investigator from the D.A.'s Office was coming to talk to the children?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

MS. HANRAHAN: And we'll listen to that one.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q So this was March 21st, 2014. And at that point Sam was still telling everyone that there had been no abuse, correct?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q She was supporting everything you wanted her to say?

A Invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q So why would you be worried about her talking to anyone, sir?

A Invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And again then on March 22nd, 2014, did you tell Alicia to make sure Sam keeps her mouth shut?

A Invoke my Fifth.

Q Do you recall that conversation?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q So what was it that you wanted Sam to keep her mouth shut about, sir?

A I didn't hear that on that conversation.

MR. DRASKOVICH: And I'm instructing --

Q Yeah, we'll play it again.

MR. DRASKOVICH: -- my client not to -- to invoke his Fifth.

A I invoke my Fifth.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q Did you hear it that time, keep her mouth shut around from other people?

MR. DRASKOVICH: I'm instructing my client not to answer.

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And what was it that you wanted Sam to keep her mouth shut about?

A Invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Would you -- were you worried that she wouldn't say what it was that you wanted her to say?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Would you agree that the truth is the truth but stories are hard to remember, especially when somebody else tells you what to say?

MR. DRASKOVICH: I instruct my client to --

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And then again you told Alicia to warn all the children on March 24th, 2014, didn't you?

A Invoke my Fifth.

MS. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q And so what did you mean, sir?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Were you warning them to remember the stories that you told them to tell?

A Invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q So at that point, the story that you wanted Sam to tell was that she did -- the -- it caused those injuries to herself, wasn't it?

A Invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Do you recall a conversation that you had with Sam on March 31st, 2014 where you tried to let her know how she could do that?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q So what exactly was it that you wanted Alicia to explain to Sam about being an emo?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Wasn't it that you were giving her information about how to tell the story that she hurt herself?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Now do you recall Sam's testimony that you shot her at close range in the hand with a BB gun?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Sam also mentioned that in her May 2014 letter too, didn't she?

A Say that again?

Q Also mentioned that you shot her in the hand with a BB gun -- or with a gun in her letter that she wrote in May 2014.

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Was there a time when you were in jail right after she wrote that letter where you tried to influence your son David to say that she caused that injury to herself?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q So what would you have said to David if you could talk straight up -- or straight out?

A Invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Isn't this your way of telling David what to say about the BB gun incident, sir?

A Invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Wouldn't you agree David sounds a little confused when you first talk about that?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q All right. Now December 2013 was not the first time CPS came to your home, was it, sir?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Do you recall Ms. Parlati 's (ph) testimony that CPS had received 14 calls with about seven of them resulting investigations?

A Invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q And do you recall Ms. Parlati's testimony that CPS never responded to your home for anything except injuries to Samantha, would you agree with that statement?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q So none of your biological children ever had that number of injuries such that they were reported to CPS, did they, sir?

A I invoke my Fifth.

MS. HANRAHAN: I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And that would be at least since Amanda died, correct?

A I invoke my Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Do you recall investigator -- CPS investigator Biera Samson (ph) coming to your home in March 2008 to talk to you about the two black eyes, Samantha having both eyes bruised.

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Ms. Lawrence testified that Sam was nine, about nine at that time, does that sound right to you?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Now do you recall what you told CPS at the time that caused those two black eyes, sir?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q You said that she fell off her bike, didn't you?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

BY MR. HANRAHAN:

Q Isn't it --

MR. DRASKOVICH: Same objection.

Q -- true that Samantha was kept home from school for two days before she went to school with those two black eyes?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And do you recall the testimony that she went to school at that time with makeup covering those two black eyes?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Overruled.

BY MR. HANRAHAN:

Q Who applied that makeup to Samantha, sir?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And then in May 2008 there was a report to CPS according to Ms. Parlati that Sam had a bruise on her cheek. Do you recall what caused that bruise, sir?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And the story for that one was that she fell in her sister's room, wasn't it?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And in early November, November 7, 2008, Ms. Parlati testified there was another call about Sam coming to school with a black eye, do you recall that testimony?

A Invoke the Fifth.

Q Do you recall what --

MR. HANRAHAN: Oh, I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Do you recall what caused that black eye?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Sam said the dog jumped on her to cause that one,

isn't that correct?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And then a few weeks later, there was another report of a black eye on November 24th, 2008. Do you recall that injury, sir?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And there was an actual investigation at that time, correct?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And you told CPS at that time that Sam fell off the bed, correct?

A Invoke the Fifth.

MR. HANRAHAN: Ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Now again, at that point, Ms. Parlati testified that the reporter had said that Sam's black eye was covered with makeup. Do you know who applied the makeup to cover Sam's bruises that time?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And do you recall during that investigation that Sam initially told two different stories about how she got that black eye?

MR. GOWDEY: Objection, hearsay.

MR. HANRAHAN: Well, Your Honor, he would be aware of it. It was investigated by CPS.

MR. GOWDEY: Once again, we're talk --

MR. HANRAHAN: They would have talked about --

MR. GOWDEY: -- the under --

MR. HANRAHAN: -- it with him.

MR. GOWDEY: The underlying premise of the question is hearsay.

MR. DRASKOVICH: And I am instructing my client not to answer that.

THE COURT: Overruled. And you can answer that however.

THE WITNESS: Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Does it seem odd to you that a nine-year-old girl wouldn't immediately know how she got a black eye?

MR. GOWDEY: Objection, calls for speculation.

MR. DRASKOVICH: I'm instructing my client not to answer.

THE COURT: Overruled. It -- it's -- it's -- it's his interpretation of what he thinks of that question.

THE WITNESS: Invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Now also in 2008 Samantha had a broken tooth, correct?

A Invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And you told the CPS investor Dorene Birch (ph) at that time that she hit her mouth on the slide, right?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Sam testified here in June that that broken tooth happened when you grabbed her by the hair and threw her down on the floor. Do you recall that testimony?

A Invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Would you agree, sir, that sounds a lot like what happened to your daughter Amanda?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Moving forward to December 2009, do you recall an investigator Whitney Luksaik responding to your home regarding an injury, a deep cut to Samantha's wrists?

A Invoke the Fifth.

Q Do you recall Sam --

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And do you recall Sam having that injury, sir?

A I invoke the Fifth.

Q Do you recall why CPS got involved when Sam sustained that injury, sir?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Now the reason CPS got involved at that point was because Samantha initially told someone he threw a butter knife at me, wasn't it?

A Invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q But then when CPS got involved, she changed her story a couple of times about that one, didn't she?

A Invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE WITNESS: Excuse me.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Do you recall that she initially said she couldn't remember how she got that injury?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q And then next, she said she cut it on the wall when she was climbing over it.

A I invoke my Fifth.

Q Do you recall that?

MR. HANRAHAN: And I'll ask for the negative inference.

BY MR. HANRAHAN:

Q And then the final story was that she cut it on a grill or a grate or a piece of metal when she fell off the wall, correct?

A Invoke my Fifth.

Q And that's a little --

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q That's a little bit similar to this story about climbing the wall and falling on the trampoline, isn't it?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q And again, does it seem odd to you that a 10 or 11-year-old girl wouldn't immediately be able to say for

certain what caused the deep cut on her wrist?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Isn't that because it's hard to come up with a plausible story on the spur of the moment, sir?

MR. GOWDEY: Objection --

A Invoke my Fifth.

MR. GOWDEY: -- calls for speculation.

MR. DRASKOVICH: And direct my client not to answer.

THE COURT: Sustained.

BY MR. HANRAHAN:

Q And wasn't it you who gave her that final story about cutting her wrists on a grill or a grate?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q In fact, didn't you cause that injury to Samantha's arm as she testified you did?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Did you ever seek medical attention for that injury to Samantha?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Now at that point when Samantha had that injury, the CPS was involved in your life for several months, weren't they?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q A petition was filed in this court?

A Invoke the Fifth.

MR. HANRAHAN: And ask for the negative inference

and ask the Court to take judicial notice of Petition 1 under this case number.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And now you are assigned an in home worker, Danielle Mandarino (ph), at that time to work with the family, weren't you?

A Yes.

Q And during that time, Ms. Mandarino advised you at least three or four times that you needed to get Samantha some counseling, didn't she?

MR. GOWDEY: Objection, hearsay.

MR. HANRAHAN: Your Honor, I'm asking if he understood what he was supposed to do pursuant to a prior CPS case.

MR. GOWDEY: I'm sorry, that's not what she was asking. She said and Ms. Mandarino told you such and such, such and such, which is hearsay.

MR. HANRAHAN: Your Honor --

MR. GOWDEY: So if she wants to rephrase the question, perhaps it wouldn't be objectionable, but in the form where it is, it's objectionable as hearsay.

MR. HANRAHAN: Your Honor, it's the same question.

BY MR. HANRAHAN:

Q Wasn't it your understanding from Ms. Mandarino that you were supposed to enroll Samantha in therapy?

A Yes, and we tried to.

Q And you tried with how many providers, sir?

A Two.

Q And who were those providers?

A Beckman (ph) was one. The other one I can't recall. it's in the CPS notes, that Danielle had the -- the information and Danielle tried to contact them and they wouldn't speak to her because CPS involvement is why they wouldn't see Samantha.

Q They wouldn't speak to Danielle --

A They wouldn't --

Q -- Mandarino?

A According to CPS notes, yes.

MR. DRASKOVICH: And he's referring to Page 169 of the CPS record.

Q And Ms. Mandarino also told you, did she not, that she could help you get Samantha into counseling if you were turned down otherwise?

A She had said that she would try to get a CFT, but somebody was on vacation almost throughout this -- the whole thing. And she wouldn't -- she wasn't able to get a CFT to get us help. And no, we were never offered any kind of

therapy for Samantha through CPS. We were never offered Healthy Minds or anything.

Q Well, the reason that she talked to you about that therapy was because you and Ms. Lawrence were telling her that Samantha was lying and stealing, correct?

MS. CALVERT: Objection, argumentative.

MR. HANRAHAN: Argue -- I'm asking a question.

THE COURT: Overruled.

MR. HANRAHAN: I mean --

BY MR. HANRAHAN:

Q So wasn't the reason that Ms. Mandarino wanted you to get Samantha enrolled in therapy because you and Ms. Lawrence were telling her that Samantha was lying and stealing?

A And actually --

MR. DRASKOVICH: Objection, calls --

A -- Samantha told her.

MR. DRASKOVICH: I'm -- objection, speculation.

MR. HANRAHAN: Speculation as to --

MR. GOWDEY: As to the reason she told --

MR. HANRAHAN: All right. Let's back up.

BY MR. HANRAHAN:

Q Didn't you tell Ms. Mandarino you and Ms. Lawrence that Samantha was constantly lying and stealing?

A Yes.

Q And is it your understanding that that's why she wanted Samantha to get enrolled in therapy?

A No, it was because of what Samantha had told her which is also the CPS notes that --

Q But -- but --

A -- Samantha stated --

Q -- that's a yes or --

A -- she couldn't

Q -- no, sir. Yes or no?

MR. GOWDEY: He's got a right to -- to explain an answer.

MR. HANRAHAN: Excuse me, he can explain --

THE COURT: Well, it --

MR. HANRAHAN: -- when you --

THE COURT: Yeah.

MR. GOWDEY: Excuse me.

MR. HANRAHAN: -- ask questions.

THE COURT: Hold on. Hold on. He can -- he can -- it's -- it's a yes or no question and then she may follow up with another question and if not, your attorneys can follow -- follow through on -- on a -- your examination, okay?

THE WITNESS: Yes, ma'am.

BY MR. HANRAHAN:

Q Now -- and that's -- at that time, you blamed Samantha for CPS becoming involved in your life, didn't you?

MR. DRASKOVICH: I direct my client not to answer.

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q So during that case but then even afterward when CPS and DFS were no longer in your lives, you never did enroll Samantha in any type of therapy, did you?

A No, ma'am.

Q And that was because you were worried about what she might tell the therapist?

A No, ma'am, because wouldn't get with us because of CPS involvement even after the case was done.

Q So no therapist. You tried how many times after DFS was out of your life to get Samantha into therapy?

A Once.

Q And they wouldn't take you because previously DFS had been involved in your life? Just yes or no.

MR. DRASKOVICH: And I would submit that she's requiring a yes or no question -- or make a yes or question,

that the answer can't be simply an answer yes or no. And my client's trying to explain, but that's --

MR. HANRAHAN: I --

MR. DRASKOVICH: So I would object to the question.

MR. HANRAHAN: I asked if he -- I -- I basically restated what he said.

BY MR. HANRAHAN:

Q You're saying that you couldn't get Samantha into therapy because you had previously had DFS involved in your life, is that your testimony?

A We had mentioned CPS when we went back and tried. and also the guy was -- the person therapist we had went to or psychiatrist, he was really off the wall and he made myself and Melissa very uncomfortable.

Q And who was that?

A I don't recall his name.

Q So you didn't try anyone else?

A No, ma'am.

Q Now do you recall speaking with investigator Lisa Lamb in January of 2011 when Sam had some bruising or swelling around her eyes and some marks on her ribs?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And that was another case where it -- the investigation began because Samantha told friends that you caused those injuries, correct?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And once again, you made a point of telling Lisa Lamb that Samantha was lying and stealing all the time, didn't you?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And by that time in 2011, you still hadn't obtained any help for Samantha for what you claimed were serious mental health issues?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

MR. HANRAHAN: Your Honor, do you want to just keep going until -- I -- I mean, I -- I just wanted to --

THE COURT: Well, as --

MR. HANRAHAN: -- figure out --

THE COURT: -- far as time goes, this is the only witness today?

MR. HANRAHAN: Yes.

MR. DRASKOVICH: If their case is resting, during the break, we can contact our witnesses to see if we can get them all here tomorrow or a day next week that's -- it's a good time to break if the Court's --

THE COURT: Oh.

MR. DRASKOVICH: -- so inclined to.

THE COURT: I -- I see what you're saying, because that -- you expected your witnesses to not --

MR. GOWDEY: Well, we weren't --

THE COURT: -- to come in til even --

MR. GOWDEY: We weren't aware that they were resting until we --

THE COURT: Okay.

MR. GOWDEY: -- came in today.

THE COURT: Okay. And that's fine. Okay. So how

much longer do you think we have? How much -- I mean, how many questions? How long -- how much longer do you have?

MR. HANRAHAN: Probably about the same amount of time.

THE COURT: Okay. Well, what do you think? It's 12:20.

MR. GOWDEY: Why don't we take a lunch break --

THE COURT: All right.

MR. GOWDEY: -- and --

THE COURT: Okay.

MR. DRASKOVICH: We can --

THE COURT: I agree. And that way we can -- I mean, otherwise, it's going to be -- we don't want to stop at 2:30 just to come back at 3:30. We might as well stop now. Okay. So you want an hour?

MR. GOWDEY: Sure.

THE COURT: Is that it?

MS. CALVERT: Yeah.

THE COURT: Okay.

MR. DRASKOVICH: Should we do an hour and could we make it 1:30?

THE COURT: Yeah, that's fine.

MR. DRASKOVICH: Okay.

THE COURT: That's fine. At 1:30. We'll see you

back.

(COURT RECESSED AT 12:20 AND RESUMED AT 1:39)

THE COURT: All right. Well, we're back on the record. So --

MR. GOWDEY: Come on back up.

THE COURT: You'll have Mr. Brown come back then -- back up, we'll finish the questioning? All right. So you're still sworn in. We don't have to reswear you.

THE WITNESS: Yes, ma'am.

THE COURT: Okay. All right. We'll continue where we left off.

BY MR. HANRAHAN:

Q Mr. Brown, you were here when Sam testified in June. And do you recall some of the things that she said you did to her?

MR. GOWDEY: Objection, calls for speculation. Vague --

MR. HANRAHAN: I'm asking if --

MR. GOWDEY: -- as --

MR. HANRAHAN: -- he remembers some things that she said he did to her.

MR. GOWDEY: Vague as to some of the things.

MR. DRASKOVICH: And I'm going to --

BY MR. HANRAHAN:

Q Do you remember any of the abusive --

THE COURT: Sustained.

Q -- facts that she said that you did to her?

A I invoke my Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Did you ever stand on Sam's chest as she testified that you did?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

BY MR. HANRAHAN:

Q Did you ever leave shoe or bootmarks on her chest as she testified?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Did she ever pass out while you were in -- while in your care such that you and/or David had to revive her?

A I invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Did you lock Samantha in the bathroom ever?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Could you tell the court what a wall sit is, Mr. Brown?

A Pardon me?

Q Could you tell the court what a wall sit is?

MR. DRASKOVICH: I'm going to direct my client to not answer that question.

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference. I -- I don't --

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Well, did you make Samantha do wall sits as

punishment for -- as she testified that you did?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q How long did she have to do wall sits?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Did you ever make her stand on her head for punishment?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Isn't it true that she had to stay standing on her head when you would punish her for so long that her eyes would become puffy and swollen?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Did you ever hit her with a belt as she testified and as she wrote in her letter?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Okay. Did you ever hit her with a cord?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q How about a TV remote?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q How about a frying pan?

A Invoke the Fifth.

Q What was the deal with the frying pan?

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Ever hit her with a shoe?

A Invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Ever hit her with a flashlight?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Ever hit her with your fists of your hand?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Ever hit her with a hanger?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q How about a pipe?

A I invoke the Fifth.

MR. HANRAHAN: And I will ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Do you recall Heidi testifying that you made Sam go to the garage to get you something to beat Samantha with?

A I invoke the Fifth.

MR. DRASKOVICH: Same objection.

MR. HANRAHAN: And I'll ask for the negative inference.

BY MR. HANRAHAN:

Q And then Heidi testified that Sam came back with a pipe, didn't she?

MR. DRASKOVICH: Objection, the testimony will speak for itself and in addition, I'm telling him to invoke his Fifth.

MR. HANRAHAN: I'm sorry, what was the last part of that objection?

MR. DRASKOVICH: Their testimony, whatever it may have been, will stand on its own and I'm objecting it's irrelevant and it's redundant.

MR. HANRAHAN: Okay. Well, I'll make it a compound question then.

BY MR. HANRAHAN:

Q Heidi testified that Sam came back with a pipe, is that true?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And Heidi testified that you beat Sam with that pipe, is that true?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And Heidi testified that she could hear Samantha screaming and crying while you beat her, did she not?

MR. GOWDEY: Okay.

A I invoke the Fifth.

MR. DRASKOVICH: Same -- oh, go ahead.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Mr. Brown, is it your testimony or your contention that Heidi was lying about those things?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Is it your contention that both twins were lying when they separated testified that they had seen and heard you beating Sam with a belt?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And if the twins, one or both, were to lie to you

like you said Samantha did, would they be punished like she was?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Now Mr. Brown, you floated a few ideas over the years for why Samantha sustained so many injuries as compared to your other children, would you agree with that?

MR. GOWDEY: Objection, argu -- argumentative as to floated a few ideas, vague.

THE COURT: Okay. Sustained. And --

MR. HANRAHAN: I'll let --

THE COURT: -- the word floated, I think you can be more specific.

BY MR. HANRAHAN:

Q Okay. Well, there were times in the past when you told CPS investigators that Samantha is just clumsy and accident prone, correct?

MR. DRASKOVICH: I'm going to direct my client not to answer that question.

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

THE COURT: Okay.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q But you never took Samantha to a neurologist or other medical professional to determine why she was so accident prone, did you?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And is that because you didn't want anyone poking into why she was getting into so many injuries?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Now besides being clumsy, you also told CPS investigators in the early cases that she got hurt because she was a tomboy and she liked to roughhouse with the neighborhood boys, is that right?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Isn't it true that your son played all kinds of sports including football and never came to the attention of CPS for multiple injuries?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q And more recently then in this case, you indicated that Samantha had caused those injuries to herself, correct?

A I invoke the Fifth.

MR. HANRAHAN: Ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Sir, would you be able to show the court how Samantha managed to cause these injuries to herself?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q Would you agree that if Samantha has been causing all of these injuries to herself over the years that there is something seriously psychologically wrong with her?

A I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative inference.

MR. GOWDEY: I'm going to object. That calls for -- that asks for a medical conclusion. Something seriously psychologically wrong for her -- with her cause for a medical diagnosis conclusion. He's not equipped to give that under any circumstance.

THE COURT: I'll sustain that objection.

BY MR. HANRAHAN:

Q Did you ever get her into any type of therapy to address why she might be causing injuries to herself?

MR. GOWDEY: Objection, asked and answered previously.

MR. HANRAHAN: I asked back in the prior cases if he got her invocation, any therapy.

THE COURT: She was -- I think she was referring prior to the -- the picture. so you can --

THE WITNESS: I invoke the Fifth.

MR. HANRAHAN: And I'll ask for the negative

inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q But sir, that is the theory that you're pursuing in the criminal case, isn't it, that Sam's crazy?

MR. GOWDEY: Objection, calls for a legal conclusion.

MR. HANRAHAN: Your Honor, it really doesn't.

MR. DRASKOVICH: And --

MR. HANRAHAN: He ought to know what his defense is in the criminal case.

MR. GOWDEY: Actually, he has no obligation whatsoever to put up a defense in the criminal case let alone state what his defense is to this court.

MR. DRASKOVICH: As his attorney, I can say that we did file a motion. It was granted to explore this issue, it was opposed by the District Attorney's Office and they ultimately got in place a stay of those proceedings because they don't want us to find out what's really wrong with her, so --

THE COURT: Okay.

BY MR. HANRAHAN:

Q So it is your contention that there's something wrong with her and that's where all of this came from.

A I invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MR. HANRAHAN:

Q Is this just your idea of discipline, sir? Is this how --

A I invoke the Fifth.

Q -- you discipline a child? Excuse me?

A I invoke the Fifth.

MR. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MR. HANRAHAN:

Q You did tell the therapist at Red Rock that you spanked Samantha though, isn't that correct?

MR. DRASKOVICH: And I would object as to this question. Once again, we have this conflicting idea that supposedly this privilege that he has going to counseling which he didn't take advantage yet and now she's asking him questions concerning what was stated during the counseling session which again, I would show -- submit to the Court it shows how transparent that supposed immunity is. And I

would object to him answering that question.

MR. HANRAHAN: Your Honor, he didn't ask for -- he did not take adva -- it's -- first of all, this is a separate case and we wouldn't be here had he taken advantage of the stipulation and -- and addressed the injuries in therapy. I'm asking him about a different statement that he made and to the Red Rock assessor.

And if that was something that he wanted to be part of that stipulation, that could have been addressed in the J case. It was never brought up, never. Once the stipulation was made by us unasked for, it was never brought up or addressed with either Mr. Brown to DFS or his attorneys to me.

THE COURT: Okay. So in cases like this, this counseling and the therapists and the treatment providers are here to -- once you sign a release of information on your case plan to allow the Department to be able to be able to get report assessments, they're -- it's -- it's -- they're allowed to -- they're allowed to ask you questions about that, because there can be good and bad notes from that report. And in this case, I don't know, because is what the report says without having that person here.

But they can refer to what you've done in that report. They can't refer to something back in another case,

but because of the underlying juvenile case is the reason you're here for the TPR case and release was signed giving access to your treatment to the Department, attaching it to the reports in the underlying J case.

She can ask you questions about that report; however, because there's a pending criminal case, that's -- there's still -- if there was no criminal case, then I'm obviously -- we would expect you to answer the question like every other litigant does when they're asked in these courts regarding treatment.

So I'll let you consult with your attorney about anything that you say that could possibly affect you in your criminal case, because that's different than most of the other cases we hear.

MR. DRASKOVICH: And I'm directing my client to not answer --

THE COURT: Okay.

MR. DRASKOVICH: -- with this questioning --

THE COURT: Okay.

MR. DRASKOVICH: -- in these proceedings.

THE COURT: But she can still ask about it because the treatment is pertaining to why we're here today and what was said in there. And then on top of that, the other layer is that I believe there was an agreement at the plea hearing

that anything that you say to treatment providers cannot be held against you in a criminal case. With that being said, again, your -- she can ask the question.

MR. HANRAHAN: Okay. And again, just to be clear, the stipulation was not anything you say to treatment providers, but anything in relation to this case and --

THE COURT: Correct.

MR. HANRAHAN: -- these injuries.

THE COURT: Correct. Correct.

MR. HANRAHAN: All right.

THE COURT: Correct. And that was in front of Judge -- Judge Becker, I believe.

MR. HANRAHAN: Yes. Okay.

BY MR. HANRAHAN:

Q And so you told Red Rock that you spanked Sam, correct?

A I plea the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q So let's talk about your case plan. Now this -- we just referred to -- this isn't the first time that you've

been on the stand in this courtroom, correct, sir, in regard to this case?

A No, ma'am.

Q And we went to trial at the beginning of this case as well, correct?

MR. DRASKOVICH: This case to terminate parental rights?

MS. HANRAHAN: No, the J case.

MR. DRASKOVICH: The J case.

MR. GOWDEY: Oh, the J case.

MS. HANRAHAN: Sorry, the juvenile case.

THE WITNESS: So what case are we talking about?

Q The juvenile case when this petition was filed, we went to -- we started a trial at least in that matter, correct?

A What was --

Q Back in --

A What was the --

Q -- 2014?

A Yes, ma'am.

Q And then after we started the trial, you and Ms. Lawrence talked to your attorney and decided to enter a no contest pleas to a petition, correct?

A Under advice from the attorney, yes.

Q And that petition that you ultimately no contest to, and that was accepted by the Court in this case, it states that you physically abused Samantha resulting in the injuries to her back, correct?

MR. DRASKOVICH: Is the question to what's stated in the petition?

MR. GOWDEY: The petition speaks for itself.

MR. DRASKOVICH: Yeah, I object to him answering any questions -- well, I would submit this petition speaks for itself.

MS. HANRAHAN: Okay. And Your Honor, I'm just asking him if he's aware of what it says. I want to go over what it says, because --

THE COURT: So it's --

MS. HANRAHAN: -- then we go --

THE COURT: -- as yes --

MS. HANRAHAN: -- to the --

THE COURT: Is it --

MS. HANRAHAN: -- case plan.

THE COURT: Is it a yes or no question?

MS. HANRAHAN: It's a yes or no question. Okay.

THE COURT: She's asking if you remember.

THE WITNESS: I'm not sure which one you're talking about.

BY MS. HANRAHAN:

Q Well, you entered no contest to a petition that said that you physically abused the subject minor Samantha by hitting and/or striking and/or beating with her a belt and/or other object and/or his hands resulting in the injuries described above.

MR. DRASKOVICH: And we would stipulate that that's one petition and we'll also stipulate that he entered a no contest plea. My concern is to have him answer questions to this -- it will be construed by our other pair of prosecutors as a waiver of his Fifth Amendment, so I --

THE COURT: For the sake of making sure that trial is fair and there's nothing in this trial that's going to not make that happen. That is the petition that was filed?

MS. HANRAHAN: Yes.

THE COURT: Okay. So that document will speak for itself.

MS. HANRAHAN: So no more questions about the petition --

THE COURT: No, you can.

MS. HANRAHAN: -- or --

THE COURT: You --

MS. HANRAHAN: Okay.

THE COURT: -- can, but that question --

MS. HANRAHAN: I mean --

THE COURT: -- is is I don't -- I don't think his client --

MS. HANRAHAN: Assuming he's asserting the Fifth on that then?

MR. DRASKOVICH: What -- what's happening and we'll see on my cross or direct there's been misrepresentations made in pleadings and to the Court in the other proceeding. And I don't want to be adding a sidebar during a trial where there's been issues saying that he admitted in a TPR hearing that he had abused Samantha or he said this and based upon the --

MS. HANRAHAN: And --

MR. DRASKOVICH: -- track record --

MS. HANRAHAN: -- I'm not asking him that.

MR. DRASKOVICH: I -- I know you're not. Well --

MS. HANRAHAN: I'm just asking --

MR. DRASKOVICH: -- it's --

MS. HANRAHAN: -- him if that -- if he remembers that that's what the petition states.

MR. DRASKOVICH: We stipulate that he remembers what's in the petition and we stipulate --

THE COURT: Okay.

MR. DRASKOVICH: -- that he entered a no contest

to the petition.

MR. GOWDEY: And I think the -- the -- eliciting the answers on this is far more prejudicial that probative given that the document has been entered and it speaks for itself.

THE COURT: Well --

MS. HANRAHAN: Your Honor, the -- here's the thing. The petition is the underlying document here that what the -- the case plan is based. So this is kind of a standard thing that we do asking do you recall what was in the petition, the allegations that the case plan during from. I -- I don't -- I mean, I'm just asking --

MR. GOWDEY: It may well --

MS. HANRAHAN: I -- I don't know why asking the question is going to be something that they think is going to be harmful to him --

MR. GOWDEY: It may --

MS. HANRAHAN: -- because the petition is there. It says what it says, physically abused, mentally injured, and the prior --

THE COURT: Well, there was a whole --

MS. HANRAHAN: -- the history --

THE COURT: -- prove --

MS. HANRAHAN: -- those are the history --

THE COURT: There was a whole prove up asking if he understands -- I'm assuming it was done --

MS. HANRAHAN: And those were --

THE COURT: -- do you understand --

MS. HANRAHAN: That's my next few questions.

THE COURT: Okay. Well, so if --

MS. HANRAHAN: So --

THE COURT: -- that's the case, then -- I mean, what are the -- okay, so he was here. It wasn't done when he wasn't here. I wasn't here, but it -- it wasn't done, the questioning of the no contest plea. So they're asking if he remembers what he agreed to. So I -- it's really a yes or no question, but that yes or no question --

MR. GOWDEY: And again, he -- he didn't contest the charges. He didn't admit the charges. He just didn't contest this no contest plea.

MS. HANRAHAN: And I'm not asking about that.

THE COURT: Right. And that's what she asked. So I mean, I think that's fair because -- again, we can review the tape and the tape's going to say exactly if he knew or didn't know because the -- he should have been questioned and canvassed. Instead of doing that, I believe she's asking him if he remembers the petition that was obviously substantiated as a no contest plea. She's not asking him if

he admitted it. She's just asking him if he pled no contest. Is that correct? Is that what I'm --

MS. HANRAHAN: That's correct.

THE COURT: Okay. So --

MS. HANRAHAN: I'm asking what -- if he recalls the specific allegations that he pled no contest to.

MR. DRASKOVICH: His answer is yes. I would ask that we move on to another subject.

THE COURT: Okay. So I think he has to say that though. So I'll let -- I'll let -- you ask the question and him answer that instead of Mr. Draskovich, just because it needs to be on the record.

MS. DORMAN: She wants you to ask it again so that he can answer it.

THE COURT: So that Mr. Brown can answer it.

BY MS. HANRAHAN:

Q Okay. Well, in that petition that you pled no contest to, the petition states that you physically abused Samantha, that you mentally injured Samantha and that you had been convicted of felony manslaughter and corporal punishment of a child, is that correct?

MR. DRASKOVICH: If the petition states that, yes.

A Yes, if the petition states that. But I didn't understand what no contest meant at the time.

Q Sir, your attorney can make that clear if he wishes. Now after you entered your no contest plea to that petition, you were asked various questions by the judge, Judge Becker, is that right?

A I do not recall.

MR. GOWDEY: Again, the record speaks for itself, ma'am.

MS. HANRAHAN: He just answered he didn't recall.

THE COURT: Okay.

BY MS. HANRAHAN:

Q And she asked if your plea was knowing and voluntary, didn't she?

MR. GOWDEY: Objection, the record speaks for itself.

MS. HANRAHAN: Your Honor, what record? We don't -- I mean, we have --

MR. GOWDEY: The prior --

MS. HANRAHAN: -- I guess the minutes, but they don't indicate necessarily the canvass that was done. I'm asking if he recalls the questions the judge asked him.

THE COURT: Okay.

MR. GOWDEY: Objection, relevance.

MS. CALVERT: Yeah.

MS. HANRAHAN: The relevance is Judge if he -- if

he answered the question yes, I'm entering this plea in a knowing and voluntary manner, that he understood what he was entering a plea to, and then we move on to the case plan and why the certain elements were on the case plan. And --

THE COURT: I mean --

MS. HANRAHAN: -- I am --

THE COURT: -- it's a fair question.

MS. HANRAHAN: -- interested in --

THE COURT: She can ask about --

MS. HANRAHAN: -- knowing if he answered -- you know, remembers the questions that he -- was it knowing and voluntary and had threats or promises been made if he remembers his answer to those questions.

THE COURT: Okay. So that's a fair question. You can answer it. Do you remember?

THE WITNESS: I don't recall.

BY MS. HANRAHAN:

Q Do you recall Judge Becker asking if any threats or promises were made to get you to enter your plea?

A I don't recall.

Q You don't recall answering no to both of those questions?

MR. GOWDEY: Asked and answered.

MS. HANRAHAN: I didn't ask what his answer was.

I asked if he recalled the questions previously. He said no and I'm asking if you don't recall answering no to both of those questions.

MR. GOWDEY: Asked and answered. If -- if he doesn't recall the questions --

MS. HANRAHAN: He didn't answer.

MR. GOWDEY: -- how is he expected to answer?

MS. HANRAHAN: He did not answer.

THE COURT: He said he didn't recall. You can answer that question and then we'll move on to whatever other questions you have regarding the case plan.

THE WITNESS: I do not recall.

BY MS. HANRAHAN:

Q And then Judge Becker also told you that even though you weren't admitting to the allegations, they would be treated as true, do you recall that?

A No, ma'am. I don't.

Q And then do you recall some discussion about that stipulation that we've talked about before on -- in that same date that you -- as -- you would be provided with a stipulation that anything you said about these injuries to Samantha would not be used against you in a criminal matter. Do you recall that stipulation being discussed at that hearing?

A Not that hearing. I don't recall, ma'am.

Q So at some point, do you recall being provided with a document called a case plan?

A We were faxed one.

Q Okay. So you received one.

A We were faxed one quite awhile after the court hearing.

Q Now --

A Excuse me, that was emailed. Sorry.

Q And you would have seen a copy of that case plan at the court hearing on August 13th, 2014, right? That's when that was discussed in court?

A I don't recall seeing one. Maryte said we had to sign one before we left, but we never got back with -- with her that day.

Q Okay. So that was at the court hearing where we talked about the case plan at the dispositional hearing?

A I remember talking to Maryte outside the courtroom about it.

Q Okay. So you've seen the case plan, I guess.

A Now I have, yeah.

Q The bottom one.

A Yeah.

Q Yes. So in your understanding, what is a case

plan? Just briefly.

A It's what we need to do through therapy and -- what do you call it -- well, through therapy and, you know, there are a lot of different ways to -- you know, different disciplines and to learn, you know, the right way to discipline a child, what's -- you know, what's the difference between discipline and -- and abuse and all that.

Q Fair to say it's a series of objectives that you need to comply --

A Yes, ma'am.

Q -- with to -- to be reunified with your child?

A Yes, ma'am.

Q All right. Do you recall specifically what those objectives were on your case plan?

A No, ma'am. I do not. Not all of them.

Q Would it refresh your recollection to take a look at the case plan?

MS. HANRAHAN: May I approach the witness, Your Honor?

THE COURT: Sure. It's just your reflect -- refresh his --

MS. HANRAHAN: State's Exhibit --

THE COURT: -- recollection?

MS. HANRAHAN: -- 18 --

MR. GOWDEY: Let me see where it is.

MS. HANRAHAN: -- that I'm showing the case plan.

Q Just the objective, sir. If you can look at those, the main objectives. I believe there are three.

A I see two.

Q In the gray boxes, are the first ones on the very first -- first page -- or on Page -- or the first page that looks like this way down at the bottom?

A I see case plan information. That was it.

Q Okay. So I'm giving -- it doesn't have gray boxes. So starting there.

A Yes, ma'am.

Q There.

A Okay. Thank you.

Q And then there's one on this day. So in the interest of economy, would you agree that the case plan has three primary objectives, resolve legal matters, provide for the physical, emotional, educational needs of your children and provide a home free from physical abuse?

A Yes, ma'am.

Q And you agree that each of those three objectives has under it -- right under it a section entitled measurement for success.

A Yes, ma'am.

Q And would you agree that each objective also has a series of action steps underneath it?

A Yes, ma'am.

Q So let's start with the last objective, resolution of legal matters and the measurement for success. Basically, this one says comply with all orders from criminal court, would you agree with that?

A Yes.

Q And you still have an open case as to resolve your legal matters -- you -- you have an open case in criminal court, correct, still?

A Yes, ma'am.

Q So -- so that's not resolved yet, correct?

A No, ma'am.

Q And then this objective also requires you to come up with an alternate caregiver in the event that you would be incarcerated, correct?

A Yes, ma'am.

Q Would you agree that that is something that would need to be done once the children were back in your care?

A It's been done numerous times, but CPS keeps anybody that we have, any family, they find a reason that the --

Q Well, this is not for placement, sir, while the

children are in care. This is about creating after you get the children back in your care in the event that you would be incarcerated, you need to find someone. So that's --

A Okay.

Q -- what I'm asking you is the kids haven't been returned, so there was no need for this plan to be developed yet, would you agree with that?

MR. DRASKOVICH: I object. I kind of calls for a legal conclusion on his part.

MS. HANRAHAN: Well, it's not -- okay.

BY MS. HANRAHAN:

Q All right. So do you have a plan for when -- if the kids were to come home for someone to care for the children if they're returned to your care and you are subsequently incarcerated?

A Yes, ma'am.

Q So do you also recall Ms. Tallent's testimony when she said that if this objective, this last one, resolved legal -- legal matters, was the only thing that wasn't completely resolved that she would not have asked for termination of parental rights to be the goal, do you recall that testimony?

A Yes, ma'am. But she's also told us that we will never get --

Q Sir --

A -- our children back.

Q -- if you would just answer the question.

A Yes, ma'am.

Q So the next objective, objective three still remains to be completed. The next objective is meet the emotional, educational, physical, and developmental needs of the children. Do you agree with that?

A Yes, ma'am.

Q And this one, one of the requirements here under the action steps is to demonstrate empathy for all of the children, their experiences and their feelings, correct, the very last action step?

A Yes, ma'am.

Q And also demonstrate an understanding of the children's emotional needs?

A Yes, ma'am.

Q Would you agree that in those jail calls that you had with various people when you were at Clark County Detention Center in 2014, you said some pretty disparaging things about Sam?

A I believe the phone calls were taken out of context. The whole phone call wasn't elicited.

Q So you don't agree that you said some disparaging

things about Sam?

MR. DRASKOVICH: And I'm going to direct my client just in an abundance of caution not to answer this question and assert his Fifth.

A I plea the Fifth. I invoke the Fifth.

MS. HANRAHAN: All right. I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q I mean, we just heard a jail call where he called her a dumb shit and what's her name, didn't we?

MR. DRASKOVICH: I'm going to direct my client not to answer.

A Invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Do you recall -- and -- and you also referred to her as frickin' Samantha in some of those calls, correct?

A Invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

BY MS. HANRAHAN:

Q Do you recall telling Melissa in a jail call on June 3rd, 2014 that she needed to go get a restraining order for the other kids against Samantha?

A Invoke the Fifth.

MS. HANRAHAN: I'll ask for the negative inference --

MR. DRASKOVICH: Same objection.

MS. HANRAHAN: -- and we'll listen to that one, June 3rd.

(AUDIO PLAYS IN COURTROOM)

BY MS. HANRAHAN:

Q Would you agree that you just told Ms. Lawrence to go get a restraining order against Samantha?

A And I invoke the Fifth.

MS. HANRAHAN: I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

THE COURT: Okay.

BY MS. HANRAHAN:

Q Now do you recall that there was some jail calls that we played during Ms. Lawrence's testimony? Do you recall listening to those?

A Yes, ma'am.

Q And in one of those calls when Ms. Lawrence said Samantha had been nothing but a pain in her side since the day she was born and nothing but trouble, you agreed with her, did you not?

A I invoke the Fifth.

MS. HANRAHAN: And I'll ask for the negative inference.

MR. DRASKOVICH: Same objection.

MR. GOWDEY: I'm -- I'm -- I know it's a little late, but I'm going to object that speaks for itself. The call speaks for itself. There's a collateral way that she can prove that and therefore the inference I don't think is his problem.

MS. HANRAHAN: Well, I -- I appreciate that's his opinion, but that's not how it works, Judge. I'm --

MR. GOWDEY: Actually, I believe --

MS. HANRAHAN: -- asking her about -- or I'm asking him about a call that was played previously and I'm asking didn't you agree with Ms. Lawrence when she said that about Samantha --

MR. GOWDEY: I heard --

MS. HANRAHAN: -- and --

MR. GOWDEY: -- the question and the question --