

XI

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

XII

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

ORDER AND DECREE

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

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

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

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

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

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

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

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

12
13
14 Submitted by:

15 STEVEN B. WOLFSON
16 District Attorney

17 By: 

18 **JANNE HANRAHAN**
19 Chief Deputy District Attorney
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TRAN

FILED

JUL 13 2016

Shirley L. Williams
CLERK OF COURT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

In the Matter of) CASE NO. D-15-510944-R
the Parental Rights of:) DEPT. K
)
SAMANTHA LAWRENCE, D.O.B. 07/06/1998;)
HEIDI BROWN, D.O.B. 01/04/2004;)
NIKKI BROWN, D.O.B. 01/04/2004;)
WYATT BROWN, D.O.B. 05/30/2009;)
)
Minors.)
_____)

BEFORE THE HONORABLE CYNTHIA N. GIULIANI

TRANSCRIPT RE: TRIAL

THURSDAY, JUNE 02, 2016

1 APPEARANCES:

2 For the State of Nevada: JANNE M. HANRAHAN, ESQ.
3 Chief Deputy District Attorney
4 AMITY C. DORMAN, ESQ.
5 Chief Deputy District Attorney
6 Juvenile Division
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7 The Natural Mother: MELISSA DAWN LAWRENCE
8 For the Natural Mother: MICHAEL I. GOWDEY, ESQ.
815 S. Casino Center Blvd.
Las Vegas, Nevada 89101
9 (702) 471-0321

10 The Natural Father: DONALD BROWN
11 For the Natural Father: ROBERT M. DRASKOVICH, JR., ESQ.
12 Turco & Draskovich
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14 Also Present: AMY HONODEL, ESQ.
15 Children's Attorney's Project
16 MARYTE TALLENT
17 Department of Family Services
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I N D E X O F W I T N E S S E S

DIRECT CROSS REDIRECT RECROSS

THURSDAY, JUNE 02, 2016

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By Mr. Draskovich		108	229
By Mr. Gowdey		160	230
By Ms. Honodel		229	

RESPONDENT'S WITNESSES

(None offered herein.)

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1 LAS VEGAS, NEVADA

THURSDAY, JUNE 02, 2016

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

3 (THE PROCEEDING BEGAN AT 09:55:55.)

4 MR. GOWDEY: If I could've known that, we could've
5 started without me.

6 THE COURT: All right. We're gonna go on the record.
7 And we'll call this case.

8 Does anyone need seats? I want to make sure...

9 MS. HONODEL: No. I've got seats. I was just telling
10 them -- I've done...

11 MS. HANRAHAN: Yeah.

12 MS. HONODEL: I've worked this...

13 MS. HANRAHAN: Yeah, yeah. Okay. Yeah. Yeah.

14 MS. HONODEL: ...(unintelligible) TPR trials before.

15 MS. HANRAHAN: Yeah. Okay.

16 THE COURT: Okay. You're good?

17 MS. HONODEL: Yeah.

18 THE COURT: Okay.

19 MS. HONODEL: I'm great.

20 THE COURT: Okay. All right.

21 This is Case D510944 in the matter of Melissa
22 Lawrence and Donald Brown for the minor children Samantha,
23 Heidi, Nikki and Wyatt. I'll let everybody state their
24 appearances.

1 And you -- you -- you can sit however you want with
2 your attorneys, next to them, wherever you guys want. There's
3 plenty of -- we always have enough for four up there.

4 So we'll begin.

5 MS. TALLENT: Maryte Tallent, Department of Family
6 Services.

7 THE COURT: Thank you.

8 MS. HANRAHAN: Jan Hanrahan for the District Attorneys'
9 Office.

10 MS. DORMAN: Amity Dorman, Chief Deputy District
11 Attorney, Bar Number 9316, here on behalf of the Department.

12 MS. HONODEL: Good morning, Your Honor. Amy Honodel, Bar
13 Number 7755, from the Children's Attorney's Project. I
14 represent Samantha Lawrence who's present in the courtroom
15 with us this morning.

16 THE COURT: Great. Thank you.

17 MR. DRASKOVICH: Robert Draskovich, here on behalf of
18 Donald Brown.

19 THE COURT: Okay.

20 MR. GOWDEY: Michael Gowdey, Bar Number 6994, on behalf
21 of Melissa Lawrence, who's present (unintelligible).

22 THE COURT: Terrific. Thank you. Okay. Great.

23 So we called Ms. Calvert. She was here last time,
24 so -- right? She was here...

1 MS. DORMAN: Yes.

2 MS. HONODEL: Yes.

3 MR. GOWDEY: Yes.

4 MS. HANRAHAN: Yes. She was, Your Honor.

5 THE COURT: ...the last -- the last time? So we called
6 her to see where she is. We got a voice mail. So I don't
7 know. So we need to start though because it could be an hour.
8 It could be ten minutes. I just don't know. So she didn't
9 call saying she was running late. I -- I'm not sure what's
10 goin' on.

11 MS. DORMAN: Your instructions were clear last time.

12 THE COURT: Yeah. And it's -- you know, if she's running
13 late or got struck in traffic, you usually get calls from
14 someone's assistant saying that so we know. But she's not
15 here. It's half hour past. So I think we need to begin.
16 That's the best I can do; otherwise, we're not gonna - we'll
17 never leave tonight as far as that goes. We want to start --
18 that was why we started at 9:30.

19 So with that being said, I believe today's -- only
20 what we're doing is testimony. We're not doing openings.
21 We're not doing anything else.

22 So at this point, the State will call the witness
23 that they've designated to come today for today's first day of
24 trial. Okay?

1 MR. DRASKOVICH: Okay.

2 THE COURT: Sound good? All right.

3 And feel free to sit anywhere that you guys want.

4 Okay?

5 All right.

6 MS. DORMAN: The State calls Samantha...

7 THE COURT: All right. Ms. Samantha...

8 MS. DORMAN: ...Lawrence.

9 THE COURT: ...if you would, you're just gonna come right

10 here where everyone sits. Great. And just so you know,

11 that's -- little microphone there, it picks up your voice. So

12 if you can speak as clearly as possible into that, that would

13 be great.

14 MS. LAWRENCE: Okay.

15 THE COURT: Okay?

16 MS. LAWRENCE: Mm-hm.

17 THE COURT: And if you have any questions, just ask.

18 MS. LAWRENCE: Okay.

19 THE COURT: All right.

20 THE CLERK: Please raise your right hand. You do

21 solemnly swear the testimony you're about to give in this

22 action shall be the truth, the whole truth and nothing but the

23 truth, so help you God?

24 MS. LAWRENCE: I do.

1 THE CLERK: State your name for the record.

2 MS. LAWRENCE: Samantha Lawrence.

3 THE COURT: Okay.

4 MS. DORMAN: Thank you.

5 MS. LAWRENCE: Thank you.

6 MS. DORMAN: For your gum.

7 MS. LAWRENCE: Oh.

8 MS. DORMAN: Sorry.

9 THE COURT: That's okay.

10 MS. DORMAN: I'll take it.

11 **SAMANTHA LAWRENCE,**

12 having been duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 **BY MS. DORMAN:**

15 Q Samantha, how old are you?

16 A 17.

17 Q And when's your birthday?

18 A July 6th.

19 Q And did you graduate from high school yesterday?

20 A Yes.

21 Q Congratulations. How'd you do in school?

22 A I finished with a 3.5 GPA.

23 Q Samantha, who's your mom?

24 A Melissa Lawrence.

1 Q And do you see her in court today?
2 A Yes.
3 Q Can you point to her and describe something she's
4 wearing?
5 A She's wearing black heels, black leggings and a
6 dress.
7 MS. DORMAN: May the record reflect identification of the
8 mother.
9 THE COURT: Okay. Thank you.
10 We have Ms. Lawrence in the courtroom.
11 MS. DORMAN: Thank you.
12 Q BY MS. DORMAN: Can you tell me who your biological
13 father is?
14 A No. I cannot.
15 Q Okay. Did your mom ever tell you anything about
16 him?
17 A No.
18 Q Did you ever ask?
19 A Yes.
20 Q What would happen?
21 A She said that I didn't need to know who it was.
22 Q Okay. Do you currently live in foster care?
23 A Yes.
24 Q And before you lived in foster care, did you live

1 with your mom?

2 A Yes.

3 Q At some point, did a man named Donald Brown come
4 into your life?

5 A Yes.

6 Q And how old were you when Donald Brown came into
7 your life?

8 A About 3 or 4.

9 Q Okay. And do you see him in court today?

10 A Yes.

11 MR. DRASKOVICH: We stipulate that he's (unintelligible)
12 for purposes of this hearing.

13 Q BY MS. DORMAN: Okay. Do you have any siblings?

14 A Yes.

15 Q Can you tell me their names and ages?

16 A Heidi Brown and Nikki Brown are both 12. And Wyatt
17 Brown is currently 7.

18 Q Okay. And their dad is Donald Brown?

19 A Yes.

20 Q And their mom is your mom.?

21 A Yes.

22 Q Okay. And you currently live with them?

23 A No.

24 Q Oh sorry.

1 A Oh with -- yes (unintelligible).
2 Q You currently live with your siblings.
3 A Yes.
4 Q Okay. Sorry. Bad question. Now when you lived
5 with your mom and Donald Brown, your siblings also lived with
6 you. Is that right?
7 A Yes.
8 Q Now, something -- an incident happened right before
9 you started living in foster care. Is that right?
10 A Yes.
11 Q Okay. And was that on December 10th of 2013? Does
12 that sound right?
13 A Yes.
14 Q Did you go to school with an injury?
15 A Yes.
16 Q Can you tell me about the injury?
17 A I had a black eye and marks all over my back.
18 Q Okay. If I can just start with the black eye, do
19 you remember how you got that?
20 A I was hit across the face with a belt buckle.
21 Q I'm sorry. One more time. There's...
22 A I was hit across the face with a belt buckle.
23 Q Okay. Now, do you remember testifying at a
24 preliminary hearing in this matter?

1 A Yes.

2 Q Okay. And at the prelim, do you remember what you
3 said about the black eye?

4 A That I had hit my face with a cabinet while I was
5 emptying the dishwasher.

6 Q Okay. Is that true?

7 A No.

8 Q And how come you said you got hit by the cabinet?

9 A Because I was trying to protect myself along with
10 the rest of my family.

11 Q From what?

12 A I didn't wanna get in any more trouble than I had
13 already had been.

14 Q What -- what kind of trouble? From who?

15 A From dad.

16 Q Okay. And what kind of trouble would you get into?

17 A I'd get in trouble for almost everything I did. I'd
18 get hit for almost everything.

19 Q Okay. So you were afraid of getting in more
20 trouble?

21 A Yes.

22 Q Now, at the prelim, you did say that you had told
23 someone that your dad punched you in the face. Is that right?

24 A Yes.

1 Q Who did you tell?

2 A Courtney Howard.

3 Q Okay. Who hit you with a belt buckle?

4 A Dad.

5 Q Okay. Now you also said something about your back.

6 Is that right?

7 A Yes.

8 Q Okay. What happened to your back?

9 A I had got beaten across my back with a belt.

10 Q Who did that?

11 A Dad.

12 THE COURT: I'm sorry. I'm -- I'm sorry. I'm sorry.

13 Would you just mind just speaking a little bit louder?

14 THE WITNESS: Mm-hm.

15 THE COURT: Okay. And you said that you got hit in the
16 back. And I didn't hear what you said.

17 THE WITNESS: A belt by dad.

18 THE COURT: A belt by dad.

19 THE WITNESS: Mm-hm.

20 THE COURT: Okay. Thank you.

21 THE WITNESS: You're welcome.

22 Q BY MS. DORMAN: Where -- do you remember where you
23 were when that happened?

24 A I was in the living room.

1 Q Okay. And what did he hit you with? I'm sorry.
2 A A belt.
3 Q Okay. And was that from one -- did he hit you once
4 or more than once?
5 A More than once.
6 Q Okay. And how long did he hit you?
7 A I'm not exactly sure.
8 Q Okay. Was it, like, one incident of hitting? Or
9 were there more than one incidents?
10 A At that -- at that point -- at that moment, it was
11 just once.
12 Q Okay. Was anyone at home when that happened to you?
13 A I believe so.
14 Q Who was that?
15 A I think it was Heidi and Nikki and Wyatt.
16 Q And was mom home?
17 A No.
18 Q Sam, I'm gonna show you some pictures.
19 THE COURT: Ms. Dorman, just have her -- I would say that
20 this -- it's not picking up that great, the -- the testimony.
21 MS. DORMAN: Oh okay.
22 THE COURT: I think 'cause she has a soft voice. I have
23 a soft voice, too.
24 MS. DORMAN: She can be louder. Yeah.

1 THE WITNESS: I'm losing my voice.

2 Q BY MS. DORMAN: Just can you do me a favor and just

3 scoot your chair up?

4 A Yeah.

5 THE COURT: Perfect.

6 Q BY MS. DORMAN: That might help.

7 A Mm-hm.

8 Q So, like she said, this is a microphone. So just

9 kinda...

10 A Okay.

11 Q ...direct your voice to that if you can.

12 A Uh-huh.

13 THE COURT: Thank you. Okay.

14 Q BY MS. DORMAN: All right. I'm gonna show you

15 what's been previously marked as State's Proposed Exhibit 1.

16 A Mm-hm.

17 Q Do you recognize that picture?

18 A Yes.

19 Q What do you recognize that to be?

20 A It's myself.

21 Q It's yourself?

22 A Yes.

23 Q And is it yourself on the day that CPS got involved

24 with you...

1 A Yes.

2 Q ...this last time?

3 A Yes.

4 MR. GOWDEY: Amity, can you show us which specific

5 pictures? Show 'em to us when you show 'em to her. So we can

6 follow along.

7 MS. DORMAN: Yeah.

8 MR. GOWDEY: Thank you.

9 Q BY MS. DORMAN: And is that a fair and accurate copy

10 of -- well, sorry. Is that -- does that fairly represent you

11 the day that CPS got involved this last time?

12 A Yes.

13 Q Okay. And I'm gonna show you what's been marked as

14 Proposed 2. Do you recognize that?

15 A Yes.

16 Q What do you recognize that to be?

17 A My black eye.

18 Q Okay. So does that fairly represent how your black

19 eye looked the day that CPS got involved?

20 A Yes.

21 Q Okay. And that is from - remind me - what?

22 A A belt buckle.

23 Q A belt buckle?

24 A Yes.

1 Q Okay. And I'm gonna show you what's been previously
2 marked as Exhibit 3. And actually, I'm gonna show you 3, 4
3 and 5 together. Okay?

4 A Mm-hm.

5 Q Do you recognize those?

6 A Yes.

7 Q What do you recognize those to be?

8 A That's the marks that were on my back.

9 Q Okay. And that's from what again? Remind me.

10 A A belt.

11 Q And who hit you with a belt?

12 A Dad.

13 Q Okay. And do those fairly and accurately represent
14 how your back looked the day that CPS got involved?

15 A Yes.

16 Q Okay.

17 MS. DORMAN: Your Honor, at this time, I'd move to admit
18 State's Proposed 1, 2, 3, 4 and 5.

19 MR. DRASKOVICH: No objection.

20 THE COURT: Thank you. Those will be admitted.

21 (Whereupon State's Exhibits

22 1, 2, 3, 4, 5 were admitted.)

23 THE CLERK: Is that all of them?

24 MS. DORMAN: I put a sticky on them.

1 THE CLERK: Thank you.

2 Q BY MS. DORMAN: Okay. Now, I know, Sam, you keep
3 saying dad. When you say dad, do you mean Donald Brown?

4 A Yes.

5 Q Okay. So when you say dad, you're talking about
6 Donald Brown.

7 A Yes.

8 Q Sam, is this incident that we just looked at
9 pictures of, is that the first time that Donald hit you?

10 A No.

11 Q What would normal punishment be in your house?

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

13 THE COURT: Sustained.

14 MS. DORMAN: Okay.

15 Q BY MS. DORMAN: Were you punished in your house?

16 A Yes.

17 Q By whom?

18 A Mom and dad.

19 Q Okay. Can we start with dad first? What would
20 normal punishment be from dad in your house?

21 A I'd get beat. And then I'd stand on my head. And I
22 would do wall sits. I'd clean, and sleep outside.

23 Q Okay. Do you remember at the prelim saying you also
24 had to pick weeds?

1 A Yes.

2 Q Okay. Was that a normal punishment from dad?

3 A Yes.

4 Q Okay. Now we're gonna go through each one of those

5 individually. I wanna start with the -- you said sleeping

6 outside. Is that right?

7 A Yes.

8 Q Okay. Where would you sleep outside?

9 A In the doghouse.

10 Q Okay. Can you describe the doghouse for me?

11 A It was an igloo. And it had, like, a floor with a

12 carpet on it.

13 Q Okay. And what was it made out of, like, what

14 material?

15 A I think it was plastic.

16 Q And how big was it?

17 A It would be, like, a size for, like, a medium-sized

18 dog.

19 Q And that would be a punishment?

20 A Yes.

21 Q Did your -- and you said that was fr- a punishment

22 from dad or from mom?

23 A From dad.

24 Q And did your mom know that you slept outside?

1 A I think that she did a couple -- sometimes.
2 Q Now you had also talked about -- I'm sorry. You
3 also talked about -- you said wall sits. Is that right?
4 A Yes.
5 Q Okay. Can you tell me about that?
6 A I'd have to -- sorta like if you're sitting in a
7 chair but without a chair there.
8 Q Okay.
9 A But against the wall.
10 Q Okay. And how long would you have to do that?
11 A Maybe 30 to 40 minutes.
12 Q Okay. Was there ever a time that you were
13 restricted from food?
14 A Yes.
15 Q Can you tell me about that?
16 A If I had ever gotten into trouble, sometimes I would
17 be told that I wouldn't be allowed to eat.
18 Q At home?
19 A Yes.
20 Q Okay. Now, would you sometimes get good even if you
21 weren't allowed to have it?
22 A Yes.
23 Q Where would you get it from?
24 A The cabinets.

1 Q At home?

2 A Mm-hm.

3 Q And would you get in trouble for that?

4 A Yes.

5 Q Did you -- were you allowed to eat at school?

6 A Yes.

7 Q Okay. Did you have to pay money to eat at school?

8 A At times. Yes.

9 Q Okay. Did you ever take money?

10 A Yes.

11 Q Can you tell me about that?

12 A I had stolen \$40 from my mom's purse to go eat.

13 Q Go eat where?

14 A At school.

15 Q Okay. So you took \$40 out of your mom's purse to

16 buy food...

17 A Yes.

18 Q ...at school? Okay. Did you get caught? Did you

19 get found out?

20 A Yes.

21 Q Did you get in trouble?

22 A Yes.

23 Q What happened?

24 A Mom had driven me down the street to a middle school

1 and dropped me off. And then I started walking home. And a
2 couple hours later, she came and picked me up.

3 Q Was that the middle school you went to?

4 A No.

5 Q What middle school?

6 A Cannon.

7 Q Is that by your house?

8 A It's maybe a couple blocks aw- like, maybe a couple
9 blocks away. I do believe.

10 Q Okay. And what did you do when you were dropped
11 off?

12 A I started walking home.

13 Q Okay. And did you make it home?

14 A No. Mom had picked me up.

15 Q How much later?

16 A Maybe an hour or two.

17 Q An hour or two. Were you still walking?

18 A Yes.

19 Q Okay. So is it possible the school's further away
20 than a couple blocks?

21 A Possibly.

22 Q Okay. Did anyone in your house ever accuse you of
23 stealing food?

24 A Yes.

1 Q Who was that?
2 A Mom and dad.
3 Q Did the other little kids know you were restricted
4 from food?
5 A Yes.
6 Q Now, you also said that your mom punished you also.
7 A Yes.
8 Q What kind of punishments would mom give?
9 A She -- sometimes she would hit me on the back with a
10 belt.
11 Q Okay. How many times would you say that happened?
12 A Maybe four or five.
13 Q Four or five times. Okay. Did -- did she do any
14 other punishments besides hitting you with a belt?
15 A No.
16 Q Now when you would get hit with a belt, would -- by
17 your mom, specifically, did anyone stop her from hitting you?
18 A Yes.
19 Q Who was that?
20 A Dad.
21 Q And what would he do?
22 A He would step in the middle of it and tell her to
23 stop.
24 Q Okay. Would you say that was -- because you said

1 you got hit four or five times by mom?

2 A Mm-hm.

3 Q Was that every time or just sometimes that Donald
4 would step in?

5 A I -- I think it might have been every time.

6 MR. DRASKOVICH: Object to -- as to foundation. Can we
7 at least get a year (unintelligible)?

8 THE COURT: Yeah. Sustained. Just if you can narrow it
9 down so we kinda know what -- what -- what time she's talkin'
10 about.

11 MS. DORMAN: Okay.

12 Q BY MS. DORMAN: Do you remember how old you were
13 when your mom would hit you with a belt?

14 A No.

15 Q No. Okay. Were you -- were you, like, junior high,
16 elementary school?

17 A I think it might have been both.

18 Q Both in junior high and elementary school?

19 A Yes.

20 Q Okay. Not in high school, right?

21 A No.

22 Q Okay. So you said it was about four or five times
23 that that happened. Is that correct?

24 A Yes.

1 Q In elementary school and junior high.
2 A Yes.
3 Q Okay. And you had also previously stated that
4 sometimes Donald would step in.
5 A Yes.
6 Q And what would he do?
7 A He would ask her to stop.
8 Q Okay. Was that all four or five times or just
9 sometimes?
10 A I do -- I think it was all the -- all four or five
11 times.
12 Q Okay. Now, when would you say that these
13 punishments started from dad? Let's look...
14 A I...
15 Q ...specifically at dad.
16 A I believe it was in the 3rd grade...
17 Q Okay.
18 A ...when they had originally started.
19 Q I'm sorry. What?
20 A I believe it was 3rd grade when they had originally
21 started.
22 Q Okay.
23 MR. DRASKOVICH: Can we get a -- can we get a year or an
24 age?

1 Q BY MS. DORMAN: How old were you in the 3rd grade?

2 Do you remember?

3 A No. I don't.

4 Q Okay. Do you remember what year it was in the 3rd
5 grade?

6 A Maybe 2004.

7 Q Okay. 2004 is your best guess of when you were in
8 the 3rd grade?

9 A Yeah.

10 Q Okay. And you just graduated high school yesterday?

11 A Yes.

12 Q Okay. I wanna talk to you about CPS. Okay?

13 A Okay.

14 Q Have there been times in the past when CPS would
15 come and talk to you?

16 A Yes.

17 Q And would they wanna know things, like, how you
18 received a mark or a bruise?

19 A Yes.

20 Q I'm gonna start in 2010. Okay?

21 A Okay.

22 Q Do remember meeting a lady named Whitney?

23 A Yes.

24 Q And she wanted to ask you questions. Is that right?

1 A Yes.

2 Q Do you remember if you had an injury in 2010 that

3 Whitney wanted to ask you about?

4 A Yes.

5 Q What was the injury?

6 A I had a black eye and stitches in my eyebrow.

7 Q Okay. And do you remember getting that injury?

8 A Yes.

9 Q And do you remember how you got that injury?

10 A Yes.

11 Q How was that?

12 A I went to go change the channel. And I thought

13 Heidi was asleep. And she happened to not be. And she threw

14 the remote at my face.

15 Q Heidi threw a remote at your face?

16 A Yes.

17 Q Okay. And that's what you told Whitney. Is that

18 right?

19 A Yes.

20 Q And so that was the truth?

21 A Yes.

22 Q And that's also what you said at the preliminary

23 hearing. Is that right?

24 A Yes.

1 Q Okay. So sometimes the stories you gave to CPS were
2 the truth?

3 A Yes.

4 Q Okay. You also had indicated on that day you got a
5 chipped tooth. Do you remember that?

6 A Yes.

7 Q And how -- do you remember how you got the chipped
8 tooth?

9 A Yes.

10 Q How was that?

11 A I ran into the doorframe after my eyebrow was busted
12 open.

13 Q Okay. And that's what you said to Whitney. Is that
14 right?

15 A Yes.

16 Q And that's also what you said at the prelim?

17 A Yes.

18 Q And that's also the truth. Is that right?

19 A Yes.

20 Q Okay. Now, it seems that there was another incident
21 in which you had a chipped tooth. Do you remember that?

22 A Yes.

23 Q Okay. Do you remember when that was?

24 A I think I was about 7 or 8.

1 Q 7 or 8?
2 A Yes.
3 Q Okay. Can you tell me what happened?
4 A I had gotten in trouble for -- I don't remember for
5 -- for what. But dad had picked me up by my hair and threw me
6 on the hardwood floor. And it broke my tooth in half.
7 Q Okay. So you were in trouble.
8 A Yes.
9 Q Is that right? But you don't know for what?
10 A Yes.
11 Q Okay. And you said that your dad picked you up by
12 your hair?
13 A Mm-hm.
14 Q Is that a yes?
15 A Yes.
16 Q Okay. And that's Donald we're talking about?
17 A Yes.
18 Q And you said threw you on the hardwood floor?
19 A Yes.
20 Q Was that inside your house?
21 A Yes.
22 Q Okay. Where at inside your house?
23 A In the kitchen, I do believe.
24 Q Okay. And you said your tooth was broken in half?

1 A Yes.

2 Q Did you go to a dentist?

3 A Yes.

4 Q And what happened when you got to the dentist?

5 A He had put a -- not necessarily a cap. But he --

6 I'm not sure what it's called. But he, like, put a piece of

7 plastic over it and then covered it...

8 Q Okay.

9 A ...to make it look like my real tooth.

10 Q Was -- did you tell the dentist what happened?

11 A No.

12 Q Okay. What did you tell the dentist about why your

13 tooth was broken?

14 A I believe that it -- I was playing football and I

15 had tripped on the -- I had tripped and hit it on the

16 football.

17 Q Okay. And did you think up that lie?

18 A No.

19 Q Okay. What -- how -- how did you get that lie?

20 A I had been told to say -- to -- I was told to say

21 that.

22 Q By who?

23 A Dad.

24 Q Okay. Did your mom also know the truth?

1 A No.

2 Q No. Did she -- what did you tell mom?

3 A That I had tripped outside on the playground,
4 playing with Heidi and Nikki...

5 Q Okay.

6 A ...and I tripped and hit the side.

7 Q Okay. So you told a lie about what happened?

8 A Yes.

9 Q Okay. And was that because -- also because dad told
10 you to?

11 A Yes.

12 MR. DRASKOVICH: Objection, leading.

13 MS. DORMAN: Let me rephrase.

14 THE COURT: Sustained.

15 Q BY MS. DORMAN: Why did you tell a lie to mom?

16 A Because I was told to.

17 Q By who?

18 A Dad.

19 Q Okay. I wanna talk to you about March of 2008. You
20 went to school -- there was a report to CPS that you went to
21 school with two black eyes. Do you remember that?

22 A Not really.

23 Q Okay. Do you remember that same year that you ha-
24 that you had a bruise on your cheek and went to school. Do

1 you remember that?

2 A No.

3 Q Okay. Is it sometimes hard to remember all the
4 things that happened when you were a kid?

5 A Yes.

6 Q I want to talk to you in Nov- about November of
7 2008. There was another report that you had a black eye. And
8 you went to school. And you had claimed your dog was jumping
9 on you. Do you recall that?

10 A I think so.

11 Q Okay. Was it true that your d- that your dog was
12 jumping on you?

13 A No.

14 Q What was true?

15 A I don't really remember what had happened. But I
16 know that my dog hadn't jumped on me.

17 Q Okay. But you don't know how you got the black eye?

18 A No. I don't.

19 Q Okay. Also in that very same year, in that very
20 same month, CPS got a report that you had a lot of makeup on
21 your face. Do you remember that?

22 A Yes.

23 Q Okay. Who put the makeup on your face?

24 A Mom.

1 Q Mom?

2 A Yes.

3 Q Okay. And do you remember telling CPS that your

4 brother did that to you and that you had fallen on your

5 dresser?

6 A Yes.

7 Q Okay. Was that true?

8 A No.

9 Q What really happened?

10 A I had gotten hit across the face with a belt.

11 Q Okay. And who hit you across the face with a belt?

12 A Dad.

13 Q I'm sorry?

14 A Dad.

15 Q Okay. So I just wanna go back a little bit. You

16 said that mom put the makeup on you?

17 A Yes.

18 Q Okay. Did she know how you got hurt?

19 A I do believe so.

20 Q Okay. Do you remember her putting the makeup on

21 you?

22 A Yes.

23 Q Okay. How did she do -- what was going on when she

24 was putting the makeup on you?

1 A I believe it was we had company over in the garage.
2 And we were in the bathroom. And she was putting the makeup
3 on my face.

4 Q Okay. Who was in the garage? Who was the company?

5 MR. DRASKOVICH: And -- and -- and not to interrupt. But
6 if I could just interpose an objection as to -- if we could
7 get a date as to this black eye and mom putting
8 (unintelligible)...

9 MR. GOWDEY: Are we still talking about November 2008?

10 MS. DORMAN: Yes. Mm-hm.

11 MR. DRASKOVICH: So is this the black eye that she
12 remembers or the black eye that she doesn't remember?

13 THE COURT: The black eye that -- I thought she
14 remembered this one.

15 MS. DORMAN: Right.

16 THE COURT: The one before...

17 MS. DORMAN: Right. And...

18 THE COURT: ...she didn't remember it. That was March of
19 2008.

20 MS. DORMAN: Right. And so the issue...

21 MR. DRASKOVICH: Okay.

22 MS. DORMAN: So the issue is, right, that we are
23 obviously just preserving testimony. Had we been able to do
24 this in the order that we chose to do this, we would've had

1 the COR here to talk about all the CPS reports, so.

2 THE COURT: This is strictly just...

3 MS. DORMAN: Yeah. Exactly.

4 THE COURT: ...Samantha's testimony.

5 Q BY MS. DORMAN: Okay. So le- I'm just gonna back up
6 just a little bit. Okay, Sam? Sorry about that. I asked you
7 about March of 2008. You went to school with two black eyes.
8 You have no recollection of that. Is that right?

9 A Yes.

10 Q Okay. Then I asked you about in May of 2008 you had
11 a bruise on your cheek. No recollection of that.

12 A Yes.

13 Q Okay. Then I asked you about November of 2008. You
14 had a black eye that -- and you had said at school that your
15 dog jumped on you. And what you said was you do remember
16 that. But you don't remember how you got the black eye.

17 A Yes.

18 Q Is that ri- do I have that right?

19 A Yes.

20 Q Okay. And so now I'm asking you about November, a
21 second incident in November of 2008, makeup on your face.

22 A Yes.

23 Q And this one you do remember.

24 A Yes.

1 Q Okay.

2 MR. DRASKOVICH: Thank you (unintelligible).

3 Q BY MS. DORMAN: What was the injury that you had?

4 A I had a black eye.

5 Q Okay. And -- okay. So now we're at November of two

6 -- November of 2008, CPS report. You have a lot of makeup on

7 your face, right?

8 A Yes.

9 Q Okay. And you had a black eye.

10 A Yes.

11 Q Okay. Sorry if I wasn't clear. Okay. So we're

12 talking about the black eye in November of 2008.

13 A Yes.

14 Q Mom put makeup on the black eye. Is that right?

15 A Yes.

16 Q Okay. And you were telling me what was happening

17 while mom was putting the makeup on your black eye. What was

18 going on in the house?

19 A We had company over in the garage. And we were in

20 the bathroom. And she was putting the makeup on.

21 Q On the black eye?

22 A Yes.

23 Q Okay. And do you remember who the company was?

24 A No.

1 Q Okay. But you remember they were all out in the
2 garage?
3 A Yes.
4 Q Okay. And -- sorry. I'm probably going backwards.
5 How did you get the black eye?
6 A I had been hit across the face with a belt.
7 Q By who?
8 A Dad.
9 Q Okay. And I might've asked this already, too. So I
10 am -- I do apologize. Did mom know how you got the black eye?
11 A I believe so.
12 Q Okay. And so you went to school with the makeup.
13 A Yes.
14 Q Okay. And CPS visited you again. Is that right?
15 A Yes.
16 Q And you told them what?
17 A That my dog had jumped on me.
18 Q Okay. You didn't tell them the truth.
19 A No.
20 Q Is that right?
21 A Yes.
22 Q Okay. And who -- why did you not tell them the
23 truth?
24 A Because I as scared of -- if I did, what was gonna

1 happen when I went home.

2 Q Okay. And now I'm gonna ask you about an incident

3 that happened on December 1st of 2009. There was a cut on

4 your wrist. Do you remember the cut?

5 A Yes.

6 Q Okay. What happened to get that cut?

7 A I was...

8 MR. DRASKOVICH: I'm sorry. Was that November 2007? I'm

9 sorry to interrupt.

10 MS. HANRAHAN: 2009.

11 MS. DORMAN: Sorry. No, no. December 2009.

12 MR. DRASKOVICH: December (unintelligible).

13 MS. DORMAN: Yeah.

14 THE WITNESS: I was washing the dishes. And dad had

15 thrown a knife at me.

16 Q BY MS. DORMAN: Okay. All right. Let me back up.

17 You were washing the dishes?

18 A Yes.

19 Q In the kitchen?

20 A Yes.

21 Q Okay. And what happened?

22 A Dad had thrown a knife at me.

23 Q What kind of knife?

24 A Butter knife.

1 Q Why?

2 A I don't remember why.

3 Q Okay. What happened when the knife was thrown at
4 you?

5 A It had cut into my skin.

6 Q Okay. Now, CPS visited you about that one. Is that
7 right?

8 A Yes.

9 Q Okay. So I'm gonna show you some pictures of that.
10 Okay?

11 A Okay.

12 MR. GOWDEY: All right. I would -- by way of making a
13 record, these pictures have never been provided to the
14 defense.

15 MS. HANRAHAN: In fact, they have, Your Honor. They
16 have. And -- and I...

17 MR. GOWDEY: I'm telling the Court I don't have those
18 pictures.

19 MS. HANRAHAN: Well...

20 THE COURT: Okay. So how were they provided through...

21 MS. HANRAHAN: He -- Your Honor, our discovery department
22 specifically at my direction provided those pictures months...

23 MR. GOWDEY: What date would that be?

24 MS. HANRAHAN: ...ago. And I know Mr. Gowdey didn't pick

1 up the actual printed-out version of his discovery. But he
2 said he got it from Mr. Draskovich. So I -- both -- CAP
3 attorneys were provided with it, as well as...

4 MR. DRASKOVICH: I...

5 MS. HANRAHAN: ...both Mr. Draskovich and Mr. Gowdey.

6 MR. DRASKOVICH: And I'm clear. I don't believe I have.
7 I'm not making an objection to them being presented. I
8 didn't...

9 THE COURT: Mm-hm.

10 MR. DRASKOVICH: ...(unintelligible). It's not an issue.
11 I mean, lay the foundation. I'm -- I'm not gonna object to
12 the admission of these exhibits.

13 THE COURT: Okay.

14 MR. GOWDEY: And I'm just -- I'm just noting for the
15 record that we haven't been provided with those.

16 MS. HANRAHAN: And I can probably provide proof that they
17 were.

18 THE COURT: Okay.

19 Ms. Honodel, were you provided those documents?

20 MS. HONODEL: Yes. I was, Your Honor. Yes.

21 THE COURT: All right.

22 So are you objec- so you're saying you're not -- you
23 don't have a doc- you -- you don't have the document.

24 MR. GOWDEY: I'd just like to ge- make sure that before

1 the actual trial starts in this case, we have all the
2 evidence.

3 THE COURT: All right.

4 MR. GOWDEY: Starting with those photos.

5 MS. HANRAHAN: They have it. They need to go look at it.

6 THE COURT: Okay. So why don't you -- resend it for the
7 sake that they're saying they don't have it, just so there's
8 no questions later on. The specific -- I don't even know what
9 they are. I'm assuming it's a wrist because that's what
10 you're talking about.

11 So just make sure, Ms. Hanrahan, that the defense
12 has another copy of it because they're saying they don't have
13 it. So that way there's no questions later on. Okay?

14 MR. GOWDEY: Thank you.

15 THE COURT: Fair enough?

16 MR. GOWDEY: Yes.

17 THE COURT: Okay. Thank you.

18 Q BY MS. DORMAN: All right, Sam. I'm gonna show you
19 some pictures. Okay?

20 A Okay.

21 Q All right. I'm gonna show you what's been
22 previously marked as State's Proposed Exhibit 6. Do you
23 recognize that po- picture?

24 A Yes.

1 Q What do you recognize that to be?

2 A A cut that's on my arm.

3 Q Okay. And is that a fair representation of how the
4 cut looked on the day CPS visited you about the cut?

5 A Yes.

6 Q Okay. And I'm gonna also show you what's been
7 previously marked as Proposed 7. Do you recognize that?

8 A Yes.

9 Q What do you recognize that to be?

10 A A cut that was on my arm.

11 Q Okay. And is that a fair depiction of how the cut
12 looked the day that CPS visited you?

13 A Yes.

14 Q There's a band-aid in that picture. Is that right?

15 A Yes.

16 Q Do you remember how the band-aid got on your skin?

17 A Dad had put it on.

18 Q Okay. I'm gonna show you what's been previously
19 marked as Proposed 8. Do you recognize that?

20 A Yes.

21 Q What do you recognize that to be?

22 A A cut that was on my arm.

23 Q Okay. And is that a fair copy -- is that a fair
24 depiction of how the cut looked that day that CPS visited you?

1 A Yes.

2 Q Okay. Now this picture shows like a butterfly band-
3 aid. Is that right?

4 A Yes.

5 Q Okay. And who put that -- do you remember how that
6 got on your skin?

7 A Dad had put that one on, as well.

8 Q Okay. And I'm gonna show you 9. Do you recognize
9 that?

10 A Yes.

11 Q What do you recognize that to be?

12 A A cut that was on my arm.

13 Q Okay. And is that a fair depiction of how it looked
14 the day that CPS visited you?

15 A Yes.

16 Q Okay. And I'm gonna show you 10. Do you re- also
17 recognize that?

18 A Yes.

19 Q What do you recognize that to be?

20 A The cut that was on my arm.

21 Q Okay. And is that a fair depiction of how the cut
22 looked the day that CPS visited you?

23 A Yes.

24 Q Okay. The State would move to admit 6, 7, 8, 9 and

1 10.

2 MR. DRASKOVICH: No objection.

3 MR. GOWDEY: No objection, subject to my prior
4 discussion.

5 THE COURT: Those will be admitted. Thank you.

6 (Whereupon State's Exhibits

7 6, 7, 8, 9, 10 were admitted.)

8 Q BY MS. DORMAN: Okay. So I'm gonna ask you a couple
9 questions. At the preliminary hearing, what did you say
10 happened to your arm?

11 A That I had jumped over the wall and had cut it on a
12 grate.

13 Q Okay. And what did you tell CP- even before the
14 prelim, when CPS visited you, what did you tell CPS?

15 A That I had jumped over the wall and cut it on a
16 grate.

17 Q Is that the truth?

18 A No.

19 Q What is the truth, Samantha?

20 A That I had a butter knife thrown at me.

21 Q By who?

22 A Dad.

23 Q Okay. I'm gonna ask you about December of 2010.

24 You had a -- a fairly large black eye that was reported to

1 CPS. Do you remember that?

2 A Yes.

3 Q Okay. You told CPS that you were hanging Christmas
4 lights and you hit a ladder. Do you remember if that's true?

5 A That woul- that is not true.

6 Q Okay. Do you remember what really happened?

7 A No. I do not.

8 Q Okay. But the lights and tripping and the ladder,
9 that's not the truth?

10 A No. It's not.

11 Q Okay. Why would you tell CPS that that was true?

12 A Because I was scared of what was gonna happen when I
13 went home if I did tell the truth.

14 Q You were scared of who or what?

15 A Dad.

16 Q Okay. And what about dad were you scared of?

17 A What he was gonna do to me when I went home if I was
18 to have told the truth.

19 Q Okay. But you don't remember what really happened?

20 A No.

21 Q But you remember being scared to tell the truth?

22 A Yes.

23 Q I'm gonna direct your attention to January of 2011.
24 CPS received a report that you had bruising and red marks to

1 your eyes and your ribs. Do you recall that?

2 A Yes.

3 Q Okay. You reported to CPS that you had fallen out
4 of bed. Do you recall that?

5 A Yes.

6 Q Was that the truth?

7 A Yes.

8 Q That you fell out of bed?

9 A Yes.

10 Q Okay. And that's how you hurt your ribs?

11 A Yes.

12 Q Okay. So again, sometimes the things you told CPS
13 were true. Is that right?

14 A Yes.

15 Q Do you remember how your eyes got injured?

16 A Yes.

17 Q How was that?

18 A I was standing on my head.

19 Q Okay. So you had previously said standing on your
20 head was a punishment given out by dad. Is that correct?

21 A Yes.

22 Q Okay. So this is a time you remember standing on
23 your head?

24 A Yes.

1 Q Okay. And...

2 MR. GOWDEY: I'm sorry. Is that still January 2011?

3 MS. DORMAN: Yeah.

4 MR. DRASKOVICH: This is the bruising to the eye?

5 MS. DORMAN: Yeah.

6 MR. DRASKOVICH: Okay. Thank you.

7 Q BY MS. DORMAN: Okay. Sorry. Oh standing on your

8 head, that was a punishment. You previously testified that

9 was a punishment your dad gave out.

10 A Yes.

11 Q Okay. And so this time you remember that he made

12 you stand on your head.

13 A Yes.

14 Q Okay. Do you remember what you had done or why he

15 made you do that?

16 A No. I do not.

17 Q Okay. Can you tell me how -- how you would stand on

18 your head, like, where and how you did it?

19 A There was a corner in between the hallway and the

20 laundry room. And I would stand there. And I'd have to have

21 my feet in the air and my head on the ground.

22 Q Do you remember how long that went on for?

23 A Maybe 30 to 40 minutes.

24 Q Okay. Did I ask if you remember what you had done?

1 A Yes. You did.

2 Q Did you answer? I'm sorry.

3 A No.

4 Q You don't remember, right?

5 A No. I don't.

6 Q Gotcha. Okay. Now that -- so the -- you're saying
7 the injury to your eyes that was noted by CPS, that was from
8 standing on your head?

9 A Yes.

10 Q Was that typical? Like, when you would stand on
11 your head, did you notice that would happen to you?

12 A Yes.

13 Q Okay. What -- what would it be? Describe the
14 injuries you would receive.

15 A My eyes would be all puffy and there'd be
16 discoloration. And there'd be red splotches all over my face.

17 Q Okay. And that was when you stood on your head?

18 A Yes.

19 Q Now I'm gonna bring your attention to March of 2011.
20 There was another report about your eye to CPS. Do you
21 remember that?

22 A Vaguely.

23 Q Okay. Let me -- the report was that -- well, you
24 told CPS you got hit with a teddy bear. Do you remember that?

1 A Yes.

2 Q Okay. Did you get hit with a teddy bear?

3 A No.

4 Q Okay. So that wasn't the truth?

5 A No.

6 Q Do you -- can you recall what really happened?

7 A I do believe I had been slapped.

8 Q By who?

9 A Dad.

10 Q Do you recall that you were taken out of junior high

11 around December of 2011?

12 A Yes.

13 Q Okay. Why -- why?

14 A Because I had gone and talked to the counselor.

15 Q What had you talked to the counselor about?

16 A What was going on at home.

17 Q What was going on?

18 A Like, ev- all the punishments and everything that

19 was going on at home.

20 Q From who?

21 A Mom and dad.

22 Q Okay. So you told the counselor about it?

23 A Yes.

24 Q And you were taken out of junior high?

1 MS. CALVERT: From his wife.

2 MR. GOWDEY: -- they gave the kids up. And my --
3 the question that I --

4 THE COURT: But that was an objection as to -- as
5 to hearsay, not as to you can't talk about it.

6 MS. CALVERT: And that it's took it away as to his
7 wife because he didn't have the kids, wife did.

8 THE COURT: Correct.

9 MS. CALVERT: So he's not wife. He -- can he
10 testify as to why they took away from --

11 THE COURT: If he knows.

12 MR. GOWDEY: So his understanding of why the --
13 why --

14 THE COURT: Right. Well, if he knows. Yeah, and
15 if he doesn't know, then --

16 MR. GOWDEY: Well, he does know, but it's -- it's
17 based on that -- that prior conversation they had with his
18 wife.

19 THE COURT: Well, if he's -- if -- if that's the
20 case, then he shouldn't say it if it's hearsay, but I don't
21 know what he's going to say, because I -- I don't know. So
22 he --

23 MS. HANRAHAN: But I don't know --

24 THE COURT: Don't --

1 MS. HANRAHAN: -- if he had --
2 THE COURT: Don't --
3 MS. HANRAHAN: -- any conversations with --
4 THE COURT: Oh, okay. So ask the question, but he
5 -- obviously he can't -- same goes for -- for your question.
6 MS. HANRAHAN: Okay. Let -- let me rephrase it.
7 How about this?
8 BY MS. HANRAHAN:
9 Q Did DFS ever directly tell you that they were
10 removing the children from your wife?
11 A No.
12 MS. HANRAHAN: I have nothing further for this
13 witness.
14 THE COURT: Okay.
15 MR. GOWDEY: I have -- I have a couple follow up
16 questions.
17 THE COURT: Okay.
18 REDIRECT EXAMINATION
19 BY MR. GOWDEY:
20 Q You -- you indicated that previously you had
21 attempted to visit with the children or contact the
22 children, but that that was not accomplished, is that
23 correct?
24 A Yes, that is correct.

1 Q And -- and when you spoke that earlier on -- on
2 cross examination that you had -- had email contact with Ms.
3 Tallent, you indicated that there was a problem with your
4 schedule and when she would make the children available, is
5 that right?

6 A That's correct.

7 Q Could you -- could you elucidate on that?

8 A Like I said, the sched -- Mondays through Fridays
9 my schedule would align with hers, certain holidays,
10 Christmas, and what not. I try to come to see the children
11 and was unable -- unable to. And the last two years I
12 believe I've seen the children twice and that was because
13 one, I -- I took leave and -- and came down and another one
14 was right before -- right after I moved.

15 Q But for all the problems you had scheduling with
16 -- with Ms. Tallent that you wouldn't schedule on weekends
17 or holidays, would you have tried to see the children more?

18 A Yes sir.

19 Q Did you feel it was worth pursuing to have the
20 same discussion that you had had -- previous had for the two
21 years with Ms. Tallent?

22 MS. HANRAHAN: Objection, leading.

23 MR. GOWDEY: How do we know until I actually get
24 the -- get the question out? I wasn't finished with the

1 question.

2 MS. HANRAHAN: Okay. Now you're -- because you're
3 elaborating on he should feel.

4 THE COURT: So cont -- continue, ask the question
5 and then you can object once he's done if it's -- if
6 necessary.

7 BY MR. GOWDEY:

8 Q Why didn't -- why didn't you contact Ms. Tallent
9 after the -- the -- your June request and Ms. Hughes had
10 written you back saying you can have visits?

11 MS. HANRAHAN: Asked and answered, Your Honor. I
12 asked --

13 MR. GOWDEY: Well, actually, they --

14 MS. HANRAHAN: -- him that exact question and he
15 answered it. He said because the prior times he tried that
16 he didn't get to have visits, the schedules didn't work. He
17 already -- he already answered that question for me.

18 THE COURT: You can answer that.

19 THE WITNESS: Can you repeat the question, please?

20 BY MR. GOWDEY:

21 Q Why didn't you -- why didn't you attempt to
22 contact Ms. Tallent after the June --

23 A After the June?

24 Q After June.

1 A Yes, sir. I felt that it was -- really, I was
2 getting the -- stonewalled in a way. I was constantly in
3 repetitive circle that was going -- and I felt like wouldn't
4 -- go nowhere.

5 MR. GOWDEY: Okay. I have no further questions.

6 THE COURT: Anybody else? All right.

7 MR. DRASKOVICH: No.

8 THE COURT: Thank you very much.

9 THE WITNESS: Thank you.

10 (WITNESS EXCUSED)

11 MR. DRASKOVICH: Your Honor, we rest.

12 THE COURT: All right. None of the CAP attorneys
13 have any --

14 MS. DORMAN: Your Honor --

15 THE COURT: -- witnesses?

16 MS. DORMAN: -- I need to -- sorry, that was
17 awfully quick. I need to move to admit 29, 30 and 31.

18 THE COURT: Okay. All right. Those -- you've
19 already shown them that before?

20 MS. DORMAN: Yes.

21 THE COURT: Okay.

22 MS. DORMAN: That was that were marked. The --

23 THE COURT: Okay.

24 MR. DRASKOVICH: The letters from the doctor --

1 MS. DORMAN: Yeah.

2 MR. DRASKOVICH: -- or from --

3 MS. DORMAN: Right.

4 MR. DRASKOVICH: Yeah, we have no opposition.

5 THE COURT: Okay. Those will be admitted based on
6 the opposition.

7 (STATE'S EXHIBITS 29, 30, AND 31 ADMITTED)

8 THE COURT: You can hand them and have mark -- or
9 they're marked. It'll be admitted. Okay. Anybody else
10 before -- everyone's rested on this side, everyone's rested
11 on this side. So are we starting with our closing
12 arguments?

13 MR. GOWDEY: No. Your Honor, we -- I'm -- I'm
14 sorry. We're not prepared to close today. We need a little
15 bit of time to synthesize everything to go over the various
16 presumptions and factors involved.

17 THE COURT: Okay.

18 MR. DRASKOVICH: And I --

19 MR. GOWDEY: And we would ask this Court to -- to
20 schedule a time either next week or the week after for
21 closing.

22 MR. DRASKOVICH: And I had discussed this with --
23 with Ms. Hanrahan. The State has no opposition. I think
24 they want to do the same thing.

1 THE COURT: Okay. All right. Let's not go too,
2 too long, because this case has been going on a long time --

3 MS. HANRAHAN: Yeah.

4 THE COURT: -- and -- I have available -- I'm
5 afraid -- how long -- how long are you thinking of?

6 MR. DRASKOVICH: I -- I prefer the court limit us.
7 Give us a time limit, 30 minutes or I mean --

8 THE COURT: I mean, I -- I would say in order to
9 do it in the next relative short period of time, I have a
10 chunk of time opened, but somebody has trials, I think. I'm
11 looking at the 27th.

12 MS. HANRAHAN: Yeah I'm -- I'm out of town.

13 THE COURT: Okay. I knew that some -- okay. So
14 I'm just looking for a chunk of time that's more than 15
15 minutes.

16 MR. GOWDEY: I would say if the Court has two
17 hours available, that should -- should be --

18 THE COURT: You're joking, right? No, I'm
19 kidding. Two hours, I -- I would have to make the time
20 because I don't have two hours in the near -- near area
21 future.

22 MR. GOWDEY: So you're looking for an even shorter
23 period than --

24 THE COURT: You'd -- no --

1 MR. GOWDEY: -- that?

2 THE COURT: -- you would be out -- you would be --
3 we'll be hearing in December if that's what you're looking
4 for. But I -- I will find -- I will find two hours.

5 MR. DRASKOVICH: Or I -- I would suggest -- I
6 mean, I -- we respectfully suggest that we get one hour,
7 each side of the room has 30 minutes, we can divide it up
8 however we want, and get this case --

9 MR. GOWDEY: I have no problem with that.

10 MR. DRASKOVICH: -- determined. And it's --

11 THE COURT: Okay. Let me ask you this. Who --
12 doesn't somebody have a trial coming up that's for a couple
13 week trial?

14 MR. GOWDEY: I have like three trials coming up,
15 yeah.

16 MR. DRASKOVICH: What date are you looking at?

17 THE COURT: What date are your trials?

18 MR. GOWDEY: I've got --

19 THE COURT: When's the earliest?

20 MR. GOWDEY: October 9th. The -- the trial -- the
21 murder trial that I had has just been settled. That was set
22 for September 20 -- 27th and the -- that has actually just
23 been settled. So I've got an October 9th, trial date and an
24 October 23rd, I believe.

1 THE COURT: Okay. Someone's gone -- okay, the
2 27th somebody's gone. And there is no good time, because --

3 MR. GOWDEY: No.

4 MS. CALVERT: No.

5 THE COURT: There is just no good time. So what
6 about -- someone's trial starts somewhere in -- somewhere in
7 October. What's that date in October?

8 MR. DRASKOVICH: I have an October 3rd trial
9 starting and this -- it's going. It's a firm setting.

10 THE COURT: Okay. So it has to be before October
11 then.

12 MR. GOWDEY: Do we have anything in -- an hour
13 available next week, at the end of next week?

14 THE COURT: Okay.

15 MR. DRASKOVICH: I'm all for that.

16 THE COURT: No, but I can make myself available.
17 I think the best day to do it then would be if -- oh, well,
18 I have -- I have eight adjudicatory trials in two days, so I
19 could either do -- let's do -- does Friday the 23rd work for
20 anybody?

21 MR. GOWDEY: That's one week from tomorrow? Yes.

22 MS. DORMAN: Is it in the afternoon, like late?

23 THE COURT: It -- you tell me.

24 MS. HANRAHAN: If it's in the afternoon, I can get

1 it to work.

2 MS. DORMAN: Yeah.

3 THE COURT: Okay.

4 MR. GOWDEY: How about 2:00? We okay --

5 THE COURT: Is

6 MR. GOWDEY: -- with 2:00?

7 THE COURT: Does 2:00 o'clock work? Okay. 2:00
8 o'clock. 2:00 o'clock Friday, September 23rd. Okay? Does
9 that work for Ms. Honodel and Ms. Calvert?

10 MS. CALVERT: Yes, Your Honor.

11 MS. HONODEL: Yes. I'm on those adjudicatory
12 trials --

13 THE COURT: Okay. So we'll just have to figure it
14 out because you never know what would happen -- it happens
15 anyway. So if worst comes to worst, we'll just recess them
16 and figure it out. I'll -- I'll work -- I'll work with
17 them. Okay. So Friday, September 23rd at 2:00 o'clock for
18 closing arguments.

19 MR. GOWDEY: Very good.

20 THE COURT: All right. Great. Thank you.

21 MS. DORMAN: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (PROCEEDINGS CONCLUDED AT 02:30:30)

24 * * * * *

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 Medrano

Adrian N. Medrano

1 TRANS

FILED

FEB 21 2017

Ann L. Blum
CLERK OF COURT

2 ORIGINAL

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4
5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 IN THE MATTER OF THE)
PARENTAL RIGHTS OF:)

CASE NO. D-15-510922-R

10 SAMANTHA LAWRENCE, HEIDI)
11 BROWN, NIKKI BROWN,)
12 WYATT BROWN,)

DEPT. E/K

13 Minors.)
14

15 BEFORE THE HONORABLE CYNTHIA GIULIANI
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: TRIAL

18
19 FRIDAY, SEPTEMBER 23, 2016
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23
24

1 APPEARANCES:

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15 For the Minor
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19 Also Present: MARYTE TALLENT
20 Department of Family
21 Services
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I N D E X O F W I T N E S S E S

<u>STATE'S</u> <u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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MARYTE TALLENT	49	--	--	--
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RESPONDENT'S
WITNESSES:

(None presented)

* * * * *

I N D E X O F E X H I B I T S

<u>STATE'S</u> <u>EXHIBITS:</u>	<u>ADMITTED</u>
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(None presented)

RESPONDENT'S
EXHIBITS:

(None presented)

1 LAS VEGAS, NEVADA

FRIDAY, SEPTEMBER 23, 2016

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

3 (THE PROCEEDINGS BEGAN AT 02:18:02)

4

5 THE COURT: And we'll go on the record. This is
6 case D-510944 in the matter of Melissa Lawrence and Donald
7 Brown. If everyone can state their appearances for the
8 record today.

9 MS. CALVERT: Lauren Calvert, Counsel for Nikki,
10 Heidi, and Wyatt Brown.

11 THE COURT: Thank you.

12 MS. CALVERT: Robert Draskovich on behalf of
13 Donald Brown.

14 THE COURT: Thank you.

15 MR. GOWDEY: Michael Gowdey on behalf of Melissa
16 Lawrence.

17 THE COURT: Thank you.

18 MS. TALLENT: Maryte Tallent, Department of Family
19 Services.

20 THE COURT: Okay.

21 MS. HONODEL: Good afternoon, Your Honor. Amy
22 Honodel, bar number 7725. I'm the CAP attorney for Samantha
23 Lawrence.

24 THE COURT: Terrific.

1 MS. DORMAN: Good afternoon, Your Honor. Amity
2 Dorman, Chief Deputy District Attorney, bar number 9316,
3 here on behalf of the Department.

4 THE COURT: Thank you.

5 MS. HANRAHAN: And Janne Hanrahan for the District
6 Attorney's Office.

7 THE COURT: All right. So we are here -- I
8 believe we're statement for closing arguments today. So
9 with that being said, everyone can take a seat. We will let
10 the District Attorney's Office begin since it's -- they
11 initiated this case. And then we will move around. Yes,
12 Mr. --

13 MR. GOWDEY: Just for clarification, we're going a
14 half hour each, is that correct, half hour per side?

15 MS. HANRAHAN: I don't think I'm longer than that,
16 but I didn't think we had any restrictions.

17 THE COURT: It's -- someone had mentioned it the
18 last time, a half hour times five or whatnot, but --

19 MR. GOWDEY: No, not times five. I thought we
20 meant a half hour for -- for the D.A. and --

21 THE COURT: Well --

22 MR. GOWDEY: -- half hour for the Defense.

23 THE COURT: -- you know, I can't really tell
24 someone how long. I don't know if Ms. Honodel -- if the

1 D.A.'s used up all their time and Ms. Honodel wants some
2 time, I can't tell her that she can't have time. So I mean,
3 obviously -- you know, I -- I don't expect it to be that
4 long. It's -- we've heard, what, how many days, 11 days?

5 THE CLERK: About nine days.

6 THE COURT: About nine days of testimony, so at
7 this point, it's closing. What you want to tell the Court
8 as far as closing.

9 MS. HANRAHAN: I -- I don't think we'll be -- if
10 it is, it'll be a few minutes longer --

11 THE COURT: Okay.

12 MS. HANRAHAN: -- than a half hour.

13 THE COURT: Well, let's go with that and then
14 we'll go and --

15 MR. GOWDEY: I'm fine, Judge. Thank you.

16 THE COURT: -- that's fine. Yeah. I mean, I
17 think we should -- if we start, we'll -- we'll be able to
18 end and move on. So we'll begin with them on this side, the
19 D.A.'s Office.

20 MS. HANRAHAN: All right. We're on record?

21 THE COURT: We are on record. The red light is
22 on.

23 MS. HANRAHAN: Okay. Your Honor, at the beginning
24 of this trial, we told you that the State would be offering

1 clear and convincing evidence of two things. One, that
2 there was a culture of violence and secrecy in the Lawrence
3 Brown household that led to the ongoing extreme and
4 repetitious abuse of Samantha Lawrence. And two, that
5 nothing in the intervening two and half years has changed
6 such that the children can be safe to go home. And the
7 evidence presented at trial shows exactly that. In short,
8 there was abuse and nothing was changed.

9 You heard Sam herself testify about the different
10 ways that she was abused physically, mentally, and
11 emotionally throughout her childhood by Mr. Brown. He beat
12 her, he threw things at her, he shot her in the hand with a
13 BB gun, he slammed her head to the floor, he stood on her
14 chest. And he mentally and emotionally abused her by
15 calling her names, denying her food, and ostracizing her
16 from the rest of the family.

17 And the little girls, Your Honor, Heidi and Nikki,
18 confirmed just what Sam told you. Heidi talked about the
19 night Donald Brown made Sam get up from the dinner table and
20 go to the garage to get him something to beat her with. She
21 talked about how Sam came back with a pipe and how she from
22 upstairs could hear Sam screaming and crying while Donald
23 Brown beat her with that pipe.

24 Your Honor, both Heidi and Nikki testified --

1 excuse me, that they witnessed Sam being beaten by Mr. Brown
2 and they both told you that Sam was treated differently in
3 other ways as well. And the testimony of all three girls
4 was clear, Your Honor. Their mother had full knowledge of
5 -- and complicity and the abuse.

6 The girls told you how their parents expected them
7 to lie to the authorities. Now as children as victims, they
8 were expected to carry the burden of their parents' secrets.
9 They were expected to protect their parents instead of the
10 other way around.

11 You heard the custodian of records for the
12 Department of Family Services testify 14 times in a period
13 of five and a half years mandated reporters at Sam's three
14 different schools, became so concerned about suspicious
15 injuries to her that they called CPS. And you heard the
16 girls' therapist testify that all three girls spoke in
17 therapy about the violence and the secrecy in their home.
18 And the therapists all testified as to how that negatively
19 affected all the kids, not just Samantha.

20 And you heard Ms. Tallent testify that the kids
21 talked to her about the abuse including Wyatt who described
22 the black belt his dad used to beat Sam.

23 And you have these pictures, Your Honor, the
24 results of one of those beatings. And you have Dr. Setel's

1 (ph) testimony about those injuries depicted in that photo
2 that they're definitively abusive in nature and could not
3 have been caused by Sam to herself. And Sam told you that
4 wasn't the only time over the years that her back looked
5 like that. That was the time CPS happened to catch it and
6 take a picture of it.

7 But in talking about the evidence that abused
8 happened, let's not forget Your Honor Donald Brown and
9 Melissa Lawrence pled no contest to the petition that
10 alleged he physically, mentally, and emotionally abused
11 Samantha and she failed to protect Sam from the abuse and
12 mentally abused Sam herself by failing to obtain help for
13 her.

14 They pled no contest despite being informed at the
15 time by Judge Becker that the allegations would be treated
16 as true. So all of that testimony and all of that evidence
17 shows there was abuse prior to removal.

18 The question for TPR then becomes did anything
19 change such that it would be safe to send the children home.
20 And the evidence presented by the State at trial shows no,
21 nothing has changed. Both parents took the stand at this
22 trial, but just as in the underlying J case, Your Honor, we
23 know nothing more today than we knew on day one. Their
24 position seems to be well, there never was any abuse, but we

1 addressed it in therapy.

2 And their arguments have relied pretty much on
3 diversion, distraction, and blame. They blamed DFS because
4 of what DFS did do or didn't do or said or didn't say. They
5 blamed the D.A.'s Office for, I don't know, colluding with
6 itself. They blame the law that requires the D.A.'s Office
7 to handle both the civil and the criminal sides of these
8 cases. They claim their Fifth Amendment rights were
9 abridged.

10 Oh, and of course, they blame Sam, the victim.
11 Distraction, diversion, blame. Nothing Your Honor about
12 this (indicating) or this (indicating). Nothing about how
13 this (indicating) happened or what's going to keep it from
14 happening again.

15 Let's look at some of their arguments, that their
16 Fifth Amendment rights were abridged. That has no
17 credibility in light of the fact that they were given
18 immunity in the criminal case if they wanted to address the
19 -- the abuse with the therapist in this case. They chose
20 not take advantage of that. They want to say well, you
21 know, we don't trust the D.A., we don't trust DFS. The
22 stipulation didn't extend far enough.

23 But never once Your Honor was it brought up by the
24 parents or by their attorneys to the D.A., to DFS or to this

1 Court. Never once did they request a meeting to discuss how
2 it would work, how it could be extended to other people, how
3 they could take advantage of it to get their children back.

4 Your Honor, they have two of the best criminal
5 defense attorneys in town. I have no doubt if the D.A.'s
6 Office made an agreement and somehow reneged on that
7 agreement in the criminal case, we would be hearing
8 fireworks from here to Carson City.

9 The bottom line is they just did not want to
10 acknowledge the abuse. To this day, they deny that Sam was
11 abused and insist whatever caused these (indicating)
12 horrific marks of her back was somehow her fault. She's a
13 thief, she's a liar, she's mentally ill.

14 Well, let's see. Sam's a liar? She was brought
15 up to lie. She was taught to tell whatever story to the
16 authorities that Mr. Brown told her to tell to coverup the
17 injuries that he inflicted on her. She's a thief because as
18 a family member she goes to the family kitchen and helps
19 herself to food that was presumably bought for the family
20 because she was hungry, because she was denied food as
21 punishment? Your Honor, is that even stealing? These
22 people stole her childhood from her.

23 As far as mental illness, well, Sam saw a
24 therapist, a licensed therapist and a licensed psychiatrist

1 for two and a half years and neither of them have found
2 anything but PTSD caused by the abuse that they suffered at
3 the hands -- that Samantha suffered at the hands of her
4 parents. And Ms. Jackie, a licensed foster mom for 17
5 years, she saw nothing but a normal teenage girl.

6 And Your Honor, what difference would it make
7 anyway? What if Sam was schizophrenic and bipolar and had
8 borderline personality disorder, what difference does it
9 make? Does it explain or excuse or justify this
10 (indicating)? No. Again, it's diversion, distraction, and
11 blame. No information, nothing changed.

12 Your Honor, we did get some information in this
13 case from the testimony of Mr. Brown's Healthy Minds
14 therapist, Dr. Jenice (ph) (sic)? David Sanchez is how we
15 knew him throughout the case, so that's what I remember.
16 But it seems despite Mr. Sanchez's acknowledgment that it
17 wasn't his job, it wasn't what he was contracted to do by
18 DFS or by his employer, Healthy Minds, he decided to assume
19 the role of the therapist who had addressed the physical
20 abuse with Mr. Brown.

21 Big problem there, of course. There was no
22 physical abuse according to Mr. Brown and Mr. Sanchez. So
23 what was going to be addressed? Mr. Brown told Mr. Sanchez
24 there was no abuse and Mr. Sanchez told you he just accepted

1 that.

2 Nonetheless, Your Honor, together, Mr. Brown and
3 Mr. Sanchez came up with something they called a safety plan
4 which consisted in part of putting cameras in the main
5 living areas of the home. Not as Mr. Sanchez was careful to
6 tell you to protect the children from being abused, but to
7 protect Mr. Brown from being accused of abuse, a safety plan
8 to protect Mr. Brown. That pretty much says it all, Your
9 Honor. Nothing is changed, there was abuse, and nothing has
10 changed.

11 Now Mr. Sanchez also recommended that the children
12 be returned to the parents even while acknowledging he
13 didn't have the relevant information to make that call,
14 information he himself actually said would have been
15 important for him to have. He never saw these photos of
16 Sam's injuries. He never spoke with the children's
17 therapists to see what they were saying about what happened
18 in the home and he had never seen the case plan.

19 And Mr. Sanchez admitted it would have been
20 important for him to have information about the details of
21 how Mr. Brown killed his infant daughter, but he tossed that
22 off as something irrelevant that happened 30 years ago.
23 Your Honor, when does the death, the killing of a baby girl
24 become irrelevant? Well, certainly not when the same ideas

1 about how to treat children are being manifested by that
2 same person 30 years later. Nothing has changed, Your
3 Honor. Not in the two years since this case has been open
4 and not in the 30 years since that baby died.

5 As far as Ms. Lawrence, her Healthy Minds
6 therapist wasn't here to testify. Mr. Sanchez prepared a
7 report on her for DFS and he testified that incorporated
8 information from the therapist who treated Ms. Lawrence the
9 longest, Ms. Melissa Polier (ph) and Dana Day. But when you
10 look at the report, Your Honor, you'll see the section where
11 the information from those two therapists should be was left
12 blank. Coincidence, a mistake, error, who knows. But once
13 again, no information. Nothing has changed.

14 The evidence did show that both parents did a Red
15 Rock assessment and classes, an ABC assessment and sessions,
16 Healthy Minds, DV classes, parenting classes. And they want
17 to tell you, you know, because they ran around and did a lot
18 of things, it was proof of what? They denied the abuse ever
19 happened, so what were they talking about in all those
20 classes and sessions?

21 In their 10 individual sessions ABC Therapy, we
22 know they about their own separation anxiety, their own
23 worries and concerns. Nothing about the severe ongoing
24 abuse of Samantha. No effort to identify what caused it,

1 what each parents' triggers might be, what kinds of
2 conditions led to it happening, what coping skills they had
3 formulated, no safety plan to prevent it from happening
4 again. Well, except those cameras to keep an eye on Sam.

5 Your Honor, this therapy, the individual therapy
6 that was recommended by Red Rock, was meant to in Mr.
7 Brown's case address something that happened -- something
8 that had been going on for 30 years. The idea that 10
9 sessions spent talking about his separation anxiety could
10 fix anything is frankly ludicrous. The Healthy Minds
11 therapy did go on much longer, but again, never addressed
12 the cause of the abuse because they denied that there was
13 any abuse. Just in terms of pure logic, Your Honor, if you
14 deny that a problem exists, you can't fix that problem
15 because it doesn't exist.

16 And let's just be clear, Your Honor. This is not
17 about that no contact order. Ms. Tallent testified if the
18 physical abuse had been acknowledged and addressed in
19 therapy as required by both parents' case plans, we wouldn't
20 be here today, because she would have asked for compelling
21 reasons to keep the case plan as reunification. If the only
22 thing standing in the way of reunification was that no
23 contact order, we would not be here today. But here we are
24 and we have clear and convincing evidence that there was

1 abuse and that nothing changed.

2 The fault grounds Your Honor upon which the State
3 will be requesting termination of parental rights are as
4 follows: First of course, the presumptions of 128.109 apply,
5 because the children had been in DFS custody since January
6 2014. That's 32 months, well outside the 14 of 20 months
7 that implicates the presumptions.

8 Your Honor, Counsel for the Defense argued a
9 couple of times during this case that it's the State's
10 burden to prove. They don't really have to do anything.
11 That's not actually true with the kids out of the home for
12 32 months. It became their burden to tell you why you
13 shouldn't presume that there's parental fault and that it's
14 in the best interest of the children to terminate parental
15 rights, but they presented no evidence to rebut that
16 presumption. As throughout the case, we got diversion
17 distraction, blame, and not one word about the central
18 issues in this case that there was abuse and that nothing
19 changed.

20 The independent fault ground of failure of
21 parental adjustment also applies, because Donald Brown and
22 Melissa Lawrence have been Melissa Lawrence have been unable
23 or unwilling within a reasonable time to correct
24 substantially the circumstances, conduct or conditions which

1 led to the placement of the children outside the home. That
2 was despite efforts by DFS that were found to be reasonable
3 at every hearing in this case. The circumstances, conduct,
4 and conditions that existed on day one of this case still
5 exist today. Nothing has changed.

6 The fault ground of unfitness applies because by
7 reason of their fault, habit, or conduct toward the child,
8 Ms. Lawrence and Mr. Brown have failed to provide proper
9 care, guidance, and support for the children.

10 Your Honor, you heard those jail calls. You heard
11 the appalling way that they spoke about Samantha. And that
12 was even back when Samantha was still valiantly trying to
13 protect them from the consequences of their own actions.
14 What kind of mother talks about her daughter the way Ms.
15 Lawrence talked about Samantha?

16 They both want to tell you it was because they
17 were upset, they were stressed out, it was the worst time in
18 their lives. Again, without recognizing it was the worst
19 time in their children's lives as well, all of their
20 children. And Your Honor, if that's how they talk about
21 their daughter when they know they're being recorded, how
22 must they treat her in the privacy of their own home? Well,
23 we know how they treat her (indicating). We have these
24 photos and we have the testimony of all the girls to tell us

1 and we know nothing has changed.

2 After we listened to those extremely negative
3 calls, Your Honor, Ms. Lawrence was asked if she still felt
4 the same way about Samantha today. She could easily and
5 with no criminal implications told you that she loves her
6 daughter Sam, but she couldn't say that. Still when she was
7 asked if she still felt the same way about Donald Brown, if
8 she still planned to be there for him no matter what as she
9 said in the jail calls, she quickly, clearly and
10 unequivocally answered yes, nothing has changed.

11 As for both parents' faults, habits, and conduct,
12 those were pretty well described by the three girls. But
13 NRS 128.106 also says in considering unfitness the Court
14 shall consider without limitation certain factors. And the
15 ones that are applicable here, Your Honor, Section 1B,
16 conduct toward a child of a physically, emotionally, or
17 sexually cruel or abusive nature. It's clear from the
18 testimony of the kids as well as his own no contest plea
19 this section applies to Mr. Brown. But it also applies to
20 Ms. Lawrence, because she stood by and she allowed the abuse
21 and joined in on at least the emotional abuse.

22 Conviction of the parent for commission of a
23 felony if the facts of the crime are of such a nature as to
24 indicate the unfitness of the parent, Section 1F. Your

1 Honor, you have Mr. Brown's judgment of conviction for
2 voluntary manslaughter in the death of his baby daughter.
3 You have his judgment of conviction for corporal punishment
4 of a child because that baby was suffering older inflicted
5 burns to her hand when she died.

6 And then there's Section 1G, whether the child, a
7 sibling of the child, or another child in the care of the
8 parents suffered a physical injury resulting in substantial
9 bodily harm or fatality. Your Honor, clearly some of
10 Samantha's injuries qualify as substantial bodily harm.
11 Both she and Heidi testified about how Mr. Brown knocked out
12 her front teeth more than once and about how she was shot in
13 the hand by Mr. Brown with a BB gun.

14 Substantial bodily harm is also defined as
15 prolonged physical pain. Your Honor, you can look at these
16 photos and you can look at Dr. Setel's testimony as to the
17 pain that would have gone along with those injuries, not
18 that you need a doctor to testify if you just look at the
19 photos.

20 So if there was substantial bodily harm to Sam,
21 then this section applies to Ms. Lawrence as well, because
22 again, she allowed it to happen. But even if you don't find
23 substantial bodily harm as to Sam, this section applies with
24 regard to Amanda, the infant who was killed by Donald Brown.

1 The independent fault ground of token effort
2 applies. They're going to argue that it doesn't, because
3 they went to a lot of assessments and a lot of different
4 classes and therapy sessions. But Your Honor, if you look
5 at the Merriam-Webster definition of token as used in this
6 context, it's quote, something that is done with very little
7 effort and only to give the appearance that an effort is
8 being made. So all this running around to different
9 therapists to give the appearance that an effort was being
10 made. None of it produced any results indicating that the
11 primary underlying issue of concern, the ongoing abuse of
12 Samantha, was ever addressed, acknowledged or discussed in
13 any fashion whatsoever.

14 Your Honor, the independent fault ground of risk
15 of serious physical, mental, or emotional injury to the
16 child if returned to the home of his parents applies. We
17 know there was serious physical, mental, and emotional
18 injury prior to removal and we know that nothing was done to
19 address it or even acknowledge it to reduce the risk of it
20 happening again.

21 Here, Your Honor, they can't even make the
22 unpersuasive argument that the three younger children would
23 be safe because the only victim previously was the
24 stepdaughter, because first of all, she wasn't the only

1 victim. The therapist testified that all of the children
2 were harmed by witnessing the abuse of Samantha and by being
3 made unwilling participants in having to cover it up.

4 But we also know the fact that their biological
5 children of Mr. Brown's doesn't protect them because his
6 first victim was a biological daughter. And Ms. Lawrence?
7 Well, Sam was her biological daughter and not only didn't
8 she protect her, she joined in on some of the abuse. And
9 she can't tell you today that she feels differently about
10 Sam. If she can turn on one daughter, she can turn on
11 another.

12 The risk of injury that existed at the time of
13 removal remains exactly the same today as it did then. Now
14 aside from parental fault, Your Honor, you would have to
15 look at best interest of the child, the overarching concern
16 in our cases. Termination is in the best interest of Heidi,
17 Nikki and Wyatt because there's a presumption of best
18 interest. Again, they've been out of the home for 32 months
19 and no evidence was presented to rebut that presumption.

20 Heidi and Nikki told you that they'd like to go
21 home to their parents, but they also very clearly told you
22 Your Honor they don't want to go home to the same place that
23 they described to you.

24 Your Honor, it was very difficult for those little

1 girls to come in here and testify. They were terrified and
2 what's probably the last thing in the world they wanted to
3 do. So they could have come in here and just clammed up and
4 said nothing, but they didn't, and there's a reason they
5 didn't. There's a couple of reasons they didn't. The first
6 one is like Samantha, they just simply got tired of carrying
7 the burden of their parents' secrets. It's easier to tell
8 the truth.

9 The other reason they told you about the things
10 that happened in their home, Judge, they want you to know
11 what kind of home they do not want to be returned to. They
12 were both clear they would want things to be different if
13 they were to be returned to their parents. Unfortunately,
14 Your Honor, all the evidence presented during this trial
15 indicates nothing is different, nothing has changed.

16 Your Honor, Heidi, Nikki, and Wyatt are with the
17 foster family that loves them and plans to adopt them and
18 raise them in a safe and loving home free from violence,
19 free from secrecy. And what the kids want more than
20 anything right now is just not to be in a foster system
21 anymore.

22 They were both very clear they want to stay with
23 Ms. Jackie if parental rights are terminated and they can't
24 go home to a changed environment. Ms. Jackie testified

1 they're already family, as she put it, not by blood, but by
2 love.

3 Your Honor, the evidence as to both parental fault
4 and best interest was clear and convincing. There was
5 abuse, ongoing severe physical, mental, and emotional abuse
6 of Samantha by both parents and nothing as changed. They
7 still deny that Sam was abused. They still have done
8 nothing to address or remedy the cause of the abuse.

9 For those reasons, the State respectfully request
10 termination of the parental rights of Melissa Lawrence and
11 Donald Brown. Thank you.

12 THE COURT: Thank you. Ms. Honodel?

13 MS. HONODEL: Thank you, Your Honor. I believe
14 D.A. Hanrahan articulated very clear reasons based upon the
15 testimony presented over nine days supporting or just find
16 the termination of the parental rights. I just want to hit
17 upon the best interest factor a little bit and point out
18 some evidence.

19 At the time that Samantha was removed when she
20 first was placed with Ms. Jackie, you heard Ms. Jackie talk
21 about Samantha having panic attacks, feeling like her chest
22 was being constricted and crying out for no reason during
23 soccer. You also heard Ms. Jackie testify that since that
24 time she's found her voice. She has become an A, B student,

1 a normal teenager protective of her sisters and with a job
2 at McDonald's while she was finishing up her senior year.
3 The difference in this girl is like night and day and that
4 in and of itself is clear and convincing evidence that it's
5 in the best interest to terminate the parental rights.

6 With respect to parental fault, Samantha joins in
7 everything the District Attorney has articulated. Thank
8 you.

9 THE COURT: Thank you. Ms. Calvert, they're
10 looking at you. Do you want to continue?

11 MS. CALVERT: Sure. Thank you, Your Honor. Your
12 Honor, the crux of this case is that the parents have not
13 admitted to the abuse of Samantha and DFS current policy is
14 that without an admission not only to the -- their therapist
15 but also to DFS personnel. It could not and would not
16 reunify. Excuse me.

17 The Department of Family Services refused to
18 reunify because they wanted parents to admit abuse which is
19 a crime and is being actively prosecuted simultaneously to
20 this TPR. Although the Nevada Supreme Court has not
21 addressed this issue, numerous other courts have.

22 Consistently these courts have held that neither
23 the State nor the Court can compel a parent to admit to a
24 crime. Once the threat of termination of parental rights is

1 raised, the threat alone is sufficient to act as compulsion
2 which would trigger Fifth Amendment protections.

3 This was addressed in the Minnesota Supreme Court
4 in the Matter of the Welfare of J.W. They held that to the
5 extent the State or the Court require parents to incriminate
6 themselves violated the parents' Fifth Amendment rights and
7 was unenforceable. The Court there was careful to note
8 however that while the compelling of such admissions by the
9 State or Court is as far as the Fifth Amendment protections
10 would go -- I'm sorry, I misstated that.

11 They noted however that -- sorry, the Minnesota
12 Supreme Court was careful to note however that the
13 compelling of such admissions by the State or the Court is
14 as far as the Fifth Amendment protections would go. While
15 the State may not compel therapy treatment that would
16 require Appellants to incriminate themselves, it may require
17 parents to otherwise undergo treatment. Therapy however
18 which does not include disclosures may be ineffective. An
19 ineffective therapy may hurt the parents' change of
20 regaining their children. These consequences lay outside
21 the protective ambit of the Fifth Amendment.

22 The Vermont Supreme Court likewise found the Court
23 cannot require an admission in order to reunify parents and
24 children, but parents can have their rights terminated if

1 therapy is ineffective. If the State advocates that there
2 can be no rehabilitation without an admission, they bear the
3 burden of proving that assertion.

4 Similarly, this was found in New Jersey. The
5 State cannot compel testimony that requires an admission of
6 criminal wrongdoings and the question is whether therapy can
7 be effective without such an admission.

8 Lastly, in Iowa, where a Court only required
9 treatment, not admission. This did not violate a parent's
10 Fifth Amendment rights. The Court cannot compel a parent to
11 admit guilt in order to be reunified. The Court could
12 require treatment but not an admission of guilt as per that
13 treatment.

14 DFS has stated that this case could not move
15 forward and would not move forward as no one was
16 acknowledging that Sam had been abused; however, the State
17 offered no competent expert testimony challenging whether
18 parents' therapy was effective or not.

19 DFS sent parent -- the parents to their --
20 therapists that testified in order to reunify the children.
21 They also did not present expert testimony that effective
22 therapy requires an admission. There was uncontro --
23 uncontroverted evidence that the therapy was in fact
24 effective even without such an admission.

1 As you've already heard, the standard stipulations
2 did not protect these parents regarding statements made to
3 DFS personnel. It would not have applied to Maryte or to
4 Heather Richardson and both required an admission. This was
5 required to move the case forward and to reunifying and it
6 was violative of their Fifth Amendment protection.

7 Regarding adverse inferences from the indication
8 of the Fifth Amendment privilege, earlier in this trial you
9 heard Counsel argue about what would be the correct standard
10 for invoking a negative inference. The State relied on the
11 case of Glanzer (ph). And Plaintiffs heartedly agree with
12 this case. The adverse inference can only be drawn when
13 independent evidence exists of the fact which the party
14 refuses to answer, thus, an adverse inference can be drawn
15 when silence is countered by independent evidence of the
16 fact in question, but the same inference cannot be drawn
17 when for example silence is the answer to an allegation
18 contained in a complaint.

19 Such instances where there's no corroborating
20 evidence to support the fact under inquiry that the
21 proponent of the fact must comport with evidence to support
22 the allegation, otherwise, no negative inference will be
23 permitted.

24 The United States Supreme Court has made it clear

1 that certain sanctions stemming from appraised refusal to
2 answer a question on Fifth Amendment grounds are too costly.
3 Fifth Amendment rights against self-incrimination by threats
4 that employment will begin terminating -- employment will be
5 terminated, the office of a political party will be
6 forfeited or where the attorney-client privilege will be put
7 at stake.

8 The adverse inference cannot be had. These
9 sources suggest that under certain circumstances within the
10 civil framework, because of the constitutional nature of the
11 right implicated and adverse inference from an assertion of
12 one's privilege not to reveal information is too a price.
13 If they had found this for the case of employment, how much
14 more so for the case of losing one's child?

15 Looking to the factors this Court will be
16 considering under NRS 128. The burden of proof or a parent
17 attempting to rebut in NR -- NRS 128.109 presumption is a
18 preponderance of the evidence. There is sufficient evidence
19 to overcome the presumption of token efforts by parents.
20 Token efforts deal with a parents' effort to support or
21 communicate with the child, to present neglect of the child,
22 to avoid being an unfit parent or to eliminate the risk of
23 serious physical, mental, or emotional injury to the child.

24 The parents here when they were allowed made sure

1 to spend as much time as their children when they could go
2 into all the visits that they weren't permitted to have,
3 calling their children whenever they were able to. And as
4 the Unity notes make note of, the children seem to immensely
5 enjoy this as did the parents.

6 The parents engaged in all aspects of their case
7 plan to prevent neglecting the children. They completed
8 their counseling, therapy and all other classes. As you've
9 heard from them, they do want their children back. They
10 have been taking -- undertaking extreme measures to try and
11 see that accomplished. They have rebutted the presumption
12 of token eff -- efforts, excuse me, by a preponderance of
13 the evidence.

14 Regarding failure of parental adjustment, again,
15 they complied with all the requirements of the case plan.
16 They were not prohibited by the no contact order.

17 Looking at the best interest of the child which is
18 to be the ultimate consideration that this Court has in
19 making its determination, once the State has established the
20 presumption, the parent has the burden to offer evidence of
21 the child's desires regarding termination of the parent's
22 rights if the parent wishes the Court to consider those
23 desires. You've heard from the children they love and miss
24 their parents. Their parents love and miss them and they

1 want to return home.

2 When we look at why -- why was it that the case
3 took so long. I think there are many -- there are many
4 reasons. One among them is that really all the parties kept
5 trying to get placement with various family members whether
6 it was grandpa or evaluating their aunt or looking at other
7 family members. You've heard much about the criminal
8 proceeding that was also occurring simultaneously and still
9 is occurring as well as the no contact order.

10 There are other considerations of this Court as
11 well that have not been addressed. When we looked at NRS
12 128.107 and NRS 128.108, the physical, mental, or emotional
13 condition of the needs of the children and the children's
14 desires regarding the termination, if the Court determines a
15 child is of sufficient capacity to express his or her
16 desires. It's been made clear. Again, the children want to
17 go home. They also feel that if they go home, they will be
18 in a safe environment and that there are ways of the -- of
19 having a safe return.

20 The efforts the parents have made to adjust to
21 their circumstances, conduct, conditions to make the child's
22 best interest, to return the child to his or her home with a
23 reasonable length of time. Here, the parents have provided
24 medical insurance. They have given gifts of various nature.

1 They are financially able to support the children. There
2 are no allegations that there are any mental capacity issues
3 that would prevent them from having the children come home.

4 The maintenance of regular contact and
5 communication with the custodian of the children, the
6 parents emailed regularly with DFS. These, you know, things
7 are contained in the Unity notes. They communicated Jackie
8 about the children's insurance needs when needed.

9 And lastly, whether additional services would
10 likely bring about lasting paren -- parental adjustment,
11 enabling the return of a child to the parent or parents
12 within a predictable period. We've heard that yes,
13 specifically family therapy and other forms of therapy,
14 counseling, and classes could allow for this.

15 With that, I'll turn it over to my Co-Counsel --
16 or to the parent -- Counsel to the parents.

17 THE COURT: Thank you. Mr. Gowdey?

18 MR. GOWDEY: Good afternoon, Judge. What we've
19 got here is a proceeding that pits constitutional rights
20 against each other. You have Mr. Brown and Ms. Lawrence's
21 right not to incriminate themselves under the Fifth
22 Amendment competing with their right to free association,
23 pursue the life, to pursue liberty, life, and happiness by
24 associating with their children.

1 The D.A.'s Office and DFS has ensured that those
2 two constitutional rights are pitted against each other,
3 because without an admission that they had engaged in the
4 abuse of their children, there was no way, and we heard this
5 from Ms. Tallent herself, there was no way that case plan
6 could have moved forward.

7 Now is that law? No. It's not law. There is no
8 law that says you have to admit before we can move forward
9 with a case plan for reunification. In fact, in doing
10 research, I've seen a number of cases, a couple of cases
11 which are in front of the supreme court at of this court
12 where DFS set aside the requirement that there -- or -- or
13 set aside the factor that there would be an admission of
14 abuse in moving forward with the case plan.

15 This was precisely because of Ms. Tallent in
16 drafting the case plan in deciding that she -- and -- and
17 quite frankly Ms. Richardson as well in deciding that
18 nothing less than a total admission was going to move this
19 case plan forward.

20 I would like the Court to take judicial notice
21 that Mr. Brown is charged with 19 -- 18 felony counts and
22 one gross misdemeanor count in this case. Ms. Lawrence is
23 charged with five felony counts in this case. In
24 discussions in attempt to resolve this matter, the

1 discussions with the criminal deputies, nothing less than
2 consecutive sentences to multiple felonies for Mr. Brown was
3 acceptable to the criminal deputy as well as with Ms.
4 Lawrence.

5 So we gave a compelling interest in maintaining
6 the Fifth Amendment privilege against self-incrimination
7 here. In fact, it is the single strongest and most
8 overriding constitutional protection that could be afforded.

9 While Ms. Hanrahan makes the assertion that oh,
10 well, there was a stipulation in place and the Defense
11 attorneys didn't seek to broaden that, first, with respect
12 to Mr. Draskovich and myself, the J case was -- was resolved
13 before we came on board. So that stipulation was entered
14 into. But it is quite apparently that Ms. Tallent
15 understood that that stipulation didn't apply to her under
16 any circumstances. She testified that that was her
17 understanding, that yea, it might apply to the therapist, if
18 the therapist wouldn't come in and testify as to whether the
19 -- the family admitted to abuse or not. But that didn't
20 apply to DFS.

21 So while that stipulation as proposed -- and I
22 would not that there was no -- to -- to the best of my
23 knowledge, there was no written stipulation. This was
24 simply -- simply something that was put on the record that

1 there's a stipulation in place that -- that there are
2 nothing discussed in therapy by the there -- but the
3 therapist will be brought in. Again, applied to Ms.
4 Tallent, applied to the therapist. That is not a strong
5 enough protection given the -- the extreme amount of charges
6 and -- and potential amount of prison time that these people
7 faced.

8 So you've got a situation where it's not required
9 to make admission of physical injury, admission of abuse, a
10 -- a prerequisite to moving the case plan forward. That was
11 simply a preference by Ms. Tallent who insisted that that's
12 the way it had to be to the detriment and to the -- to the
13 violation of their constitutional rights against a
14 self-incrimination.

15 Judge, that's -- Ms. Hanrahan said a lot of
16 things, but she glossed over that in a way that I find to be
17 remarkable. The idea that the right against
18 self-incrimination is somehow doesn't play into this or is
19 simply a secondary concern to me is abhorrent to the
20 constitution.

21 As a criminal defense attorney, to me, obviously
22 that's paramount. But even in this setting, it denies them
23 the ability to put forward a -- a defense to these charges
24 to show -- now I got to tell you, they did everything that

1 was asked of them in therapy. To say that somehow this was
2 the bare necessity needed to give the appearance that they
3 were actually taking -- taking reasonable efforts, again,
4 offensive. For the last two and a half years, they have
5 engaged in everything that the Department of Family Services
6 has asked them to do, everything.

7 And of course, the D.A.'s Office who DFS refused
8 to acknowledge that any of that constitutes reasonable
9 efforts simply because Mr. Brown and Ms. Lawrence asserted
10 their Fifth Amendment constitutional privilege against
11 self-incrimination. I find that to be outrageous. I find
12 it to be more than outrageous. It's something that at some
13 point our supreme court is going to have to decide. Whether
14 that's sooner or later, I don't know, but when you've got --
15 you've got an insistence that people set aside a
16 constitutional privilege so that they can keep their
17 children, I consider that to be outrageous.

18 With respect to the no contest plea, I would note
19 that the no contest plea, the Court assumes at that point
20 that the allegations are true. So they assumed that the
21 allegations of physical abuse have been admitted at that
22 point in time.

23 Well, if the Court is satisfied that the
24 allegations of physical abuse have been admitted, then why

1 can't DFS take that and say okay, well, they pled no
2 contest. The Court has taken judicial notice of the -- the
3 fact that the allegations have been admitted now, why can't
4 we move forward with the case plan?

5 But it had to be a complete breakdown in light of
6 the fact that Mr. Brown is facing 19 counts and Ms. Lawrence
7 is facing five counts in criminal court, it still had to be
8 completed breakdown, an admission to criminal liability.
9 Outrageous. Un -- unconscionable I think is a better term.
10 Outrageous I don't think does it.

11 Ms. Hanrahan said nothing has changed. Well, in
12 two and a half years, Mr. Brown's been in therapy and you've
13 heard Dr. Jenice testify as to the progress that he's made
14 and -- and Mr. Draskovich is going to address that more
15 fully, but I would submit that there's been a lot that's
16 changed. Mr. -- Dr. Jenice and while Ms. Hanrahan keeps
17 referring to him as Mr., I think Dr. is more appropriate
18 since he is a doctor, he's testified that it's a safe
19 environment for the children to go back to.

20 Now granted, there were -- there were some things
21 that he was not aware of, but the fundamental things he was
22 aware of. He treated Mr. Brown, he treated Ms. Lawrence, he
23 had discussions with them.

24 The safety plan -- and I -- and -- and it's not my

1 habit to interrupt closing which is why I didn't interrupt
2 closing when Ms. Hanrahan misstated what the testimony was.
3 Dr. Jenice didn't say oh, the reason that we agreed the
4 cameras were there were for Donald's protection. It was for
5 the protection of both of them. The testimony was it was
6 for Samantha's protection in case there was physical abuse
7 or the children's protection and it was for Mr. Brown's
8 protection in case there were allegations made against him
9 that weren't true.

10 But of course, Ms. Hanrahan completely
11 misrepresented that little piece of evidence because it
12 doesn't fit well within her little narrative that nothing
13 has changed and that the safety plan was no good and that
14 everything that Dr. Jenice testified to was a bunch of
15 garbage.

16 They were sent to Healthy Minds. They were
17 referred to Healthy Minds by -- by the Department of Family
18 Services. They were referred to Red Rock. They were
19 referred to ABC. They did everything that DFS wanted them
20 to do. They participated in all the counseling that DFS
21 wanted them to participate in. The idea that that doesn't
22 constitute reasonable efforts is again outrageous.

23 You know, when you're talking about the best --
24 what's in the best interest of the children, I got to tell

1 you, Ms. Hanrahan said Heidi and Nikki were terrified to
2 testify here. I -- I think that's probably an accurate
3 assessment. They probably were terrified to testify here.
4 They were also terrified to be yanked out of their house.
5 There's no allegation of abuse, of physical abuse against
6 Heidi, Nikki or Wyatt. The allegation surrounds Mr. Brown
7 and Samantha. Heidi, Nikki and Wyatt have been -- have been
8 taken through a journey that I wouldn't wish on anybody.

9 Yes, they're terrified, they're terrified of the
10 process, they're terrified of DFS, they're terrified of the
11 D.A.'s Office, they're terrified of the courts, because
12 everything that's happened to them has been has been an
13 abuse. They've been yanked out of their home. They have
14 been forced to live in a number of foster residences. They
15 have been subjected to caseworkers who have told them well,
16 all you parents have to do is tell the truth and you'll go
17 home. I'm not saying what the truth is, just tell the truth
18 and -- and you guys can go home.

19 So they say well, they got to tell the truth.
20 Right. What -- what's stopping them from telling the truth?
21 They don't know exactly what's been referred to as Maryte he
22 truth. They have been told over and over again they need to
23 tell the truth.

24 Ms. Tallent has told early in this process, fairly

1 early in this process she told the Defendants you're never
2 going to get your kids back. DFS made up their minds at the
3 earliest possible opportunity that they were going to seek
4 to terminate parental rights in conjunction I'm sure with
5 the D.A.'s Office when they did they did that.

6 They were never given a fair chance to complete
7 this case plan. The case plan -- the -- the case plan
8 revolves around one thing, giving up your constitutional
9 right against self-incrimination. That's what the case plan
10 was designed to to. All right. And unless they did that,
11 there was no way they could ever complete this case plan. I
12 find that to be offensive.

13 With that, I'll submit.

14 THE COURT: Thank you, Mr. Gowdey. Mr.
15 Draskovich.

16 MR. DRASKOVICH: Thank you. We had met prior to
17 today's hearing and had parceled out what issues each of us
18 were going to address because we wanted to avoid being
19 redundant.

20 THE COURT: Okay.

21 MR. DRASKOVICH: I'm actually going to be
22 curtailing my comments as a result of the issues being
23 addressed in reference to Dr. Jenice.

24 THE COURT: Okay.

1 MR. DRASKOVICH: I would like to have -- however
2 to point out that of -- of every witness you heard from, he
3 was the highest educated, the most credentialed, and I would
4 submit the most experienced witness that you heard from.

5 He gave his opinion that the children should be
6 returned home and it would be in the children's best
7 interest to be returned home based upon his 80 plus sessions
8 with Mr. Brown and based upon several sessions with Ms.
9 Lawrence.

10 Because that doesn't necessarily fit into the
11 District Attorney's concept of what a medical basis or a
12 medical opinion should be based upon is really not relevant.
13 You know, often times lawyers fall into the trap of being
14 educated in one area and assuming they know things in other
15 areas in which they don't.

16 You had heard from Dr. Jenice's testimony that the
17 State's questions of him betrayed a fundamental
18 misunderstanding of what therapy is. I would submit that
19 his testimony in and of itself unrebutted should be a
20 sufficient basis for these children to be returned home.

21 I think it's very interesting to note. Mr. Gowdey
22 was discussing this issue of failure to admit. That's based
23 about a conventional idea. It's not based on research that
24 we've heard. It's not based on science. It's not based on

1 studies or lie. It's something that apparently the D.A.'s
2 Office, DFS has just -- it's the conclusion they have just
3 arrived at. It's a strongly held opinion that's gone
4 unexamined.

5 We had heard from Dr. Jenice that it's not
6 required, that even if the abuse occurred, it's not required
7 that there be an admission in order for therapy to be
8 effective. I would submit that this parallels other areas
9 of -- of therapy, in drug related therapy, addiction
10 therapy. Very little time if any is spent upon the prior
11 usage. It's just not. It's counterproductive.

12 And I would submit that the same would apply
13 parallel -- in a parallel speaking in -- in this case.
14 There's this misapprehension from the D.A.'s Office that
15 there needs to be hours and hours and hours and months and
16 years spent discussing what abuse allegedly occurred and we
17 heard from Dr. Jenice that therapy does not work that way.

18 Not one of the children's therapists that
19 testified said that there needed to be an admission. They
20 were not asked that by the State and I would submit that it
21 went un rebutted that it's not required.

22 What they all are consistent with and including
23 Dr. Jenice is that family therapy would have been
24 therapeutic. It would have been in the children's best

1 interest and it would have been in the parents' best
2 interest. But because DFS and the District Attorney decided
3 not to let that happen, it didn't happen.

4 In closing, in reference to the timeline and in
5 reference to the occurrences in the criminal case, the
6 timeline I would submit to the Court is dispositive and
7 quite telling. In this case, the J case was filed on
8 January 28th, 2014. A case plan was entered August 13th,
9 2014, two weeks after a no contest order was entered -- or a
10 no contact order was entered into in criminal court.

11 Ultimately in the district court, Judge Smith
12 issued an order dissolving the no contact order on September
13 19th, 2014, just a month after the case plan was entered,
14 under the auspices that all contact be governed by this
15 Court's orders.

16 On July -- on December 17th, just -- I'm sorry,
17 December -- yes, December 16th, just three months later, a
18 motion to reinstate the no contact order was filed and for
19 some unknown reason it was heard the very following day not
20 being noticed by either of the Counsel. And it's
21 Respondent's Exhibit O.

22 In this order, it claims, and this is the
23 representations to the criminal judge. It's on Page 12 of
24 the document, Lines 6 through 9. The decision to dissolve

1 the no contact order in the criminal proceedings placing the
2 victim and her siblings in danger of having unfettered and
3 unsupervised contact with Brown and/or Lawrence regardless
4 of the directives of CPS.

5 That's a misrepresentation. That
6 misrepresentation was made on the hearing on the 17th of
7 December, 2014. That misrepresentation was made on the 5th
8 of January in 2015 in a hearing concerning the no contact
9 order. That misrepresentation was made on January 21, 2015
10 at a motion concerning this no contact order. That same
11 misrepresentation was made on a February 4th, 2015 hearing
12 on the motion to reinstate, and again on February 18th,
13 2015.

14 On several of those hearings, we had a member of
15 this prosecution present and DFS. This case was DOA since
16 that period of time. The children -- the -- Mr. Brown and
17 Ms. Lawrence could not have family therapy. They could not
18 continue with the case plan. Not as a result of their
19 failure to comply, to attend and participate in therapy, but
20 because of misrepresentations made by the State to a
21 criminal Judge who didn't know any better.

22 We've heard from Heidi, we've heard from Nikki,
23 and we've heard through the step -- the foster mother that
24 they want to go home. They want to go home to Mom and Dad.

1 And I would submit that commonsense that dictate that being
2 home with your own natural parents is genetically in your
3 best interest. And because of the herculean efforts of both
4 Mr. Brown -- of Mr. Brown and Ms. Lawrence, they should be
5 allowed to go home. And with that, I'll submit.

6 THE COURT: Thank you, Mr. Draskovich. All right.
7 Is there any --

8 MS. HANRAHAN: Rebuttal?

9 THE COURT: Yeah.

10 MS. HANRAHAN: Yes.

11 THE COURT: Short though?

12 MS. HANRAHAN: It is.

13 THE COURT: Because --

14 MS. HANRAHAN: Let me just start with Mr.
15 Draskovich at the -- what he was talking about at the end.
16 I -- I don't really know what he means. Misrepresentations
17 to the criminal judge who didn't know any better. I mean,
18 there were definitely misrepresentations down there to the
19 criminal judge who didn't know any better from this side;
20 however, that's not the issue here. We've had our arguments
21 about that. We've gone back and forth. It's not relevant
22 to what's happening in this case.

23 In any event, we all agreed that Your Honor could
24 go through and look at the criminal case in Odyssey. All of

1 the motions, all of the minutes, and in fact, some of the
2 minutes there indicate that Judge -- that Judge Smith spoke
3 with you prior to deciding to keep that no contact order in
4 place. So I don't know what he's talking about with regard
5 to misrepresentations.

6 With regard to what both Mr. Gowdey and Mr.
7 Draskovich said, again, all we have is DFS and the D.A., DFS
8 and the D.A. We have nothing about this (indicating).
9 Their rights are being abridged.

10 Your Honor -- and -- and Ms. Calvert touched on
11 this too. The Nevada Supreme Court has on multiple
12 occasions, she brought up two of the cases, where they said
13 look, when that offer of immunity is extended, it's not an
14 issue. Their Fifth Amendment rights aren't abridged and
15 they can't come in on the day of closing arguments and the
16 termination of parental rights trial and object that that
17 stipulation wasn't how they would have wanted it. It could
18 have been brought up anytime in the last two years and it
19 wasn't. Two and a half years, excuse me.

20 The cases that Ms. Calvert mentioned, all of them
21 stem from the proposition that -- that the courts
22 acknowledge therapy that doesn't include an acknowledgment
23 that anything wrong was done maybe ineffective. So -- and
24 when there's an effective therapy, termination of parental

1 rights is proper.

2 Your Honor, is -- with regard to the negative
3 inference, I didn't even bring it up because you have said
4 that you will look at each question, look and see if there
5 was independent evidence.

6 And with regard to the -- the whole issue of being
7 required to -- to admit, Your Honor, this isn't something
8 that just surfaced yesterday. It was in the case plan. I
9 think the date that was given and I think is right was
10 August 2014. That case plan was accepted by this Court as
11 the case plan that would be effective. And that case plan
12 calls for them to acknowledge the abuse and acknowledge the
13 damage that was done to all the children. So that's been
14 sitting there for two and a half years. I mean, they could
15 have filed a motion, they could have taken this up on a writ
16 to the supreme court if it was that unfair, but you don't
17 bring it up on the last day of trial.

18 In the -- and -- and the acknowledgment, that
19 wasn't a preference by Ms. Tallent. Again, it's written in
20 the case plan that was accepted by this Court.

21 The other thing the parents could have done was
22 show that there was no abuse. They couldn't. They didn't.
23 So what's the defense? Well, the D.A. said something
24 downtown and -- and DFS told them something that either they

1 misunderstood or they didn't bother to ask any questions
2 about.

3 And as far as Dr. Jenice, well, you can assess his
4 credibility. He can have all the education in the world
5 and, you know, if he doesn't have the information, it's
6 garbage in and garbage out. And he acknowledged that he
7 didn't have all the information and he never spoke with the
8 children.

9 So with that, I'll submit, Your Honor.

10 THE COURT: Okay. So with that being said, we
11 have concluded with this trial. As you can imagine, there
12 is no way I can do the decision today. There -- it -- it
13 will be a written decision and it's about the slew of
14 notepads that I have. It wasn't a consistent trial from,
15 you know, day one to day nine.

16 So I will work diligently to get this -- this
17 decision out. Have a little bit of patience only because of
18 the amount of witnesses, the amount of time this trial took.
19 But I will get it done as soon as I can. Okay. Thank you
20 very much.

21 MR. DRASKOVICH: Thank you.

22 MR. GOWDEY: Thank you, Your Honor.

23 MS. HANRAHAN: Are you going to --

24 MS. DORMAN: Thank you, Your Honor.

1 MS. HANRAHAN: -- do like an oral decision or a --
2 do you know?

3 THE COURT: I'm going to most likely do a written
4 decision, I think. I think it's -- it's better. However,
5 we do need to do one thing before you all leave is we need
6 to prove up on John Doe for Samantha, because there is a
7 John Doe. So before we leave, we should prove up as to --
8 to that person -- or persons. We don't know who he is. So
9 because there's no father name, there's a John Doe that's
10 the named father for Samantha. So we would have to swear
11 Ms. Tallent in.

12 MS. HANRAHAN: Do you want them to sit? I -- it
13 doesn't matter. I don't -- do you want to stand?

14 MR. DRASKOVICH: And we have no -- we have no
15 issue in reference to one way or the other. No objection,
16 no --

17 THE COURT: Yeah.

18 MR. DRASKOVICH: -- opposition.

19 THE COURT: It's -- it's basically -- it was
20 published in the paper, he was named in the petition as John
21 Doe, so we have to go forward and -- and terminate his
22 rights for whatever allegations they have against him.
23 Okay. You can say you can go, but we do need to do that
24 today.

1 THE CLERK: You do solemnly swear the testimony
2 you're about to give in this action shall be the truth, the
3 whole truth, and nothing but the truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: State your name for the record.

6 THE WITNESS: Maryte Tallent.

7 THE CLERK: You may have a seat.

8 MARYTE TALLENT

9 called as a witness on behalf of the State, have been first
10 duly sworn, did testify upon her oath as follows on:

11 DIRECT EXAMINATION

12 BY MS. HANRAHAN:

13 Q And Ms. Tallent, what is your occupation?

14 A Senior -- Senior Family Services Specialist for
15 the Department of Family Services.

16 Q And are you the specialist assigned to the case of
17 Samantha Lawrence? Samantha Lawrence.

18 A Yes.

19 Q And when were you assigned to this case?

20 A January 29, 2015 -- 2014, sorry.

21 Q And to your knowledge, did these children -- were
22 these children placed in the custody of the Department of
23 Family Services in January of 2014?

24 A Yes.

1 Q And with regard to Samantha Lawrence, who are her
2 parents?

3 A Melissa Lawrence and no father was mentioned.

4 Q Now have you read the verified petition that was
5 filed in this matter?

6 A Yes.

7 Q Is everything in that petition true to the best of
8 your knowledge?

9 A Yes.

10 Q Was any man listed on Samantha Lawrence's birth
11 certificate?

12 A No.

13 Q And did Ms. -- was Ms. Lawrence able to provide
14 you with any information about the father of Samantha
15 Lawrence?

16 A No.

17 Q Did she indicate that she knew who it was?

18 A Yes.

19 Q And was her stance that she simply refused to
20 provide that information?

21 A Correct.

22 Q With Samantha being a teenager, did you ever talk
23 to Samantha and ask her if she knew who her father was?

24 A Yes, I did ask her. She did not know who her

1 father was. She never met him and there was no name ever
2 brought up to her.

3 Q All right. And what other -- other efforts if any
4 did you make to locate a father for Samantha Lawrence?

5 A We did not have a name to do a diligent search.
6 We call -- we spoke to Ms. Lawrence a few times. I talked
7 to the other children to see if they heard any other names
8 and no name was ever heard.

9 Q Talked to any other relatives?

10 A We talked to the maternal relatives and the adult
11 sibling and no name was given.

12 Q So in the two and a half years that this case has
13 been opened, you have been unable to locate a -- even a
14 name?

15 A Correct.

16 Q And was notice of this hearing published in legal
17 paper to your knowledge at least four times --

18 A Yes.

19 Q -- prior to this petition being filed?

20 A Yes.

21 MS. HANRAHAN: And I have nothing further, Your
22 Honor. Also --

23 THE COURT: Ms. Honodel?

24 MS. HONODEL: I have no questions.

1 THE COURT: Okay. Based on the testimony of Ms.
2 Tallent, the Court finds by clear and convincing evidence
3 that John Doe as defined in NRS 128.012 has abandoned the
4 minor child Samantha J. Lawrence in that at least for the
5 minimum of six months has conducted himself in a manner that
6 missed the subtle purpose to forgo his parental rights and
7 relinquish all claims to Samantha. At this point, there
8 wasn't a case plan for him. The ground of abandonment is
9 clear and convincing.

10 I would do an order just for that, make it nice
11 and -- and clear. And then we will -- I will prepare the
12 order for the attested trial that we had, okay?

13 MS. HANRAHAN: Okay.

14 THE COURT: All right then.

15 MS. HANRAHAN: So --

16 MS. DORMAN: Thank you, Your Honor.

17 MS. HANRAHAN: -- should we go ahead and do the
18 order then --

19 THE COURT: I would.

20 MS. HANRAHAN: -- and submit it?

21 THE COURT: Yeah.

22 MS. HANRAHAN: Okay.

23 THE COURT: Thank you.

24 (PROCEEDINGS CONCLUDED AT 03:25:53)

* * * * *

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 Medrano

Adrian N. Medrano

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


CLERK OF THE COURT

In the Matter of the Parental Rights as to:

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

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

DECISION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 The Court also took into consideration Mari Parlade's testimony. Ms. Parlade is
9 employed with the Legal Division of DFS as the Custodian of Records. She testified that
10 each call to the CPS hotline has a separate report number that is kept in a database known
11 as UNITY. During a five year period, from March 2008 through December 2013, there
12 were 14 intake reports for this family. On December 10, 2014, there were two intake
13 reports for the same incident. She continued to testify that in March 2008, a mandated
14 reporter called regarding allegations of abuse to Samantha's face. Specifically, both of
15 Samantha's eyes had two inch wide bruises. In May of 2008, there was another mandated
16 report that Samantha had a bruise on her left cheek. In approximately September or
17 October 2008, there was an information only report that Samantha had a chipped tooth.
18 On November 7, 2008, there was a report from a mandated reporter that there were bruises
19 on Samantha's face; specifically her right eye was black. Ms. Parlade testified that on
20 November 24, 2008, an investigation was completed since Samantha went to school with
21 a black eye and make-up on her face. At this time, Samantha was 10 years old. There was
22 a cross report with the same concerns from another reporter. On December 1, 2009, there
23 was a mandated report disclosure. There was an allegation that Donald threw a butter
24 knife at Samantha and there was a cut on her wrist. This was found to be unsubstantiated.
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1 On February 22, 2010, another mandated reporter reported that Samantha had a black eye
2 and stitches on her left eyebrow. This was found to be unsubstantiated. On December 6,
3 2010, another mandated reporter reported that Samantha had a black and green colored
4 bruise around her entire eye. This was informational only. On January 27, 2011, Ms.
5 Parlade testified that a mandated reporter reported bruises on both of Samantha's eyes. On
6 January 28, 2011, another mandated report was unsubstantiated when Samantha came to
7 school depressed with a different demeanor. On March 1, 2011, a mandated reporter
8 called with concerns that Samantha had a puffy red left eye. This was informational only
9 and there was no investigation. On December 9, 2011, a report came into the CPS hotline
10 that Samantha had marks and bruises and that her parents withdrew her from school. This
11 was information only. On January 19, 2012, Samantha missed 27 days of school and there
12 was concern of educational neglect. On December 10, 2013, CPS received two calls. The
13 first reporter reported a bruise on Samantha's eyes. The second report was from a
14 mandated reporter that there was a mark near Samantha's left eye. This report resulted in
15 an investigation. Ms. Parlade testified that there were a total of 14 calls, all from mandated
16 reporters. The testimony of Samantha, Heidi and Nikki corroborate that Samantha was
17 not injuring herself and that Donald caused the injuries. The children were told to say that
18 the injuries happened in a way that was untrue in order to protect both Melissa and
19 Donald.
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23 The Court finds by clear and convincing evidence that Samantha has been
24 physically and mentally abused by her parents. Specifically, Samantha endured abuse
25 throughout her childhood as testified to by herself and her sisters, Heidi and Nikki. The
26 Court finds that Melissa Lawrence knew about the abuse and did nothing to protect
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28

1 Samantha from Donald's repeated physical and emotional abuse. During the trial, the
2 Court heard phone conversations between Melissa and Donald while they were in jail in
3 2014 after the removal of the children. In these phone conversations, Donald accused
4 Samantha of lying, stealing, and playing games. Melissa continually disparaged
5 Samantha by saying "her own father wants nothing to do with her"; "she feels sorry for
6 the poor sap who ends up with Samantha"; and "Samantha was lucky that she wasn't in
7 front of her fucking face when she wrote the letter." She also called Samantha a "killer
8 kid" and said Samantha "has a brain of a fucking peanut." Also, Melissa said that anyone
9 who is around Samantha is in "grave danger" since she said Samantha is a danger to
10 society. She also accused Samantha of causing her own injuries and suffering from a
11 mental disorder.
12

13
14 The Court finds that both Melissa and Donald completed a Red Rock
15 Psychological Risk Assessment. The court finds that even though both parents completed
16 services and an assessment, the assessment reports that both parents are at a high risk to
17 re-offend. Donald was recommended to engage in Anger Management and Domestic
18 Violence treatment. He was also recommended to engage in individual therapy specific to
19 his physical abuse. Melissa was recommended to engage in individual therapy to address
20 physical abuse.
21

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

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

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

9 The Court does not find that the children are safe with their parents. There are still
10 grave safety concerns of physical abuse that have not been addressed. It comes down to
11 the credibility of the testimony of the parents and the witnesses. Ms. Tallent testified that
12 the objective was for the parents to resolve their legal matters; provide for the physical
13 and emotional needs of the children; and provide a home free from physical abuse. The
14 Court notes that the primary objective for this case was to provide the children with a
15 home free from physical abuse. Additionally, the parents had to follow all the
16 recommendations from Red Rock and understand the impact of physical abuse on the
17 children's well-being. The parents went through many classes and assessments, but at this
18 time the Court does not find that the children are any safer now than they were at the time
19 of removal. The main issues of physical abuse have not been addressed. The Court has
20 taken into consideration that the parents completed classes and therapy. However, as
21 evidenced in the reports and testimony, neither parent has addressed their denial of the
22 abuse and how to prevent it from happening again. The Court took into consideration Dr.
23 Cetl's testimony from the Preliminary Hearing that was admitted into evidence as well as
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1 the testimony of Samantha, Nikki and Heidi. The Court finds that Samantha was seriously
2 injured throughout her childhood and that it was not caused by her own actions.
3

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

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

4 The State has proved by clear and convincing evidence that parental fault exists in
5 this case and that it is in the best interest of the children that the parental rights of Melissa
6 Lawrence and Donald Brown be terminated. The District Attorney's office shall prepare
7 Findings of Fact and Conclusions of Law consistent with this decision and submit an
8 Order to the Court for signature within 10 days.
9

10 IT IS SO ORDERED.

11 Dated this 14th day of November, 2016

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

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

Amity Dorman, DDA

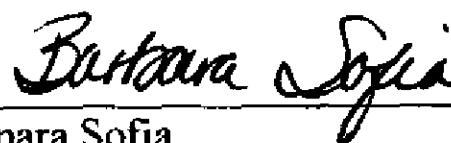
Janne Hanrahan, DDA

Michael Gowdey, ESQ

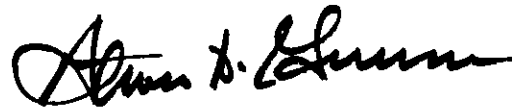
Robert Draskovich, ESQ

Lauren Calvert, ESQ

Amy Honodel, ESQ



Barbara Sofia
Judicial Executive Assistant, Dept. K



CLERK OF THE COURT

FFCL
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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Parental Rights as to)

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

Minors.)

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

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

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

Non-Trial Dispositions:

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

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

4
5 **FINDINGS OF FACT**

6 I

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

8 II

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

11 III

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

14 IV

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

17 V

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

20 VI

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

24 VII

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

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

4 VIII

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

13 IX

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

23 X

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

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

5 XI

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

15 XII

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

22 XIII

23 ABANDONMENT – RELEVANT FACTS

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

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

5 XIV

6 UNFITNESS – RELEVANT FACTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 XV

16 FAILURE OF ADJUSTMENT – RELEVANT FACTS

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

28

1
2 XVI

3 RISK OF SERIOUS PHYSICAL, MENTAL OR EMOTIONAL INJURY –

4 RELEVANT FACTS

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

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

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

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

2 XVII

3 TOKEN EFFORTS – RELEVANT FACTS

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

14 XVIII

15 PRESUMPTIONS – RELEVANT FACTS

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

24 XIX

25 BEST INTEREST – RELEVANT FACTS

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

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

7 XX

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

10 **CONCLUSIONS OF LAW**

11 I

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

13 II

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

19 III

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

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

4 IV

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

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

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

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

5
6 V

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

19 VI

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

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

5 VII

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

18 VIII

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

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

10 IX

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 71873/71889

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May 30 2017 04:43 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 VI**

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1 you have any contact with the Department of Family Services?

2 A I think we had a lot of contact actually with the
3 Department of Family Services because there were so many
4 clinicians involved. Each child was assigned their
5 individual clinician and then each parent was assigned the
6 individual clinician and then upon the no contact order, we
7 weren't able to meet as one large team, so the clinicians
8 met separately by themselves and then Dana Day and myself
9 and the parents would meet as a team.

10 Q Okay. So we're going to talk about the other
11 clinicians in a second. I'm specifically talking about you.

12 A Uh-huh (affirmative).

13 Q How much contact you had with the Department of
14 Family Services in the first 90 days that you were treating
15 David (sic)? Donald.

16 A Donald.

17 Q I'm sorry.

18 A Mr. Brown. Maryte I believe has been on --
19 managing the oversight for this sibling group since I came
20 on board as a clinician. And so Maryte and I had contact
21 during those first 90 days.

22 Q How much?

23 A We had contact via email and I can't speak to how
24 often we would speak. I don't believe it was weekly, but I

1 believe it would be monthly.

2 Q Monthly in the first 90 days --

3 A Yeah.

4 Q -- with Maryte.

5 A Uh-huh (affirmative). So part --

6 Q By -- by email.

7 A Or parents -- well, part of the project model
8 which Healthy Minds operates from is that they have monthly
9 treatment team meetings. And so because -- and -- and there
10 was monthly treatment team meetings, but because of the no
11 contact order, by the time I came on board to start
12 providing family therapy without child present, Maryte was
13 participating in those monthly treatment team meetings with
14 the other team and that we had lesser contact involvement,
15 Dana Day and myself, with DFS when we met with Mr. Brown and
16 Mrs. Lawrence.

17 Q Okay. I -- so you didn't go to the treatment team
18 meetings, is that --

19 A I wasn't --

20 Q -- your testimony?

21 A I wasn't allowed to --

22 Q Okay.

23 A -- because I was representing Mr. Brown and Mrs.
24 Lawrence and the no contact order.

1 Q Well, would it surprise you to know that -- that
2 Joy Eifel (ph) said you could attend those?

3 A It would surprise me, because I would gladly have
4 the clinical director Melissa Polier subpoenaed and testify
5 under oath that the direction I was given is that myself or
6 Dana Day could not participate in those treatment team
7 meetings.

8 Q Okay. So it's your testimony that you weren't
9 allowed to participate in those treatment team meetings.

10 A Correct. Because of the --

11 Q Okay.

12 A -- no contact order.

13 Q Well, there was no no contact order as to you, is
14 --

15 A I was --

16 Q -- that right?

17 A -- representing the parents though and so was Dana
18 Day --

19 Q Okay.

20 A -- and --

21 Q My question to you though is there was no --

22 MR. DRASKOVICH: Objection, I'd like --

23 THE COURT: Go on. Go ahead.

24 MR. DRASKOVICH: -- allow him -- allow him to

1 answer the question.

2 MS. DORMAN: IF he would answer, I would please
3 allow him, but he is not answering the question.

4 MR. GOWDEY: He's just not answering --

5 MS. DORMAN: My specif --

6 MR. DRASKOVICH: He's not answering --

7 MS. DORMAN: My specific --

8 MR. DRASKOVICH: -- but she wants to.

9 MR. GOWDEY: -- for her satisfaction.

10 BY MS. DORMAN:

11 Q No, my specific question was is there a no contact
12 order as it applies to you, doctor.

13 A So I was told that I was not allowed to have -- to
14 participate in those treatment team meetings because there's
15 two separate teams. This is how Healthy Minds provided
16 clinical services to this family and due to Dana and I not
17 being allowed to participate in -- in the monthly treatment
18 team meeting was because of the no contact order.

19 Q So it didn't pertain to you, correct? It was to
20 Mr. Brown --

21 A This was the --

22 Q -- and his kids.

23 A -- direction of my supervisors at Healthy Minds.

24 Q Okay. So to your knowledge, there was no cont --

1 there was no no contact order as it pertained to you.

2 MR. DRASKOVICH: Objection, asked and answered.

3 He's answered he was directed not to have contact because of
4 the no contact order.

5 THE COURT: Sustained, he's -- that's what he
6 said.

7 BY MS. DORMAN:

8 Q So the contact you had with the Department of
9 Family Services was per your testimony monthly with Maryte
10 by email, is that correct?

11 A Or -- or Maryte and I may have communicated via
12 telephone as well or when she was on site because I provided
13 clinical services to other patients that she was the DFS and
14 we may have conversation when she was on site at the Healthy
15 Minds location that I worked at.

16 Q Do you specifically remember those?

17 A I don't remember specific dates or times, but
18 Maryte and I had very good communication with each other.

19 Q Okay. Were you -- you indicated that you -- well,
20 it's a little confusing because you said you had read --

21 MR. DRASKOVICH: Objection as to her commenting on
22 his testimony confusing. We don't need the editorials. I
23 do object.

24 MS. DORMAN: Sure, I'll re -- I'll recap what he

1 talked about.

2 BY MS. DORMAN:

3 Q You said earlier you reviewed seven DFS reports,
4 is that correct?

5 A You mean the CPS investigations?

6 Q Correct.

7 A I am aware of those seven and -- and saw what they
8 were.

9 Q Okay. So let's separate prior investigations --

10 A Uh-huh (affirmative).

11 Q -- from this case.

12 A Okay.

13 Q Did you read any documents in this case, case
14 plan, disposition report, anything like that?

15 A Actually, I don't believe that I've ever been
16 shown the case plan.

17 Q Did you ever ask to see it?

18 A Yes, I did, because --

19 Q When was that?

20 A Back in 2014.

21 Q By email, by phone, in person?

22 A Maybe even in -- in person.

23 Q Okay. Who did you ask?

24 A That would be Maryte and my supervisor.

1 Q Okay. And she refused to give you a copy?

2 A I -- there's never been a case plan for Mr. Brown
3 that I believe is in any of the medical records, so I was
4 billed under Heidi Brown for providing family therapy
5 without child present and there was never in her medical
6 record to my knowledge the actual case plan that was
7 furnished by the Department of Family Services.

8 Q Okay. So my specific question is because what I
9 asked previously is who did you ask and you said Maryte and
10 I said was that by phone or email and you said --

11 A Yeah.

12 Q -- in person. And my specific question was she
13 refused to provide it you?

14 A So I'm sure that I could go back or you could
15 subpoena all my emails between Maryte and I and that there's
16 specific communication between Maryte and I and direction
17 from her in terms of what I was supposed to work on and
18 family therapy without child present with Mr. Brown.

19 Q Okay. So my specific question was she refused to
20 provide you with a case plan, yes or no?

21 A I'm not saying that Maryte ever refused or denied
22 me to have access to anything, but I don't believe that I've
23 ever received an actual hard copy of the case plan.

24 Q Okay. So fair to say then you weren't working on

1 the case plan objectives with Mr. Brown in therapy because
2 you didn't know what they were.

3 A Well, I was working on the direction of what
4 Maryte would communicate with me in family therapy without
5 child present.

6 Q Okay. So let's go through some of these things
7 and you can tell me if you touched on those things in
8 therapy, okay? This case plan -- did you want to take a
9 look at it while I'm referring to it?

10 A I would love to, actually.

11 Q Okay. So we're going to specifically be looking
12 at these boxes here that say objective.

13 A Okay.

14 Q Right. And specifically, we're going to look at
15 the action steps underneath --

16 A Okay.

17 Q -- objectives, okay? Did Mr. Brown provide you a
18 copy of that?

19 A No.

20 Q Were you aware he signed it?

21 A Actually, I believe if -- if I recollect
22 correctly, that my interpretation was that Mrs. Lawrence and
23 Mrs. Brown (sic) did not agree with the case plan. And if I
24 recall correctly, I don't believe they did sign it.

1 Q Oh, okay. So you are aware there was a case plan,
2 you asked Maryte for it, but your client never provided it
3 to you --

4 A No.

5 Q -- you never asked him for a copy of it and you
6 never received a copy.

7 A No, I didn't. So my -- my focus with Maryte was
8 what would you like me to work on in family therapy without
9 child present with Mr. Brown.

10 Q Okay. So again, you've never seen a copy of this
11 case plan, is that correct?

12 A No, I haven't.

13 Q Okay. Specifically with regard to therapy for Mr.
14 Brown in the case plan under the first objective, remember
15 --

16 A Uh-huh (affirmative).

17 Q -- I told you we would be looking at the
18 objectives?

19 A Yeah.

20 Q So I'm looking at the first one. And the action
21 steps underneath it, it says that Mr. Brown will actively
22 participate in the development of a viable and reliable
23 safety plan to prevent the recurrence of physical abuse, do
24 you see that?

1 A I'm sorry, where are you reading that? What --
2 I'm sorry, no, where are you reading that from?

3 Q Under action steps.

4 A Okay. I'm -- I'm at -- under objective completion
5 result action step.

6 Q Yeah, at the bottom. It says the viability and
7 reliable --

8 A Oh. Oh, okay. Okay.

9 Q Yeah. So you were aware that there needed to be a
10 safety plan, right?

11 A Yeah, and I actually created one.

12 Q Okay. So you were aware there needed to be a
13 safety plan, is that --

14 A Yes.

15 Q -- correct? Okay.

16 A Yes.

17 Q And in fact, you referenced the safety plan in
18 your April 2016 report to the court, is that correct?

19 A I don't -- I don't know when I created. I -- I
20 think I created two safety plans for Mr. Brown that have
21 been provided to the Department of Family Services as well
22 as Mr. Brown's attorneys.

23 Q Okay. So we're going to talk about that a little
24 bit.

1 A Okay.

2 Q So it's your testimony that you helped him to
3 develop two safety plans?

4 A I believe I did an update because I saw Mr. Brown
5 for -- as lengthy of a time as I did.

6 Q Okay. What did that consist of, the safety plan?

7 A So we discussed for reunification to occur what
8 would need to be in place to have his home be a protective
9 safe environment for the children to reunify and reenter the
10 home.

11 And so one of the recommendations that we
12 discussed because there was challenges in having family
13 members approved to have the children live with a natural
14 family member during the course of the time that they have
15 been removed from care was to get a -- a full-time nanny
16 that was approved by the Department of Family Services to
17 actually live in the home as well as we had discussed -- the
18 family had discussed putting video cameras in the home due
19 to what was being alleged and these incidences and
20 allegations that we discussed to provide increase safety and
21 not just for the children, but also for the parents in terms
22 of what was being reported.

23 Q Why would you -- why would they need video
24 cameras?

1 A So as you and I have already acknowledged that Mr.
2 Brown denies having harmed Samantha. And so to protect Mr.
3 Brown and Mrs. Lawrence from further allegations, part of
4 the safety planning was to include video cameras in the home
5 in the main milieu living family common areas where there
6 was a lot of traffic flow to avoid any of these allegations
7 from occurring again in the future.

8 Q Okay. So the safety plan that you helped develop
9 was to help him not be accused again, is that right?

10 A As well as for the children to -- everything would
11 be viewed or seen on tape and there would be a full-time
12 nanny living there was well approved by the Department of
13 Family Services going through their background check. So
14 that was part of the safety plan as well.

15 Q Okay. So the full-time nanny and the cameras,
16 that was like a long term safety plan until like Wyatt
17 turned 18 or what?

18 A Un -- until the -- the case was closed.

19 Q And then they could just stop doing that?

20 A This was to support having the children reunify
21 with Mr. Brown and Mrs. Lawrence.

22 Q Okay. So they could stop having the nanny and
23 stop having the video cameras once the case was closed, is
24 that correct?

1 A I don't -- we never spoke about it in that
2 context, so I'm not going to say yes or no.

3 Q Okay. Now this case plan indicates that the
4 viability and reliability of any safety plan to prevent
5 future physical abuse to the children will be assessed
6 through ongoing consultation between DFS and the therapist
7 involved, is that correct?

8 A Yes.

9 Q Okay. So tell me when you discussed that safety
10 plan about the cameras and the nanny with DFS.

11 A It -- it's in my safety plan. And -- and Mary --
12 it was forwarded to the Department of Family Services to
13 Maryte specifically. It's in their case records.

14 Q Right. So my question is when did you discuss the
15 reliability and viability of that case plan with DFS?

16 MR. DRASKOVICH: Objection, discussed. He said he
17 sent it to them.

18 MS. DORMAN: Right. I'm asking if he discussed it
19 with them or just sent it to them.

20 THE COURT: Okay. So ask him that question so he
21 can answer.

22 BY MS. DORMAN:

23 Q Did you discuss it with him or did you just send
24 it to them?

1 A I believe -- Maryte and I, I don't believe she and
2 I had concrete conversation around the safety plan.

3 Q So you don't believe you had a concrete
4 conversation --

5 A No, meaning --

6 Q -- you don't believe you had any conversation --

7 A Meaning that Maryte didn't say great, not great,
8 add this, take this out, this is my recommendation. There
9 was no feedback from the Department of Family Services in
10 terms of what could be improved or what needed to be taken
11 out or what should further be discussed.

12 Q Okay. So it's your testimony you emailed that to
13 Maryte.

14 A Maryte has it. It's in the DFS case records.

15 Q Sir, specifically --

16 A Yes.

17 Q -- my question was you --

18 A Yes.

19 Q -- it's your --

20 A That -- that's how --

21 Q -- testimony you emailed that.

22 A -- Healthy Minds through PHI, protected health
23 information and encrypted email. That's how they release
24 medical records including a court summary report and a

1 safety plan to DFS.

2 Q Okay. So when was that?

3 A Over the -- over my two year tenure at Healthy
4 Minds.

5 Q No, specifically, I'm asking when did you email
6 that safety plan.

7 A I don't remember, Attorney, please.

8 Q I'm sorry, what?

9 A I said I don't remember when I emailed this safety
10 plan to Maryte.

11 Q But you said Attorney, please, is that -- is that
12 correct?

13 A Oh, I'm sorry. I just thought you were being
14 condescending and I was calling you out on it.

15 Q Right. I get that. My specific question is do
16 you remember when you sent --

17 A No, I don't, ma'am.

18 Q -- the email with the safety plan to Maryte?

19 A I don't, ma'am.

20 Q Okay. Do you remember when you did the updated
21 safety plan? Because you testified there were two.

22 A I -- I don't, ma'am.

23 Q Okay. Did you send that one to Maryte?

24 A Yes, I -- I --

1 Q When was that?

2 A I don't recall the exact date, ma'am.

3 Q And when was -- what was in that updated safety
4 plan?

5 A It was everything that was accomplished over
6 almost a full two year period in terms of what gains have
7 been made, what we've worked on and to support hopefully the
8 family moving in the direction of -- of having family
9 therapy at least and then moving forward and maybe having
10 reunification.

11 Q Okay. So your testimony is that the first safety
12 plan had video cameras and a full-time nanny in it. And --

13 A Uh-huh (affirmative).

14 Q -- your updated safety plan was something --

15 A And that --

16 Q -- totally different.

17 A That was always part of it. That -- that never --
18 the safety plan never changed. We just continued to add to
19 it in terms of Mr. Brown's growth in terms of the coping
20 skills that he's learned, in terms of how to be a better
21 parent which is all essential in terms of safety planning,
22 because per this case plan that you so graciously handed to
23 me, we are now discussing the viability and reliability of
24 Mr. Brown's protective capacity. And so that was certainly

1 an essential component of the safety plan.

2 Q Okay. So what we're talking about is the
3 viability and reliability of a safety plan to prevent future
4 physical abuse. So I'm asking you in the updated one did
5 you change the recommendations for the nanny and the camera?

6 A No.

7 Q Did you add different recommendations besides the
8 nanny and the camera?

9 A I think we included what Mr. Brown has learned
10 from his parti -- participation in all of these
11 recommendations, that as I look at this he's completed most
12 of them.

13 Q Okay. So the answer then is no, there was no
14 additional recommendations for like more cameras or a
15 secondary nanny or --

16 A No.

17 Q -- something else.

18 A No, not -- not of that nature.

19 Q Now did you ever meet Samantha?

20 A No, I don't believe I have.

21 Q Okay. Did you ever review the prior CPS reports
22 regarding injury to her? And here, sir, I am talking about
23 the prior CPS investigations. Did you review those?

24 A I'm aware of the seven allegations.

1 Q Okay. Would it surprise you to know that there's
2 13 prior reports? That was the testimony elicited in this
3 --

4 A That --

5 Q -- trial.

6 A That would surprise me. So at the time, I believe
7 at the onset when I received the referral from DFS and
8 stated providing family therapy without child present, I
9 believe at that time Maryte it was seven CPS investigations.

10 Q Okay. So that's what you believe there to be.

11 A Uh-huh (affirmative).

12 Q And you understood those were all referencing
13 Samantha.

14 A Yes.

15 Q And you understood those were all referencing
16 injuries that occurred to her.

17 A Yes.

18 Q Did you ever participate -- well, her therapist
19 was also a Healthy Minds therapist, is that correct?

20 A Yes.

21 Q Okay. Did you ever have a discussion with her
22 that Samantha's therapist either in a CFT, a meeting of
23 professionals or anything regarding how this physical abuse
24 that we've seen here (indicating) --

1 A So my --

2 Q -- impacted her?

3 A The only contact that I was allowed per Healthy
4 Minds is on that one CFT that we had and Maryte was present
5 as well as that Mary -- meeting of professionals where that
6 D.A. was present and that's the only contact that the two
7 different teams were allowed to have with each other where
8 attorneys were present. And -- and so no, I wasn't allowed
9 to discuss anything clinically with any of the children's
10 therapists per my supervisor's order at --

11 Q Okay.

12 A -- Healthy Minds

13 Q So to be clear, at those meetings that you talked
14 about, those two meetings that you talked about --

15 A Yes.

16 Q -- you did not gain an understanding of how the
17 physical abuse impacted the victim child.

18 MR. DRASKOVICH: Objection, relevance.

19 THE COURT: It's relevant.

20 MS. DORMAN: He keeps saying that he was hoping to
21 reunify this family and do family therapy. How can he do
22 that if he didn't understand the impact --

23 THE COURT: It's relevant.

24 MS. DORMAN: -- of the abuse --

1 THE COURT: It's relevant.

2 MS. DORMAN: -- on the child?

3 THE COURT: You -- you can answer that.

4 THE WITNESS: I'm sorry, can you ask me the
5 question again?

6 BY MS. DORMAN:

7 Q So at the time that you attended the meeting you
8 talked about, the CFT and the meeting --

9 A Uh-huh (affirmative).

10 Q -- of professionals, you didn't gain an
11 understanding --

12 A No, I didn't.

13 Q -- of --

14 A I did not.

15 Q Sir, let me finish my question just so you're not
16 answering to something that you didn't know you were
17 answering to. You didn't gain an understanding of how the
18 physical abuse impacted the victim child?

19 A No, I did not, because --

20 Q Okay.

21 A -- there's been such adversarial between the two
22 teams that no, it was -- these meetings were a joke and we
23 never got anything accomplished.

24 Q I'm sorry, the meetings were a joke? Is that --

1 A They were.

2 Q -- what you testified --

3 A They were.

4 Q -- to?

5 A They were.

6 Q Okay.

7 A Between the Department of Family Services'

8 openness of inclusion of having discussion, because it seems

9 like the -- we've been moving forward to terminate parental

10 rights from the beginning and that there was nothing ever

11 discussed where we could have an open and candid

12 conversation because the attorneys were doing what they're

13 doing today, Judge.

14 Q And that's your opinion, is that --

15 A Yes.

16 Q -- correct?

17 A That's my opinion.

18 Q Okay. Did you ever meet Heidi, Nikki and Wyatt?

19 A No.

20 Q Okay.

21 A I believe I met --

22 Q Did you ever --

23 A As I testified earlier, I believe I may have seen

24 them in the hallway at Healthy Minds when I was visiting and

1 providing clinical services at the Rancho Healthy Minds
2 office, but as far as being physically introduced to them,
3 no, I have not.

4 Q Okay. Did you ever have a discussion with their
5 therapist?

6 A No, because Healthy Minds' supervisors would not
7 allow me to.

8 Q So you weren't aware of any of their diagnosis.

9 A No.

10 Q You weren't aware of what they've seen in the
11 home.

12 A No.

13 Q Okay. And their therapists, all three of their
14 therapists, are also employed by Healthy Minds, is that
15 correct?

16 A Yes.

17 Q Okay. So --

18 A They were.

19 Q -- you didn't know the impact the physical abuse
20 had had on the victim child. You --

21 A No.

22 Q -- didn't know what the other three children were
23 disclosing happened in their home, yet you are recommending
24 as you sit here today --

1 A Uh-huh (affirmative).

2 Q -- that the kids should go home, it's in their
3 best interest, he presents a minimal risk and the family
4 should be reunified, do I have that right?

5 A You have that right.

6 Q Okay. If we can just go back to the second
7 objective on the case --

8 A Uh-huh (affirmative).

9 Q -- plan. So you're just going to want to flip the
10 page there. We're going to look at the action steps
11 specifically.

12 A Under resolution of legal matters?

13 Q No, sir. The second objective would be -- it's on
14 the bottom of the page you flipped, meet the emotional,
15 educational and physical and developmental needs of the
16 children.

17 A Uh-huh (affirmative).

18 Q That if you flip to the action steps. Under this
19 second objective, the action steps towards the bottom there
20 specifically indicate that Mr. Brown will demonstrate an
21 understanding of his children's emotional needs as well as
22 demonstrate empathy for all of the children, their
23 experiences --

24 A Uh-huh (affirmative).

1 Q -- and their feelings. Do you see those two
2 boxes?

3 A You know what, I don't.

4 Q Okay.

5 A But -- but I -- I heard what you just said though.
6 The -- for Mr. Brown to be able to demonstrate empathy and
7 to understand --

8 Q It's the last two -- it's just the last two boxes.

9 A Oh, okay.

10 Q Yeah, the very bottoms there.

11 A I see them.

12 Q Okay. So we can agree that a case plan objective
13 was to demonstrate an understanding of his children's
14 emotional needs as well as demonstrate empathy for all of
15 the children, their experiences and their feelings, is that
16 correct?

17 A Uh-huh (affirmative). Yes.

18 Q Okay. Is it your testimony that he completed
19 those two actions steps?

20 A So I do believe that Mr. Brown has gained insight
21 in regards to his parenting style and that he has learned
22 more effective ways to create emotional intimacy between
23 himself and his children. And sadly though -- and this was
24 a goal that Maryte can speak to was that we were hoping to

1 move to have family therapy and that was never allowed. We
2 couldn't move in that direction because the no contact order
3 was never lifted.

4 Q Right. But to be clear, it's your testimony that
5 he demonstrated an understanding of his children's emotional
6 needs and he dem -- demonstrated empathy for all of his
7 children, their experiences and their feelings. It's your
8 testimony that he did that?

9 A Yeah, I -- I do believe that Mr. Brown has
10 increased and gained insight, absolutely, around his
11 children's emotional needs and how to henceforth move
12 forward and better meet their emotional needs.

13 Q Okay, but he's never acknowledged the abuse to
14 Samantha occurring in his home.

15 A No, he hasn't.

16 Q Okay. Did he ever acknowledge what Heidi and
17 Nikki disclosed in therapy about what they saw?

18 A So again, I've never had access to those
19 children's medical records because I wasn't allowed to
20 participate as part of their team.

21 Q Sure.

22 A So I can't speak to that.

23 Q I'm just asking if he acknowledged what the kids
24 saw in their home.

1 A No.

2 Q No. So he never acknowledged that Heidi and Nikki
3 experienced visualized abuse.

4 A No.

5 Q Okay. Now on January 2nd of 2015, you sent a
6 letter to the Department of Family Services, is that
7 correct?

8 A If you have a copy of one of my records, I'm
9 assuming that that --

10 Q I do.

11 A -- date is correct.

12 MR. DRASKOVICH: Okay.

13 MS. DORMAN: I'd like to have this marked.

14 THE CLERK: Exhibit Q.

15 MS. DORMAN: Q?

16 MS. HANRAHAN: No, we're --

17 MS. DORMAN: Weren't we --

18 MS. HANRAHAN: -- we're not Q.

19 MS. DORMAN: -- numbers before?

20 THE CLERK: No, you're way beyond that -- you're
21 29. Had the wrong --

22 MS. DORMAN: Thanks.

23 THE CLERK: You're welcome.

24 Q Do you recognize this?

1 A Yes.

2 Q Okay. And what is that, Doctor?

3 A So this is what Healthy Minds would refer to as a
4 court report summary. So this has since become a refined
5 document where Healthy Minds has worked towards systemizing
6 how documentation is sent out of Healthy Minds so that every
7 clinician is releasing information that looks the same way.
8 But this is what they would refer to as a court report
9 summary.

10 Q Okay. Is that a fair and accurate copy of a court
11 report summary that you sent to the Department on January
12 2nd of 2015?

13 A Uh-huh (affirmative). Yes, ma'am.

14 Q Okay. And in that letter, you state that you
15 never completed a treatment plan for Mr. Brown, is that
16 correct?

17 A Correct. So family therapy without child present
18 is billed under the child's insurance and it's the fam --
19 it's the child's who is the identified client; however, we
20 view each child from a family systemic perspective. So
21 we're treating the family. We're not just treating the
22 child. And so through this -- not -- this is the case plan,
23 but through the Red Rock assessment, it was recommended that
24 Mr. Brown participate in individual therapy sessions which

1 he did I believe through ABC Counseling.

2 Q Okay. So my specific question to you is you never
3 completed a treatment plan for Mr. Brown, is that correct,
4 yes or no?

5 A No, his individual therapist completed a treatment
6 plan.

7 Q Okay. So if you had completed a treatment plan,
8 there would have been treatment goals in that treatment
9 plan, is that correct?

10 A Yes.

11 Q And then you could have noted progress towards
12 those goals, is that correct?

13 A Yes, so we would --

14 Q And that's how therapy goes generally, correct?

15 A But -- that's correct.

16 Q Okay. But that didn't happen in your therapy.

17 A Progress towards goals of family meet -- moving
18 towards family therapy towards assessing parental capacity
19 and safety towards increasing self-care coping skills,
20 that's all assessed and in Heidi Brown's clinical progress
21 notes, because that -- that's how it's done in Healthy Minds
22 through their model.

23 Q Okay, but it wasn't memorialized in a treatment
24 plan for Mr. Brown, is that correct?

1 A Correct.

2 Q Okay. Now this letter also further indicates I
3 have never observed Mr. Brown directly interact with his
4 children; however, per my interactions with Mr. Brown in
5 therapy and per his disclosures Mr. Brown has made in
6 therapy, I do not possess any safety concerns on the part of
7 Mr. Brown, is that correct?

8 A That's correct.

9 Q Okay.

10 A So I was assessing his capacity to be able to
11 participate in family therapy.

12 Q You -- that sentence indicates that you were
13 assessing his ability to be able to participate in family
14 therapy?

15 A Uh-huh (affirmative). That was our goal. That's
16 where --

17 Q So --

18 A -- we were moving towards.

19 Q -- when you say I do not possess any safety
20 concerns on the part of Mr. Brown, you didn't possess at
21 that time safety concerns for him participating in family
22 therapy, is that --

23 A Correct.

24 Q Okay. So not a return of the children to the

1 home.

2 A I didn't -- at that time, I didn't possess any
3 safety concerns with Mr. Brown at all.

4 Q So you're also speaking about a return of the
5 children to the home in that case.

6 A Correct, but we were working -- the goal through
7 the Department of Family Services was to move towards
8 participating in family therapy and then upon progress made
9 in family therapy was to hopefully reunify the children with
10 Mr. Brown and Mrs. Lawrence.

11 Q Okay. So your sentence starts with I have never
12 observed Mr. Brown directly interact with his children, but
13 based on your interactions with Mr. Brown in therapy and per
14 his disclosures you didn't have any safety concerns with the
15 children returning home.

16 MR. DRASKOVICH: Objection, that misstates his
17 testimony.

18 BY MS. DORMAN:

19 Q Is that what it says in your letter?

20 A Yes.

21 Q And it -- didn't you just testify for me that it
22 -- you also meant that you didn't have any safety concerns
23 with the children returning home at --

24 A I -- I --

1 Q -- that time?

2 A I don't have any safety concerns.

3 Q Okay. So I haven't misstated your testimony in
4 any way then.

5 A No.

6 Q Okay. So you didn't possess any safety concerns
7 at the time you wrote this in January of 2015 despite the
8 fact that you believed this case was unsubstantiated and
9 despite the fact that you had never met the children nor
10 understood what they disclosed in therapy.

11 A So I received supervision as -- even though I'm an
12 independent legal licensed doctor educated clinician, I have
13 supervisors. And so based upon what they were able to
14 disclose with me and the Department of Family Services, I
15 did not have any concerns.

16 Q So you didn't have any concerns despite the fact
17 you didn't believe these to be substantiated, you didn't
18 know anything about what the kids were going through, is
19 that correct?

20 A That's correct.

21 Q Okay. Now you specifically said that you based
22 that decision on interactions with Mr. Brown in therapy and
23 his disclosures in therapy, is that right?

24 A Yes, that's correct.

1 Q What are those disclosures?

2 A So Mr. Brown has denied any of those allegations.
3 So if I'm able to speak to the prior CPS allegations, Mr.
4 Brown denied all of those, and that per CPS' investment that
5 they were determined or deemed unsubstantiated and that
6 there are witnesses to my understanding that would testify
7 to those specific events in terms of how certain injuries
8 were sustained by the child.

9 Q And where did you get all that information from,
10 Mr. Brown?

11 A Yes.

12 Q Okay. In your extensive experience in counseling,
13 have you ever seen somebody who is addicted to drugs that
14 maybe denies they're addicted to drugs?

15 A Sure.

16 Q Okay. Do you treat them?

17 A Absolutely.

18 Q Okay. When you treat them, do you accept their
19 denial as true?

20 A No.

21 Q Okay. You confront them about their drug use,
22 right?

23 A Right.

24 Q Okay. But you never confronted Mr. Brown about

1 his physical abuse of abuse of Samantha, is that --

2 A Oh.

3 Q -- correct?

4 A Oh, I've confronted him and asked him if he's hit
5 his children and harmed his children and --

6 Q When he says --

7 A -- and response --

8 Q -- no --

9 A -- is no.

10 Q -- you do what?

11 A And I -- I have accepted that and I have continued
12 on with the mission of providing family therapy without
13 child present.

14 Q Okay. So no further confrontation past his
15 denial.

16 A That's correct.

17 Q Okay. Now you attended a CFT on January 12th of
18 2015, you previously testified to that, is that correct?

19 A Yes. That's the only one that we had where I was
20 allowed to participate in.

21 Q Okay. Now at that CFT, do you specifically recall
22 discussing the safety plan?

23 A I don't rec -- I don't recall discussing anything
24 at that CFT to be honest with you.

1 Q Had you previously sent the safety plan prior to
2 that?

3 A I'm not sure to be honest with you in terms of the
4 proximity of the date of when the CFT actually occurred.

5 Q Okay. So you don't have any recollection of
6 discussing a viable safety plan at that CFT.

7 A No, I have no viable recollection of that meeting
8 in terms of just people arguing with each other.

9 Q So you also don't recall discussing Mr. Brown's
10 case plan and his compliance therewith.

11 A No, I don't. It was actually Mrs. -- Mrs.
12 Lawrence did not participate I believe because her attorney
13 wasn't present, so it was just Mr. Brown and his attorney
14 and we didn't get a lot accomplished in that meeting.

15 Q Okay. So you didn't discuss the case plan
16 objectives as they pertained to Mr. Brown.

17 A I -- I don't recall.

18 Q Okay. Did you -- we talked a little bit about the
19 reports that you provided to the DFS in April of 2016. I'm
20 going to show you a copy of those now.

21 A Okay.

22 MR. DRASKOVICH: All right.

23 MS. DORMAN: Can I have this one marked as 30?

24 MR. DRASKOVICH: Your Honor, would now be a good

1 time to break for lunch or --

2 MS. DORMAN: I think it would be fair to -- to
3 allow me to finish.

4 THE COURT: How much -- how much -- I mean, how
5 much longer are you thinking?

6 MS. DORMAN: About 20 minutes.

7 THE COURT: All right. And then do you want to --
8 let's let her finish and rest as far as questions to the
9 doctor and then we can take a lunch break and then you can
10 follow up with any questions from there so it's kind of
11 consistent. Okay. And if it goes longer, then we can
12 revisit that.

13 Q Doctor, you recognize what I'm showing you as 30
14 and 31?

15 A Yes, I do.

16 Q Okay. And 30 is a copy of a court report you
17 provided to to Ms. Lawrence in April of 2016, is that
18 correct?

19 A Yes, approved by my clinical director Melissa
20 Polier as CSW who has to prove all court reports being
21 released from Healthy Minds.

22 Q And it's signed by you, is that correct?

23 A Yes.

24 Q And 31 is a court report that you submitted for

1 Mr. Brown, is that correct?

2 A Yes.

3 Q And it's signed by you, is that correct?

4 A Yes.

5 Q Okay. So if we could -- if you could just direct
6 your attention to the 30, the court report for Melissa
7 Lawrence.

8 A Okay.

9 Q Do you notice how under the -- the bold section
10 that says historical update of family therapy without child
11 present with Ms. Lawrence --

12 A Uh-huh (affirmative). Uh-huh (affirmative).

13 Q -- do you see how it's blank underneath there?

14 A No -- well, it says treatment engagement in
15 progress and then it's reporting how many sessions of family
16 therapy without child --

17 Q Right.

18 A -- present she actually --

19 Q Could --

20 A -- participated in.

21 Q Could you take a look at Mr. Brown's?

22 A Uh-huh (affirmative).

23 Q Under the section entitled historical update of
24 family therapy without child present --

1 A Yes.

2 Q -- with Mr. Lawrence (sic), you have several
3 bullet points there, is that correct?

4 A Yes, because Mr. Brown and I had worked together
5 without any change of assignment of therapist since second
6 week of September 2014. Mrs. Lawrence has actually worked
7 with three separate therapists at Healthy Minds.

8 Dana Day, LCSW, was her first therapist upon her
9 relocating to Virginia. She was reassigned to Melissa
10 Polier. And then due to Melissa Polier's health issues,
11 Mrs. Lawrence was transitioned over to me.

12 Q Right. So my question is then do you see how
13 there's no bullet points in Ms. Lawrence's court report
14 underneath historical update?

15 A Yes.

16 Q Okay. Do you know why Mrs. Lawrence's is blank?

17 A Because I could only report information that I
18 knew to be true and factual and information that I had
19 access to. And this report was reviewed by Melissa Polier
20 and she said that it could be released and sent over to
21 Maryte.

22 Q Well, would it surprise you to know that Melissa
23 Polier said she wrote something for that section and it was
24 left off of the report?

1 A It would surprise me, because nothing gets
2 released from Healthy Minds without being first approved by
3 a supervisor. And again, please -- I'd encourage you to
4 subpoena my emails which shows that what I'm saying under
5 oath is truthful and accurate.

6 Q Well, did she sign that report?

7 A Because I was the assigned therapists because of
8 the transition due to Melissa Polier's health issues, I took
9 responsibility and wrote and spoke and partnered with
10 Melissa Polier and -- and together, we came up with this
11 court report summary.

12 Q Okay. So yes or no she signed it, yes or no?

13 A Yes or no I signed it, I signed it.

14 Q She, Melissa.

15 A I signed it.

16 Q Did Melissa sign it?

17 A No, she did not.

18 Q Okay. So it would surprise you to know that the
19 section that she said was left off the report --

20 MR. DRASKOVICH: Object -- did she testify? I --

21 MR. GOWDEY: This -- this assumes facts not in
22 evidence.

23 MS. DORMAN: He's --

24 MR. GOWDEY: If she wants to call --

1 MS. DORMAN: Well --

2 MR. GOWDEY: -- Ms. Polier --

3 MS. DORMAN: -- she was on their witness list. I
4 did call her and speak to her as is my duty in preparing for
5 cross examination.

6 MR. DRASKOVICH: And then her stating --

7 MS. DORMAN: He's asked me multiple times to
8 please refer to things that I can't subpoena which is
9 medical records for the client or emails between him and
10 Melissa Polier. I'm asking him about what Melissa Polier
11 said.

12 MR. GOWDEY: Well, we don't know what Ms. Melissa
13 Polier said.

14 MR. DRASKOVICH: We don't. If she wants to call
15 her as a witness, she should have, but for her to be making
16 statements that this out of court witness stated --

17 THE COURT: Okay.

18 MR. DRASKOVICH: -- out of court and --

19 THE COURT: Okay.

20 MR. DRASKOVICH: -- treat it like testimony is
21 totally inappropriate.

22 THE COURT: Well, the question had to do with --
23 it sounds like you signed it, Melissa Polier didn't. So now
24 you're asking questions about --

1 MS. DORMAN: I'll -- I'll actually rephrase.

2 BY MS. DORMAN:

3 Q Did she provide you something to place into that
4 report?

5 A She reviewed this report, yes.

6 Q No, my question specifically is did she provide
7 you information to place into that report?

8 A She did and I can't recall what she provided me,
9 but it -- what she provided me is in this report.

10 Q Okay. But fair to say the section under
11 historical updates is blank.

12 MR. DRASKOVICH: Objection, asked and answered
13 four times.

14 THE COURT: Sustained. The -- the Court takes
15 notice that it was blank.

16 MS. DORMAN: Thank you.

17 BY MS. DORMAN:

18 Q Let's talk about the section on Exhibit 30 under
19 perceived risk factors. Can you find that?

20 A Yes. That was --

21 Q It says writer has not observed Mrs. Lawrence
22 interact with her children in person due to the no contact
23 order being in place; however, per meeting with Mrs.
24 Lawrence, and then there's nothing after that, is that

1 correct?

2 A Yeah, it looks --

3 Q Okay.

4 A -- like it's -- it's incomplete.

5 Q Something is missing, is that right?

6 A Right.

7 Q Okay. Do you know what the perceived risk factors
8 were?

9 A Of Mrs. Lawrence not being a protected parent when
10 the children were in her home.

11 Q That's the perceived -- that's how that sentence
12 would have ended?

13 A That would -- that -- that she was not a protected
14 parent with the belief that Mr. Brown was allegedly abusing
15 or harming Samantha Brown (sic).

16 Q So that's --

17 A Samantha Lawrence, excuse me.

18 Q My question is that's how that would have ended,
19 that's how --

20 A I --

21 Q -- the sentence would have ended?

22 A Clearly, it's incomplete, so I'm not sure and I
23 can't speak to it and I'm not going to speculate how it
24 would have ended.

1 Q Okay. So what are your perceived risk factors for
2 Mrs. Lawrence?

3 A I think Melissa Lawrence has as you can see by the
4 number of sessions that she has participated in. As you can
5 see here by all the things that she's done that was
6 recommended by her assessment at Red Rock that she clearly
7 is motivated to do what she needs to do and what's necessary
8 to reunify with her children.

9 Q So motivated is a perceived risk factor?

10 A I -- I don't perceive Mrs. Lawrence to possess any
11 risk factors in terms of reunifying with her children.

12 Q And how often -- how long did you treat her?

13 A So I have actually known Mrs. Lawrence for the
14 same amount of time that I've known Mr. Brown.

15 Q I'm asking about how long you treated her.

16 A And so I took over formally in terms of being Mrs.
17 Lawrence's clinical therapist from Melissa Polier. You can
18 subpoena the medical records, because I don't remember the
19 -- the exact transition date.

20 Q Okay. So in answer to my question is of how long
21 have you been treating Mrs. Lawrence, your answer is --

22 A I don't recall.

23 Q -- you don't recall. Okay. Let's go over the
24 last section in that report that you signed. It states that

1 Mrs. Lawrence and process thoughts related to the loss and
2 grief she experiences from being separated from her children
3 as well as the anxiety she experiences over the thought of
4 potentially having her rights taken away to parent her
5 children as her termination of parental rights trial is
6 scheduled to commence at the end of May 2016.

7 A Uh-huh (affirmative).

8 Q Do you see how it says that?

9 A Uh-huh (affirmative).

10 Q Is that primarily what you worked on with Mrs.
11 Lawrence?

12 A We worked on her loss and grief as it relates to
13 not having her children in her home and her fears and
14 anxiety related to the last of having her parental rights
15 terminated as well as discussed what might things look like
16 if her rights are terminated and what will life look like if
17 the children are reunified and aren't able to move back into
18 their care.

19 Q Okay. So not the physical abuse that occurred in
20 her home.

21 A No.

22 Q Not how it impacted her children.

23 A Not with me. We did not discuss that.

24 Q Okay. So let's look at Mr. Brown's case plan.

1 And the historical update has several bullet points, is that
2 correct?

3 A Yes, ma'am.

4 Q Okay. And the coping skills, parenting strategies
5 and supervision that you talk about in those --

6 A Uh-huh (affirmative).

7 Q -- bullet points --

8 A Uh-huh (affirmative).

9 Q -- you were able to do that without taking into
10 account his prior conviction, the -- the allegations in this
11 case, how it affected the other children in the home, you
12 were able to do all of those things without taking that into
13 account?

14 A I think we discussed all those allegations, prior
15 allegations, and how that has led up to having his four
16 children removed from their care and what do we need to do
17 to have the children reunify and be returned into the care
18 of Mr. Brown and Mrs. Lawrence and what work do -- does Mr.
19 Brown need to do in terms of -- of demonstrating positive
20 discipline practice, having increased insight to foster
21 emotional intimacy and understanding the needs of his
22 children, learning his coping skills in ways, how to
23 emotionally regular himself and these are all things that
24 are in line with the goals of the Department of Family

1 Services when reunifying children with their parents.

2 Q Okay. So my specific question to you is you were
3 able to do all of that despite the fact that you testified
4 earlier you didn't know the specifics around his convi --
5 conviction, is that correct?

6 A I was able to do all of this based upon the
7 knowledge that I was aware of.

8 Q Which didn't include the specifics of his
9 conviction.

10 A 30 years ago, correct.

11 Q And didn't -- and included that you believed him
12 in his denial of these current allegations of physical
13 abuse.

14 A That's correct.

15 Q Okay. Now under perceived risk factors, that
16 sentence is whole, is that correct, unlike under Ms.
17 Lawrence's?

18 A Yes, it's whole.

19 Q Okay. And it says Mr. Brown has demonstrated
20 increased protective capacity to me by his verbalizations
21 regarding his understanding of early childhood development
22 and positive discipline.

23 A Yes.

24 Q Okay. Now if you look up at treatment engagement

1 and progress, it says essentially the same thing, is that
2 correct?

3 A Uh-huh (affirmative).

4 Q Okay. Now under perceived resilience factors, it
5 states Mr. Brown and writer often process thoughts related
6 to the loss and grief he experiences from being separated
7 from his children as well as the anxiety her experiences
8 over the thought of potentially having his rights taken away
9 to parent his children and his termination of parental
10 rights trial is scheduled to commence at the end of May of
11 2016.

12 A Uh-huh (affirmative).

13 Q Is that correct?

14 A Yeah.

15 Q That's nearly the same sentence as in Mrs.
16 Lawrence's, is that correct?

17 A That's -- that's correct. And they're both very
18 dedicated in reunifying with their children.

19 Q Okay. Let's talk about your employment with
20 Healthy Minds. Did you notify Maryte that on March 26th of
21 2015 you were leaving employment with Healthy Minds?

22 A I'm sorry, say that again?

23 Q Did you notify Maryte at any time that in March --
24 on March 26th or March 27th of 2015, you would be leaving

1 your employment with Healthy Minds?

2 A I've -- I've been employed continuously with
3 Healthy Minds from September 7th of 2014 until July 26th --

4 Q Okay. Would --

5 A -- 2016 by -- no, no, no. My employee status
6 changed, but I've been -- had continuous employment and I've
7 worked with Mr. Brown continuously throughout.

8 Q Okay. So you didn't send an email that said I
9 will be transitioning from my role as licensed provider at
10 Healthy Minds on Thursday, March 16th, I have provided
11 Healthy Minds with the 30 day notice to assist my families
12 in transitioning smoothly to a new provider and to allow me
13 the opportunity to facilitate appropriate termination
14 sessions?

15 A They -- they didn't want to let me go full-time,
16 so they changed my employee status from full-time to
17 part-time and part of the reasons was is because they wanted
18 me to continue working with Mr. Brown because they felt that
19 I was the best fit clinician to do so.

20 Q And your -- and so you did send that email.

21 A Yeah.

22 Q Okay. And your email also says it's been a
23 pleasure to work with you and support your families?

24 A Uh-huh (affirmative). But I've never -- I've had

1 continuous employment. They -- they didn't want to lose me
2 full -- a hundred percent. They wanted to keep me as part
3 of their team, so just my change of employee status. We
4 were --

5 Q What does that -- what does it mean when you say I
6 have provided Healthy Minds with a 30 day notice? What does
7 that mean?

8 A Because I did. I was transitioning into a new
9 role as clinical director for Southern Nevada Children
10 First; however, they -- they didn't want me to leave, so
11 they negotiated me to remain as a part-time clinician.

12 Q And then it further states to assist my families
13 in transitioning smoothly to a new provider and allow me the
14 opportunity to facilitate appropriate termination sessions.

15 A That's correct.

16 Q What does that mean?

17 A So for -- I carried a huge caseload, so I provided
18 a 30 day noticed so that I could appropriately and do it in
19 a clinically appropriate way and sensitive way to the
20 families and the children that I provided clinical services
21 to that over a 30 day process that I transitioned and work
22 with these families to transition them to other therapists.

23 Q So you did that in this case.

24 A No, because they kept me on board to continue

1 working with Mr. Brown.

2 Q How do you think that this email sounded --

3 MR. DRASKOVICH: Objection.

4 Q -- that you were terminating it?

5 MR. DRASKOVICH: Relevance.

6 MR. GOWDEY: Calls for speculation.

7 MR. DRASKOVICH: How it sounded.

8 THE COURT: I'm -- I'm not really sure. I'm not
9 -- I'm not getting the connection as to -- it's -- well, I
10 -- I'm not -- I'm not getting the connection to how he's
11 still Mr. Brown's therapist.

12 MS. HANRAHAN: I -- and that's what I'm trying to
13 get to the bottom of.

14 MR. GOWDEY: I --

15 THE COURT: It appears --

16 MR. DRASKOVICH: By asking him what --

17 MR. GOWDEY: Quite frankly --

18 THE COURT: So it appears that he was because he
19 worked with Healthy Minds and then he works for some place
20 else, but he also stays and does part-time work --

21 THE WITNESS: Right.

22 THE COURT: -- with Mr. Brown.

23 BY MS. DORMAN:

24 Q Okay. So it's your testimony today that you

1 didn't have any break in treatment with Mr. Brown.

2 A No, I did not.

3 Q Okay. Now you're not currently employed with
4 Healthy Minds, is that correct?

5 A That's correct.

6 Q And when did you leave?

7 A I believe my last day was July 26th of 2016.

8 Q So fair to say you haven't seen Donald in a
9 professional capacity since that time.

10 A No, I have not.

11 Q Okay. So you don't actually know what's going on
12 today.

13 A No, I do not.

14 Q Okay. I want to bring your attention to March of
15 2016. Did you make some comments to Maryte about knowing
16 how Donald felt?

17 A I don't recall.

18 Q Okay. You don't recall sitting next to her in a
19 training?

20 A Yes, I do, actually.

21 Q Okay. Do you recall what you discussed with her
22 that day?

23 A No, I don't.

24 Q You don't recall telling her that you were having

1 some difficulty with your ex-wife and seeing your children?

2 A I do recall having that conversation with Maryte.

3 Q And did you discuss with her that you had empathy
4 for Donald and his situation because of what you were going
5 through personally?

6 A We did not discuss that at all and I'm going to
7 testify under oath and on record that that's a lie. So if
8 that's Maryte's statement, she's lying.

9 Q Okay. So let's talk about what's a lie. You
10 admitted to telling -- sitting next to her in the training,
11 correct?

12 A Yes, I did sit next to her.

13 Q And you admitted to telling her you were having
14 some difficulty with your ex-wife and seeing your children,
15 is that correct?

16 A And Maryte shared with me that she was having some
17 challenges with her --

18 Q Sir, yes or no?

19 A -- husband and her child as well.

20 Q You recall saying that, yes or no?

21 A Yes, I do.

22 Q But you didn't say anything about having empathy
23 for Donald and his situation.

24 A We did not talk about any cases at all.

1 Q Okay. So it's your testimony that you haven't
2 been aligned with Donald since the beginning of this case,
3 is that right?

4 A No, I have not.

5 Q Okay. Today -- well, as of July of 2016, Mr.
6 Brown remains in denial that he caused the injuries to
7 Samantha, is that correct?

8 A Yes, ma'am. That's correct.

9 MS. DORMAN: I don't have any further questions.

10 THE COURT: Would you like to take a break or do
11 you want to go forward? Break?

12 MR. GOWDEY: Take a break.

13 THE COURT: Okay. All right. So let's take a
14 break. How long do we need? Well, let me ask, this is the
15 last witness for -- for you?

16 MR. DRASKOVICH: We've got one more.

17 THE COURT: Okay. Okay. So do you want an hour
18 break?

19 MR. GOWDEY: That'll be fine.

20 THE COURT: An hour? Okay. So come back at like
21 1:30ish.

22 MR. GOWDEY: All right.

23 THE COURT: Thank you.

24 MR. GOWDEY: Sounds good. Thank you.

1 THE COURT: And you'll come back too, Doctor,
2 because they're going to question you.

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 THE WITNESS: Thank you, Judge Giuliani. I
6 appreciate it.

7 THE COURT: Okay. Thank you.

8 (COURT RECESSED AT 12:37 AND RESUMED AT 1:45)

9 THE COURT: All right. We'll have you back in the
10 same seat. You're still under oath. Same -- same
11 truthfulness applies.

12 MR. DRASKOVICH: Thank you.

13 REDIRECT EXAMINATION

14 BY MR. DRASKOVICH:

15 Q Doctor, I just have a few questions for you and
16 you want to be on your way. Right at the end of your
17 testimony, you were asked by the State if you had aligned
18 yourself with Ms. Lawrence and Mr. Brown, correct?

19 A Yes, that was --

20 Q And --

21 A -- the question.

22 Q And your testimony was --

23 A Absolutely not.

24 Q Did that question betray a misunderstanding of

1 what your role is as a clinician?

2 A Absolutely. I think my role is to assist
3 families, heal from trauma and to learn how to move forward
4 in the face of tragedy by learning more adaptive skills so
5 that they can be successful in society and become better
6 parents.

7 Q Is it req -- a requirement that they make an
8 admission of having done something wrong in order for them
9 to experience growth and --

10 A Absolutely not.

11 Q So the assumption that they must admit to whatever
12 the allegation is, that's misfounded.

13 A It is very misfounded.

14 Q You had testified concerning this CFT that
15 occurred in January of 2015.

16 A Yes.

17 Q You characterized it as a joke.

18 A Yes.

19 Q Why is that?

20 A I feel that the -- what is clearly evident to me,
21 Judge Giuliani, is that the Department of Family Services
22 has failed this family as well as --

23 MS. DORMAN: I'm going to object.

24 A -- Healthy Minds.

1 MS. DORMAN: I'm going to object.
2 THE COURT: Go ahead. What's your objection?
3 THE WITNESS: Healthy Minds has failed this family
4 as well.
5 THE COURT: Hold on. Let me -- let -- let's --
6 just for the record --
7 MR. DRASKOVICH: Is there a legal objection?
8 THE COURT: -- let's let her state her objection
9 and then --
10 MS. DORMAN: Yes.
11 MR. DRASKOVICH: -- we can go forward.
12 MS. DORMAN: But he keeps talking.
13 THE COURT: Go ahead.
14 MS. DORMAN: Lack of foundation. How does he
15 know? He doesn't work for DFS, he doesn't know what our job
16 is.
17 THE COURT: Sustained. So tell me about what you
18 believe, not what someone else believes, because we can't
19 cross examine DFS or -- or Healthy Minds.
20 THE WITNESS: Clearly, Judge Giuliani, what I have
21 observed and assessed from participating in -- in this
22 process this afternoon and this morning is that services
23 clearly were fragmented.
24 MS. DORMAN: Again, I'm going to object. I -- I

1 don't frankly think it's relevant what he observed this
2 morning and this afternoon.

3 MR. DRASKOVICH: I -- I think it's clearly
4 relevant on -- given his basically expertise, his
5 credentials.

6 MS. DORMAN: And I don't care what he thinks about
7 what happened at this trial and no -- nor should anyone.

8 MR. DRASKOVICH: Let me ask it -- let me -- let me
9 approach it this way.

10 BY MR. DRASKOVICH:

11 Q You've been involved with Mr. Brown and Ms.
12 Lawrence for approximately how long?

13 A Almost two years.

14 Q Okay. Is that exceptionally long based upon your
15 experience?

16 A Yes, that is exceptionally long.

17 Q Have you dealt with other families facing similar
18 allegations?

19 A Many families.

20 Q And when you say many families, how many families?

21 A ballpark figure.

22 A 500.

23 Q Over 500.

24 A Uh-huh (affirmative).

1 Q And is this case -- does this case stick out as
2 being treated differently?

3 A Absolutely.

4 Q Why?

5 A I feel that these parents were never given the
6 opportunity to work their case plan and that --

7 MS. DORMAN: Objection.

8 A -- that clearly --

9 MS. DORMAN: Lack of foundation.

10 A -- that -- that --

11 THE COURT: Sustained. Just you got to --

12 MS. DORMAN: Thank you.

13 THE COURT: -- lay some foundation as to how you
14 come up with this belief.

15 BY MR. DRASKOVICH:

16 Q This is a collaborative effort, is it not?

17 A It's intended to be very collaborative.

18 Q If you could please explain the various parts.

19 A I can speak to by being a full-time clinician at
20 Healthy Minds and being the primary clinician providing
21 family therapy without child present to Mr. Brown, that by
22 not having monthly treatment team meetings with the
23 Department of Family Services involved, by being able to
24 have that touch monthly as the children's team did, clearly

1 has not shown the Department of Family Services any of the
2 growth or the work that this coupler, that these two parents
3 --

4 MS. DORMAN: I'm going to object --

5 A -- have made.

6 MS. DORMAN: -- as to what it's shown to DFS. He
7 has no personal knowledge.

8 THE COURT: Sustained.

9 BY MR. DRASKOVICH:

10 Q You've had very little participation with DFS in
11 this case, is that fair to say?

12 A It's been minimal in comparison to my
13 participation with DFS case managers that I have monthly
14 touch with, some instances for the same family I have
15 multiple communications with the DFS case manager.

16 Q And this case, you didn't.

17 A I did not.

18 Q In reference to this evaluation that you've been
19 asked a considerable amount of questions about, the one
20 concerning Mr. Brown, the one that occurred in October of
21 2014.

22 A Yes.

23 Q Can people change?

24 A Absolutely.

1 Q In reference to the evaluation and the danger
2 finding based upon your number of counseling sessions with
3 Mr. Brown, would it be significant if it did not change?

4 A Absolutely.

5 Q And it's basically a story, that was then, this is
6 now.

7 A Absolutely.

8 Q Is Mr. Brown in a different position now than he
9 was in October of 2014?

10 A Absolutely.

11 Q Is that a result of you meeting with him?

12 A I think it's --

13 MS. HANRAHAN: Your Honor, I'm finally going to
14 object to leading. Every single question has been leading.
15 I probably should have objected a long time ago, but at this
16 point, it's -- he's putting words in his mouth with every
17 question.

18 BY MR. DRASKOVICH:

19 Q Have -- have there been changes over the last two
20 years?

21 A Yes, I believe so.

22 Q And if you can please explain to the Court what
23 those changes are.

24 A I am -- I believe that Mr. Brown has and per my

1 assessment of being his assigned therapist through Healthy
2 Minds providing family therapy without child present for
3 over 80 sessions over the course of almost two years that
4 Mr. Brown has demonstrated better conceptual functioning
5 around positive discipline and positive parentings,
6 emotional regulation as it relates to himself as well as to
7 his children, that Mr. Brown has learned many coping skills
8 that he and Mrs. Lawrence have worked together as a team and
9 learned how to work together as a team so that they can be
10 better parents and providing what their children need.

11 I have never seen in over 500 cases that I've been
12 the assigned therapist through -- through DFS a couple so
13 committed to reunify with their children.

14 MR. DRASKOVICH: Thank you, Doctor. I have no
15 further questions.

16 THE COURT: Okay. Mr. Gowdey, Ms. Calvert?

17 MS. CALVERT: Okay.

18 MR. GOWDEY: I have no questions.

19 THE COURT: Ms. Calvert, do you have any
20 questions?

21 MS. CALVERT: Yeah, I'm -- I'm good, Your Honor.

22 MS. DORMAN: Thank you.

23 RECROSS EXAMINATION

24 BY MS. DORMAN:

1 Q Now earlier when you testified to me, you said it
2 would have been important to know the details of the
3 confession from 1984, is that correct?

4 MR. DRASKOVICH: Objection, out of the scope of
5 cross.

6 MS. DORMAN: It's absolutely not out of the scope
7 of cross. He had him basically reiterate that he did all of
8 these wonderful things with him and he's making an opinion
9 that DFS didn't do anything to help Mr. Brown reunify with
10 his kids and that it's safe for the kids to go home.

11 MR. GOWDEY: None of which goes to the issue of
12 whether he reviewed the 1984 conviction or not.

13 MS. DORMAN: That's not what I asked. I asked him
14 in his prior testimony did he say it would have been
15 important to note that.

16 THE COURT: Okay. You can answer that. Go ahead.

17
18 THE WITNESS: I would have liked to have known
19 that information, yes.

20 BY MS. DORMAN:

21 Q Okay. But yet, you haven't changed your opinion
22 at all today.

23 A No, I have not.

24 Q Okay. Now you were asked if you've dealt with

1 other families and you said you've dealt with about 500
2 other families, is that correct?

3 A That is correct.

4 Q Were they referenced physical abuse?

5 A Many of them were --

6 Q How many?

7 A -- physical abuse. Probably two-thirds.

8 Q Okay.

9 A 66 percent of those 500 cases.

10 Q So of those two-thirds, did all of the
11 perpetrators -- alleged perpetrators of physical abuse
12 maintain their denial?

13 A I would say 50 percent of them.

14 Q Okay. So half admitted and half didn't.

15 A And all reunified.

16 Q Every single one reunified.

17 A Uh-huh (affirmative).

18 Q You have never experienced a TPR before?

19 A I have experienced many termination of parental
20 right trials, but for the clients that I've worked with,
21 they have reunified with their natural caregiver.

22 Q Okay. So 66 percent of 500 is roughly 300,
23 families.

24 A Uh-huh (affirmative).

1 Q Of those 300 families, the 50 percent that
2 remained in denial, 150, they were all reunified. Is that
3 your testimony?

4 A Yes, it is my testimony.

5 Q Okay. And you personally all saw that yourself.

6 A Over the course of my 16 year long career, I have.

7 Q Okay. Now you said that you only participated
8 twice with DFS in a meeting of professionals and a CFT, is
9 that correct?

10 A To my knowledge, that's what I recall, yes.

11 Q Okay. And didn't you say it was because your
12 supervisor indicated that you weren't allowed to go to the
13 other meetings because you -- there was a no contact order
14 between Mr. Brown and the other people?

15 A That is correct.

16 Q So that's not DFS' fault, is it?

17 A That's the -- at the direction, DFS would not
18 allow us to have any contact --

19 Q Was it your --

20 A -- between Mr. Brown --

21 Q -- prior testimony that your supervisors wouldn't
22 allow it?

23 A That -- let's be clear, that like my employer at
24 Healthy Minds is the Department of Family Services. The

1 Department of Family Services tells Healthy Minds how to
2 provide if we want to be really real with each other. And
3 -- and so, you know, Healthy Minds has done a disservice to
4 this family in terms of how they provided clinical services
5 to this family and, you know, and -- and having you have a
6 smug face on your face is really condescending --

7 Q Sir --

8 A -- to me --

9 Q -- could you just --

10 A -- and --

11 Q -- answer the question that I'm asking you?

12 A What's the question again? Because you asked --

13 Q My question --

14 A -- something else as well.

15 Q -- was it wasn't DFS that determined you couldn't
16 go to that meeting. You specifically testified it was your
17 supervisor, is that --

18 A Actually --

19 Q -- correct?

20 A -- I believe it was in order of Maryte, DFS, to
21 Healthy Minds directed to the clinicians.

22 Q Okay. So let's analyze what you just testified
23 to. You just testified to that you're employed by DFS, is
24 that correct?

1 A DFS is the one who pays the money to Healthy
2 Minds. That's Healthy Minds' employer.

3 Q No, Healthy Minds doesn't pay the money.

4 MR. GOWDEY: Objection.

5 Q Medicaid pays the money.

6 MR. DRASKOVICH: It's --

7 MR. GOWDEY: She's testifying now.

8 MS. DORMAN: Okay. Let me rephrase.

9 BY MS. DORMAN:

10 Q It's your understanding that DFS pays for the
11 therapy, not Medicaid?

12 A We -- Healthy Minds has the primary contract to
13 provide clinical services to children in foster care and
14 their families, yes.

15 Q Who pays it?

16 A The State, I am assuming.

17 Q You -- you've never had any interaction with
18 Medicaid.

19 A I don't do any billing. I'm a clinician. That's
20 what --

21 Q Well, didn't --

22 A -- the other people --

23 Q -- didn't you talk about on your direct testimony,
24 didn't you talked about how everything was billed under

1 Heidi or Nikki for this case?

2 A It is.

3 Q Okay.

4 A Through the --

5 Q So you understand --

6 A Through the contract --

7 Q -- billing.

8 A -- project which is through Healthy Minds and DFS

9 and the State of Nevada.

10 Q So you understand billing then.

11 A I understand how money gets submitted to the

12 Department of Family Services so that Healthy Minds get

13 reimbursed for the clinical services that's provided.

14 Q So it's your opinion that DFS pays for the

15 therapy.

16 A That's my understanding --

17 Q And then --

18 A -- through the project contract.

19 Q So they're there for your boss. Okay. You --

20 just to be clear, you are not employed by DFS.

21 A No.

22 Q You've never been employed by DFS.

23 A No. Thank goodness.

24 Q Now didn't you testify earlier that you talked to

1 Maryte every single month?

2 A Maryte and I shared cases together, and so we
3 would have contact regarding those individual families that
4 were assigned to me where I was the primary therapist.

5 Q And didn't you testify that you and Maryte had a
6 good working relationship?

7 A Well, she just destroyed that professional
8 relationship by lying --

9 Q Sir, I'm --

10 A -- earlier.

11 Q -- asking you what you testified to. Did --

12 A Yeah.

13 Q -- you --

14 A We -- we --

15 Q -- testify that --

16 A -- did prior to her --

17 Q Let me finish, please.

18 A -- lying earlier, we did have --

19 Q Did you --

20 A -- a good working --

21 Q -- testify that you and Maryte have a good working
22 relationship?

23 A Yes, I did earlier --

24 Q Okay.

1 A -- until she lied.

2 Q But when you came back, you have now changed the
3 story, is that correct?

4 A Oh, I think she's a snake. I think she's a liar.

5 Q Let me be clear. You have now changed your story
6 to you didn't have good communication with DFS, is that
7 correct?

8 MR. GOWDEY: Objection.

9 MR. DRASKOVICH: Objection, that misstates --

10 MR. GOWDEY: -- misstates the --

11 MR. DRASKOVICH: Yeah.

12 MR. GOWDEY: Misstates the testimony.

13 BY MS. DORMAN:

14 Q Did you testify just now that you didn't have good
15 communication with DFS? In fact, you characterized it as
16 the worst case of communication you've ever had with DFS.

17 A Oh, I do believe that. Absolutely.

18 Q Okay.

19 A Regarding --

20 Q So the --

21 A -- this case (indicating) --

22 Q So again --

23 A -- right here --

24 MR. DRASKOVICH: Objection.

1 A -- after --
2 MR. DRASKOVICH: I would ask that she allow --
3 MR. GOWDEY: She allow him to answer.
4 MR. DRASKOVICH: -- him to answer his question.
5 THE COURT: So you believe this is the worst case
6 of communication with DFS, this case. That's what he said.
7 MR. DRASKOVICH: Yes.
8 BY MS. DORMAN:
9 Q So that's different than what you testified to
10 previously.
11 MR. DRASKOVICH: Objection, misstates his
12 testimony.
13 MS. DORMAN: It doesn't misstate his testimony.
14 He said --
15 MR. GOWDEY: The record will show.
16 MS. DORMAN: -- he had a good working relationship
17 with Maryte, he contacted her every month.
18 THE COURT: Okay. So he can answer that.
19 MS. DORMAN: She is --
20 THE COURT: It was a yes --
21 MS. DORMAN: -- DFS -- she works for DFS.
22 THE COURT: I think it was a yes or no question
23 when you asked him. So --
24 BY MS. DORMAN:

1 Q So it's different.

2 THE COURT: -- do you want to -- do you want to --

3 Q Your testimony is now different, is that correct?

4 A Maryte and I, I'm going to say dependent upon the
5 family that I was assigned with Maryte would have monthly
6 communication or bimonthly communication with each other.

7 Q Okay. I'm --

8 A And in this case --

9 Q -- specifically asking you --

10 A -- in this case --

11 Q -- about your testimony.

12 A -- we had very little communication with each
13 other back --

14 Q Okay.

15 A -- and forth. It was --

16 Q I'm asking --

17 A -- giving me direction. That's what I --

18 Q I'm asking --

19 A -- received from Maryte.

20 Q -- you about your -- your two different
21 testimonies.

22 MR. DRASKOVICH: Objection.

23 Q So this morning --

24 MR. DRASKOVICH: Mischaracterized the --

1 THE WITNESS: You're trying to lead me to answer
2 -- to -- to say something --

3 MS. DORMAN: I'm allowed to lead --

4 THE WITNESS: -- that you want me to say.

5 MS. DORMAN: -- sir. That's enough.

6 THE WITNESS: Didn't you just criticized him for
7 leading me questions?

8 MS. DORMAN: Now he's a lawyer, Your Honor?

9 THE COURT: They're different -- they -- they have
10 different requirements that they can and can't ask you
11 questions. So that's correct when she objected, but she can
12 ask you because you're an adverse witness.

13 THE WITNESS: Okay. Thank you.

14 THE COURT: It's all right.

15 BY MS. DORMAN:

16 Q So this testimony this morning was that you and
17 Maryte communicated monthly and you had a good working
18 relationship, yes or no?

19 A That's a yes question.

20 Q And your testimony this afternoon was that this
21 was the worst case of communication you've ever had with
22 DFS.

23 A I think absolutely. It's clearly documented in
24 all the documentation between --

1 Q So --

2 A -- Healthy Minds and DFS regarding this family.

3 Q Sir, it's a yes or no question. You testified --

4 A Yes.

5 Q -- to that.

6 A Yes.

7 Q So that is different than what you testified to
8 this morning, yes or no?

9 A I felt as though that Maryte and I had good
10 communication between each other in regards to the
11 communication between the Department of Family Services and
12 Healthy Minds regarding the care coordination of this case
13 is the worst that I've observed in 16 years.

14 Q Okay. Yes or no, that's different than what you
15 testified to this morning?

16 MR. GOWDEY: Objection.

17 A What's the question again?

18 MR. GOWDEY: It's asked and answered.

19 A I'm confused now at this point.

20 MS. DORMAN: It's not confusing, Your Honor. He
21 will not admit to the fact that over the lunch break he has
22 changed his testimony.

23 MR. DRASKOVICH: And Judge, he was talking about
24 in general with Maryte. She's confusing two different

1 questions.

2 MS. DORMAN: I'm not confusing anything. Maryte
3 is the -- is the caseworker for the Department of Family
4 Services.

5 THE COURT: Correct.

6 MR. GOWDEY: Your Honor, I would submit that this
7 has been asked and answered several --

8 MS. DORMAN: It --

9 MR. GOWDEY: -- times now.

10 MS. DORMAN: -- actually hasn't been answered.

11 MR. GOWDEY: As much as I appreciate Mr. Dorman's
12 ruling, I would submit it to you on the objection.

13 MS. DORMAN: I didn't make a ruling. I'm making
14 --

15 THE COURT: Okay. I think what she's trying to
16 say is that prior to lunch you testified one way and
17 answering -- and when answering the question, now you're
18 testifying a different way.

19 So I think for -- for the last time, ask -- ask
20 the question and then answer -- but just answer the question
21 that she's asking you and then your attorneys can -- or the
22 attorneys that called you as a witness can follow up with
23 anything else that they want the Court to know.

24 THE WITNESS: Okay.

1 THE COURT: Otherwise, we'll --

2 MS. DORMAN: That --

3 THE COURT: -- be here for hours.

4 MS. DORMAN: That was exactly it.

5 THE WITNESS: Okay.

6 BY MS. DORMAN:

7 Q That was exactly it of how you phrased it. It was
8 different than this morning than this afternoon, is that
9 correct?

10 A No.

11 Q Okay. Now the bottom line in this case is Mr.
12 Brown not only didn't acknowledge the abuse of Samantha, he
13 denied that it ever happened, is that correct?

14 A That is correct, ma'am.

15 Q Okay. And you believed him when you denied it.

16 A I do, ma'am.

17 Q Okay. And you didn't confront him any further.

18 A I did confront him, ma'am.

19 Q Oh, yeah. We talked about how you confronted him
20 earlier today, right?

21 A Uh-huh (affirmative). We did, ma'am.

22 Q You asked him if he did it.

23 A I did.

24 Q And he denied it.

1 A And there was a pursuant conversation over the
2 course of 80 plus sessions.

3 Q Okay. Well, let's review what you said this
4 morning. I asked if you confronted him, you said --

5 A Uh-huh (affirmative).

6 Q -- you did.

7 A Uh-huh (affirmative).

8 Q I asked you if he denied and he said he did. I
9 asked you if you asked anything further and you said what?

10 A Okay. Well, do you know how to do therapy, ma'am?
11 Because you challenged me saying that --

12 Q You can't --

13 A -- I pretended to --

14 Q -- ask me questions.

15 A -- be an attorney --

16 THE COURT: Okay. Hold on.

17 A -- and -- and she's pretending to be a therapist.

18 THE COURT: No, she -- I mean, she has -- they
19 have a right to put on their -- everyone has a right to put
20 their case. So she's just -- this happens a lot, hear it
21 more than -- than maybe normal, but because they're -- she's
22 allowed to question you regarding inconsistent statements,
23 regarding statements that she needs clarification.

24 So all these -- as much as it's a -- a burden, I

1 believe that, you know, you've -- you've already answered
2 those questions, she has a right to ask you those questions
3 and then you have an obligation to answer them. So try to
4 do your best. I know it's kind of --

5 THE WITNESS: I will. I apologize --

6 THE COURT: No.

7 THE WITNESS: -- Judge Giuliani.

8 THE COURT: That's okay. That's okay. Just --

9 THE WITNESS: I just have such difficulty
10 comprehending her questions. Apparently --

11 THE COURT: No. No. No. She -- she's -- she's
12 making a record and then your attorneys -- obviously they
13 made their record. There's not a time limit on the
14 questions. That's the problem. So if they're irrelevant or
15 there is actual objections to her questions, one of the
16 attorneys I'm sure will -- will raise that to the Court and
17 we can decide on that basis. All right.

18 BY MS. DORMAN:

19 Q So your testimony earlier was that you confronted
20 him, he denied it, and there was no further confrontation,
21 is that correct?

22 A No, throughout the course of therapy you're always
23 assessing the primary need in terms of why did you come into
24 the -- what was referral for in the first place.

1 Q So --
2 A That's how therapy works.
3 Q -- every time he denied it --
4 A It was continued conversation about it.
5 Q And he --
6 A Well, why does --
7 Q -- continued to deny it.
8 A -- why does DFS continue to believe these
9 allegations and that he did this. And there's lots of
10 discussion around -- around this topic --
11 Q Okay.
12 A -- or conversation.
13 Q So if you testified this morning that when you
14 confronted him and he denied it and you moved on, that's
15 different than right now, is --
16 A No.
17 Q -- that right?
18 A I didn't move on because that's part of the reason
19 why I'm here today. It's been part of the discord over two
20 years.
21 Q But -- but I specifically asked you when he denied
22 it, you accepted that and you said yes, is that correct?
23 MR. GOWDEY: Objection.
24 MR. DRASKOVICH: Objection, she's --

1 MR. GOWDEY: Asked and answered.

2 MR. DRASKOVICH: And they had 80 sessions. I

3 mean, if you could maybe layout which one or just move on.

4 MS. DORMAN: I'm not talking about sessions. I'm

5 talking about his testimony from this morning.

6 MR. DRASKOVICH: And that --

7 MS. DORMAN: Again, his testimony from this

8 morning speaks for itself, Your Honor.

9 MS. DORMAN: It doesn't speak for itself when he

10 comes back from lunch and now it's different.

11 MR. GOWDEY: And it's --

12 MS. DORMAN: I get --

13 MR. GOWDEY: I would submit it's not that --

14 MS. DORMAN: -- to ask about that. That's not for

15 you to decide.

16 THE COURT: Okay. Hold on.

17 (PAUSE)

18 THE COURT: He confronted him about the abuse,

19 Donald said no, the doctor said he accepted this. I have it

20 in my notepad. I mean, that's just what I wrote down. So

21 what you're asking is not -- it's not irrelevant. If you're

22 asking him if he said that, then he has -- you -- you have a

23 right -- you have an obligation to answer that, so --

24 BY MS. DORMAN:

1 Q Did you say that this morning?

2 A That Mr. Brown has denied abusing his children?

3 Q And you accepted that.

4 A Yes.

5 Q Okay. Now did you spend any time on your lunch
6 break discussing your testimony with anybody?

7 A No.

8 Q You didn't talk to Mr. Draskovich about your
9 testimony?

10 A No, he said he could not speak with me.

11 Q And you didn't talk to Mr. Gowdey about your
12 testimony?

13 A No.

14 Q Okay. In this case as sits today -- well, as it
15 sat in Janu -- in July of 2016, Mr. Brown denies physically
16 abusing Sam, is that correct?

17 A Yes, ma'am.

18 Q As it sits today, you have no idea what the other
19 children discussed.

20 MR. GOWDEY: Objection.

21 MR. DRASKOVICH: Objection.

22 MR. GOWDEY: Asked and answered three times I
23 think now.

24 THE COURT: Sustained. That -- sustained, he's

1 answered that before.

2 MS. DORMAN: Well, I would submit that he hasn't
3 answered it since we came back from lunch and he's -- was
4 redirected saying that again, everything's wonderful, we
5 denied him the opportunity to reunify with his children, and
6 Mr. Brown should go home.

7 MR. GOWDEY: Outside the scope of direct
8 examination.

9 MS. DORMAN: That's exactly what he testified to
10 on the redirect.

11 THE COURT: He -- he did testify to that and
12 that's -- that's -- as Mr. Brown therapist, that's what he
13 believes. The question of whether or not -- the question is
14 is he -- he has -- without ever speaking to the -- the three
15 other children I think it's been asked and answered, he
16 hasn't.

17 MS. DORMAN: Okay.

18 THE COURT: And I don't think it's going to
19 change.

20 BY MS. DORMAN:

21 Q But you're still saying that he should go home --

22 MR. DRASKOVICH: Objection, asked and answered.

23 THE COURT: Well, let her finish the question.

24 BY MS. DORMAN:

1 Q You're still saying he's safe to go home with the
2 children.

3 A Yes.

4 MS. DORMAN: I don't have anything further.

5 THE COURT: Okay. Ms. Honodel, do you have any
6 questions?

7 MS. HONODEL: No, I don't, Your Honor.

8 THE COURT: Okay. Anyone else?

9 MR. DRASKOVICH: Very briefly.

10 THE COURT: Okay.

11 FURTHER REDIRECT EXAMINATION

12 BY MR. DRASKOVICH:

13 Q You asked Mr. Brown concerning the alleged abuse
14 on more than one occasion.

15 A Absolutely.

16 Q Why don't you explain how that works through the
17 course of therapy.

18 A So there's a reason why people initiate therapy
19 and this referral came in because the children were removed
20 from the care of Mr. Brown and Mrs. Lawrence and that it --
21 this gentleman was assigned me to work with to help move him
22 into his space, to participate in family therapy with the
23 intent in September 2014 of family reunification.

24 And so the referral was for me to work with Mr.

1 Brown in helping him learn the skills necessary to be able
2 to emotionally meet the needs of his children and in
3 alignment with the goals of the Department of Family
4 Services of safety, well-being and permanency, that is how I
5 facilitated my family therapy without child present with Mr.
6 Brown.

7 Q Okay. You were asked previously concerning
8 whether or not you had -- thought you had a good
9 relationship with Ms. Tallent.

10 A Yes, I did.

11 Q Okay. Has that changed today?

12 MS. DORMAN: Objection, relevance.

13 A Yes, it has changed.

14 MR. DRASKOVICH: She tried to say he was lying and
15 he wasn't. He learned that she lied about him.

16 MS. DORMAN: No.

17 MR. DRASKOVICH: So it's --

18 MS. DORMAN: I'm sorry --

19 MS. HANRAHAN: No.

20 MS. DORMAN: -- he said multiple times that she
21 lied.

22 THE COURT: Who -- who knows. I -- I wasn't
23 there. I don't know. But --

24 THE WITNESS: She did.

1 THE COURT: Okay. So -- so what was your
2 question?
3 MR. DRASKOVICH: That something's changed between
4 --
5 THE COURT: Okay.
6 MR. DRASKOVICH: -- change his opinion --
7 THE COURT: You -- you --
8 MR. DRASKOVICH: -- concerning --
9 THE COURT: We've already started --
10 MS. HANRAHAN: Well, what does his opinion --
11 MS. DORMAN: What's the relevance?
12 MS. HANRAHAN: -- of Maryte have to do with this
13 case and whether his -- the parental rights should be
14 terminated?
15 THE COURT: Okay.
16 MR. DRASKOVICH: Because he was asked that --
17 MS. HANRAHAN: Nothing.
18 MR. DRASKOVICH: -- 15 times by the State just
19 moments ago.
20 THE COURT: Well, I don't know that they --
21 MS. HANRAHAN: I don't know that he was asking --
22 THE COURT: -- asked about if --
23 MS. HANRAHAN: -- of they were working on --
24 THE COURT: They didn't ask about the lie. He

1 brought up the lie.

2 MS. DORMAN: The -- the point is who cares about
3 his opinion today of Maryte. The -- what I asked about was
4 his testifying earlier today that he had a good working
5 relationship --

6 THE COURT: Right.

7 MS. DORMAN: -- and contacted her monthly and then
8 after the break he was talking about how DF -- this is the
9 worst case of communication he's ever seen with DFS. I
10 don't care what he thinks of Maryte today and nor should
11 this Court. It's not relevant.

12 THE COURT: Yeah. I -- you know -- obviously,
13 there's something that someone's not happy with on whatever
14 side, but obviously based on his answers he believes that
15 there was -- somebody had lied. But -- but what is the
16 relevance of -- of that at this point at -- at -- of the
17 trial as to the parents' progress?

18 MR. DRASKOVICH: Because the State tried to
19 construe it as he's lying or he's changed his story. He's
20 testified that he had various cases with Maryte and he
21 learned about on this one case something that was said which
22 changed his opinion in reference to their -- their
23 communication or his -- his perception of their --

24 MS. DORMAN: Something --

1 MR. DRASKOVICH: -- working relationship.
2 MS. DORMAN: -- that was said today, not relevant.
3 He doesn't even work for Healthy Minds anymore. He has not
4 worked there since July.
5 THE COURT: Okay.
6 MR. DRASKOVICH: I know assuming it's not going to
7 be argued by either side in closing, either side of that
8 issue.
9 MS. HANRAHAN: Whether he --
10 MS. DORMAN: What issue?
11 MS. HANRAHAN: -- worked July, no. Absolutely
12 not.
13 MR. DRASKOVICH: I have no further questions.
14 Thank you, Doctor.
15 THE COURT: All right. Anybody else before we let
16 this doctor leave and go on to his next client? I'm sure
17 you have a peop --
18 THE WITNESS: I do.
19 THE COURT: -- a bunch of people waiting --
20 THE WITNESS: I do.
21 THE COURT: -- for you.
22 THE WITNESS: Babies.
23 THE COURT: All right. I guess not. So thank you
24 for your time. We appreciate it.

1 THE WITNESS: Thank you, Judge Giuliani.

2 THE COURT: Thank you.

3 THE WITNESS: I appreciate all you do for our
4 community. I'm --

5 THE COURT: Thank you.

6 THE WITNESS: -- sure you'll make the right
7 decision.

8 (WITNESS EXCUSED)

9 MR. GOWDEY: One more witness, Your Honor. We'll
10 call --

11 THE COURT: Okay.

12 MR. GOWDEY: -- David Brown.

13 THE COURT: That was David, you said?

14 MR. GOWDEY: David Brown.

15 THE COURT: Okay. I just want to make sure I
16 heard you. Thank you.

17 (WITNESS SUMMONED)

18 THE CLERK: Please raise your right hand. You do
19 solemnly swear the testimony you're about to give in this
20 action shall be the truth, the whole --

21 THE WITNESS: I do.

22 THE CLERK: -- truth, and nothing but the truth,
23 so help you God?

24 THE WITNESS: I do.

1 THE CLERK: State your name for the record.

2 THE WITNESS: David Brown.

3 THE CLERK: You may have a seat.

4 DAVID BROWN

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

7 DIRECT EXAMINATION

8 BY MR. GOWDEY:

9 Q Good afternoon, Mr. Brown.

10 A Afternoon.

11 Q Are you related to Donald Brown?

12 A Yes.

13 Q How?

14 A He's my father.

15 Q Are you currently employed?

16 A Yes.

17 Q Where are you employed?

18 A Honeywell. It's in Kingman, Arizona.

19 Q You live in Kingman?

20 A Yes, I do.

21 Q Previous to your employment with Honeywell, where
22 were you employed?

23 A Marine Corps.

24 Q How long were you in the Marine Corps?

1 A Five years.

2 Q Where were you stationed in the Marine Corps?

3 A Camp Pendleton, San Diego.

4 Q You know Samantha, Nikki, Heidi, and Wyatt?

5 A Yes, I do.

6 Q And how do you know them?

7 A Heidi, Nikki, and Wyatt are my brother and.

8 sisters. Samantha is like a step-sister.

9 Q Do you have a good relationship with -- with

10 Heidi, Nikki, and Wyatt?

11 A Yes, I do.

12 Q Do you have a good relationship with Samantha?

13 A Yes, I do.

14 Q You apply -- you and your -- are -- are you

15 married?

16 A Yes, I am.

17 Q And what's your wife's name?

18 A Alicia Brown.

19 Q Do you have any children?

20 A Yes, I do.

21 Q How many children do you have?

22 A One son named Carl Brown.

23 Q How old is Carl?

24 A Just turned four.

1 Q At some point you became aware that -- that the
2 children Heidi, Nikki, Wyatt, and Samantha had been removed
3 from the family home of -- of Mr. Brown and Mr. Lawrence
4 (sic) -- Ms. Lawrence, is that correct?

5 A Yes, sir.

6 Q And that occurred to the best of your knowledge in
7 January of 2014?

8 A Yes.

9 Q Were you and your ask asked for provide shelter or
10 any -- any services related to the removal?

11 A Shortly afterwards.

12 Q And what -- and what was that exactly?

13 A My wife agreed to it since I couldn't do anything
14 really. Being Marine Corps, I had no time or anything to go
15 down there. So my wife came down and did the background
16 check and everything and took the -- the children into
17 custody.

18 Q So the -- the children were placed with your wife.

19 A Yes.

20 Q And was there here in Las Vegas?

21 A Yes, it was.

22 Q And how long were the children with your wife, do
23 you know?

24 A About three months.

1 Q At some point, the -- the children were no longer
2 in your wife's custody, is that correct?

3 A Yes.

4 Q And why is that, if you know?

5 A My wife was kind of in a way told that if she did
6 not report an injury on none of the children and they -- it
7 was found that they had an injury that they would take my
8 son into custody as well.

9 MS. HANRAHAN: Objection, hearsay.

10 THE COURT: Sustained.

11 BY MR. GOWDEY:

12 Q Okay. Are you aware that DFS told your family
13 that your child would be taken if -- if there was a bruising
14 on any of the other --

15 MS. HANRAHAN: Objection.

16 Q -- children?

17 MS. HANRAHAN: Hearsay.

18 MR. GOWDEY: Well, I'm asking if he's aware. I'm
19 not asking who told him that.

20 MS. HANRAHAN: He's --

21 MR. GOWDEY: It goes --

22 MS. HANRAHAN: He's --

23 MR. GOWDEY: -- to his state --

24 MS. HANRAHAN: It calls for --

1 MR. GOWDEY: -- of mind, Your Honor.

2 MS. HANRAHAN: -- hearsay. He's asking if he's
3 aware of what somebody said to somebody else and it's
4 hearsay.

5 MR. GOWDEY: It goes to his state of mind. It
6 goes to -- to his perception of -- of the -- the events
7 surrounding this, his state of mind, which is an exception
8 to hearsay.

9 THE COURT: Sustained. The -- he -- he wasn't
10 there, so somebody else from DFS told somebody, Alicia, what
11 may happen if that statement is true, but there's no way to
12 determine and ask the person who stated it --

13 MR. GOWDEY: Let me ask -- okay.

14 THE COURT: -- if it's true or not.

15 MR. GOWDEY: I -- I accept it.

16 BY MR. GOWDEY:

17 Q Did you and your wife apply for an ICPC pursuant
18 to that original placement here in Las Vegas? Did you
19 pursue an ICPC?

20 A Yes, afterwards we did a couple months after.

21 Q And what happened with that?

22 A I received the ICPC. It was for Samantha Lawrence
23 only. I contacted the DFS workers, they stated that it was
24 for all the children, but none of the paperwork had any of

1 the children's name on it.

2 I contacted San Diego, the protective services, to
3 -- for the ICPC and they stated that I would have to do
4 Samantha Lawrence's first. I would have had to get a foster
5 license since she was not blood relation.

6 I began to pursue the foster license. My first
7 step was to take a mandatory orientation about my -- what I
8 would have to do. The first orien -- available orientation
9 was I got the ICPC in January, I believe, and the
10 orientation was in April. I was due to get out of the
11 Marine Corps in May.

12 I then contacted Las Vegas CPS and told them that
13 I would be unable to get that in a timely manner. San Diego
14 said that if I took on Heidi, Nikki, and Wyatt since they
15 were blood, I would not have to have a foster license. I
16 requested to just take the three of them and then I was
17 accused of trying to separate the children and pretty much
18 --

19 MS. HANRAHAN: Objection.

20 A -- said I cannot have it.

21 MS. HANRAHAN: Hearsay.

22 THE COURT: Sustained.

23 BY MR. GOWDEY:

24 Q It was your -- your understanding that you

1 couldn't take only 90 -- Heidi, Nikki, and Wyatt, is that
2 correct?

3 A That is correct.

4 Q So with respect to that first ICPC, that did not
5 move forward from that point?

6 A No, it did not.

7 Q At some point, did you apply for another ICPC?

8 A A couple months ago I did. I did not apply, I
9 requested it from the DPS worker.

10 Q And what happened then?

11 A I was told that my wife was -- wasn't able to
12 because she -- there was security concerns with her.

13 Q Are you aware of what the security concerns they
14 were talking about are?

15 A I was later told that it was because there was a
16 phone call when she had the children originally between her
17 -- the children and my father.

18 Q As far as you know at the time that phone call
19 occurred, was there a no contact order in place between --

20 A Not that I'm aware of.

21 Q Would you be willing to take Heidi, Nikki and
22 Wyatt now --

23 A Yes, I would be.

24 Q -- if you have to? And you -- your wife -- you

1 speak for your wife when -- when you say that?

2 A Yes, I do.

3 MR. GOWDEY: Okay. I have no further questions.

4 THE COURT: Anybody else before --

5 MR. DRASKOVICH: I have no questions for this
6 gentleman.

7 MS. CALVERT: No, I don't think so.

8 THE COURT: Ms. Honodel back there, any questions?

9 MS. HONODEL: I don't have any question --

10 THE COURT: Okay.

11 MS. HONODEL: -- Your Honor.

12 THE COURT: The D.A.s?

13 MS. HANRAHAN: Yes, Your Honor.

14 CROSS EXAMINATION

15 BY MS. HANRAHAN:

16 Q Mr. Brown, you stated that you asked about
17 placement again a couple of months ago. Are you referring
18 to your email of June 15th, 2016, to DFS?

19 A I believe so.

20 Q Would it refresh your recollection to take a look
21 at that?

22 A Yes it --

23 Q Is that --

24 A Yes, this is the email.

1 Q Does that appear to be the email? And you sent
2 that June 15th, 2016?

3 A Yes.

4 Q Asking DFS if you could again be considered for
5 placement.

6 A Yes.

7 Q Right? All right. And do you recall the answer
8 that you got by email from DFS? Or do you recall getting an
9 answer from DFS by email?

10 A Yes, I do.

11 Q And do you remember who sent that to you?

12 A A name, no, I do not.

13 Q Brenda Hughes sound familiar?

14 A Yes, it does.

15 Q Now I'll just show you a copy of an email from
16 Brenda Hughes to yourself. So if you would take a look at
17 that email and let me know if that refreshes your
18 recollection about the email that you got from Brenda Hughes
19 in response to yours.

20 A Yes, this is it.

21 Q Okay. So Ms. Hughes asked you or let you know,
22 didn't she, that you could contact Ms. Tallent to initiate
23 phone calls with the children --

24 A Yes.

1 Q -- right? And she stated that there was -- she
2 told you -- she explained to you about the ICPC and why you
3 got some documentation that was only for Samantha, didn't
4 she?

5 A Yes.

6 Q Which you testified you already understood from
7 talking to San Diego. So after you got this email from Ms.
8 Hughes telling you that you could contact Ms. Tallent, you
9 responded that you would contact her for visits and phone
10 calls, right?

11 A Yes.

12 Q And did you ever do that?

13 A No.

14 Q Why not?

15 A Because over the years I have contacted Ms.
16 Tallent and every time I requested visits, my schedule
17 wasn't aligned with her schedule. I work 12 hour shifts
18 Monday through Friday. I work most Saturdays. So Saturday
19 and Sunday weren't able -- she was not able to do is what
20 she told me.

21 Then on holidays, she said we were unable to do
22 them on holidays. Phone call was -- I was constantly --

23 Q When did she --

24 A -- ignored.

1 Q -- say that? You said that you didn't call her
2 for visits, so when did she --
3 A On emails.
4 Q -- tell you that? On emails?
5 A I never contacted --
6 Q On emails --
7 A -- for phone call.
8 Q -- since this one in June when Ms. Hughes told you
9 you could have phone visits?
10 A I did not contact Ms. Tallent after that email.
11 Q Did you contact Ms. Hughes?
12 A No, I did not.
13 Q Now with regard to the placement with your wife,
14 your wife actually -- and you let DFS know that you no
15 longer wanted placement of the children, correct?
16 A No, that's incorrect.
17 Q So it's your testimony that DFS removed the
18 children from you?
19 A I never had the children. My wife had the
20 children.
21 Q Is it your testimony that DFS removed the children
22 from your wife?
23 A I'm unaware --
24 MR. DRASKOVICH: Objection.

1 A -- of that.

2 MR. DRASKOVICH: There was a number of questions
3 along this line and they didn't allow us to get into it.

4 MR. GOWDEY: Right.

5 MR. DRASKOVICH: So now they're readdressing what
6 they objected to and --

7 MR. GOWDEY: Right.

8 MR. DRASKOVICH: -- precluded.

9 MR. GOWDEY: The -- the objection was hearsay with
10 respect to the reason why they had to give the children up.
11 When I've tried to elicit that testimony, the objection was
12 -- the objection was hearsay as to what DFS told them.

13 THE COURT: Okay.

14 MR. GOWDEY: Now she's going to cross examine him
15 on that when you've already indicated that he couldn't
16 answer.

17 THE COURT: Well, he just couldn't answer anything
18 that someone else said to him because I don't know that
19 they're not here to testify that that's true or not. But
20 she's asking him about why the kids --

21 MR. GOWDEY: Whether --

22 THE COURT: -- were removed.

23 MR. GOWDEY: -- DFS took the kids away or -- or --

24 THE COURT: Right.