IN THE SUPREME COURT OF THE STATE OF NEVADA

In the Matter of: E. R.
A Minor.

CLARK COUNTY DEPARTMENT OF FAMILY SERVICES and CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
Petitioner,

vs.

EIGHTH JUDICIAL DISTRICT COURT, THE HONORABLE CYNTHIA N. GIULIANI, DISTRICT COURT
JUDGE
Respondent,

PHILLIP RIVERA AND REGINA RIVERA AND
STEPHANIE ROZIER AND
JOEY ROZIER

Supreme Court No. 73272
District Court No. J15-337398-D1

Electronically Filed
Jun 19 2017 02:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

PETITIONER'S APPENDIX

RAYMOND E. MCKAY, ESQ.
7251 West Lake Mead Boulevard,
Suite 250
Las Vegas. Nevada 89128
(702) 284-5919
Attorney for E.R. Rodriguez
raymond.mckay@libertymutual.com

JOHN BLACKMON, III, ESQ.
2200 Paseo Verde Parkway,
Suite 350
Henderson, NV 89052
702-476-2400
Attorney for Stephanie and Joe Rozier
jblackmon@fordfriedmanlaw.com

GREGORY MILLS, ESQ.
703 S. Eighth Street
Las Vegas, NV 89101
(702) 386-0030
Attorney for Philip and Regina Rivera
gregor@millsnv.com
attorneys@millsnv.com
klivreri@millsnv.com

INDEX

Document	Page No.
Court Minutes September 3, 2015	0006-0007
Court Minutes October 6, 2015	0008
Court Minutes September 3, 2015	0006-0007
Court Minutes January 12, 2017	0013
Court Order June 12, 2017	0116-0119
Hearing Master's Recommendations May 1, 2017	0032-0035
Joinder of State's Objection May 22, 2017	0103-0115
Objection to Hearing Master's Recommendations May 1 2017	0036-0091
Order for Expedited Transcripts June 13, 2017	0124
Order Terminating Parental Rights February 18, 2017	0014-0021
Out of Home placement Order August 11, 2016	0009-0012
Out of Home Placement Order February 7, 2017	0028-0031
Petition August 5, 2015	0004-0005
Protective Custody Order Filed July 29, 2015	0001-0003
Report for Placement Review January 30, 2017	0022-0027
Response to Objection June 22, 2107	0092-0102

CERTIFICATE OF MAILING

I hereby certify that service of the **PETITIONER'S APPENDIX** was made this 19th day of June, 2017, by electronic mailing, addressed to the following:

RAYMOND E. MCKAY, ESQ.
7251 West Lake Mead Boulevard,
Suite 250
Las Vegas. Nevada 89128
(702) 284-5919
Attorney for E.R. Rodriguez
raymond.mckay@libertymutual.com

JOHN BLACKMON, III, ESQ.
2200 Paseo Verde Parkway,
Suite 350
Henderson, Nevada 89052
702-476-2400
Attorney for Stephanie and Joe Rozier
jblackmon@fordfriedmanlaw.com

GREGORY MILLS, ESQ.
703 S. Eighth Street
Las Vegas, NV 89101
(702) 386-0030
Attorney for Philip and Regina Rivera
gregor@millsnv.com
attorneys@millsnv.com
klivreri@millsnv.com

HONORABLE JUDGE CYNTHIA GIULIANI
Department K
601 North Pecos Road
Las Vegas, Nevada 89101

Robin C. R

Clark County District Attorney's Office,
Juvenile Division

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

Electronically Filed
07/29/2015 04:05:14 PM

CLERK OF THE COURT

In the Matter of:
ESTHER RODRIGUEZ
Date of Birth: 06.15.2015 Age: 0 yrs. 01 month

CASE NO.: J-15-3
DEPT. NO.: JUVENILE
COURTROOM: D

Natural Mother's Name: Nellie Saez

Natural Father's Name: Pedro Rodriguez

PROTECTIVE CUSTODY FINDINGS AND ORDER

This matter having come before the Court on July 29, 2015, for a protective custody hearing pursuant to NRS 432B.470 and NRS 432B.480. Present in Court for the hearing were Martha Cardiel of the Department of Family Services, Deputy District Attorney Abbie Frierson, and Nellie Saez and Pedro Rodriguez, and based on the statements made and the report that was submitted:

THE COURT FINDS that the mother of the child is Ms. Nellie Saez who has named Pedro Rodriguez as the biological father of the child; that she was and is married to Troy Melendez.

THE COURT FURTHER FINDS that the above-named father, Pedro Rodriguez, is listed on the child's birth certificate.

THE COURT FURTHER FINDS that:

_X_ an inquiry was made into whether the Indian Child Welfare Act applies to this family and the parents denied that there is any Native American heritage.

THE COURT FURTHER FINDS that Ms. Saez and Mr. Rodriguez have been advised of their right to be represented by an attorney and their right to present statements regarding the protective custody of the child.

THE COURT FURTHER FINDS there is reasonable cause to believe that it would be contrary to the welfare of the child to remain at her home. Specifically, the Court finds that there are concerns of homelessness, drug abuse by natural father and medical incapacity by natural mother. On July 26, 2015, natural mother suffered a seizure while walking with the natural father and child. Natural mother was transported to UMC for medical care. Natural father, whose response to the seizure was to spray water

on natural mother, appeared to be under the influence of a controlled substance. There are no relatives in Nevada or friends in Las Vegas willing to provide for the minor child. Natural father later admitted to use of controlled substances, reportedly heroin. Natural mother has medication for her seizures but reportedly is "paranoid" of taking pills and does not follow the doctor's orders.

THE COURT FURTHER FINDS the child was placed in protective custody on July 27, 2015.

THE COURT FURTHER FINDS that the child

__X__ should remain in protective custody pending a disposition of the Court;

THE COURT FURTHER FINDS that the Clark County Department of Family Services provide for the placement, care and supervision of the above-named subject minor.

THE COURT FURTHER FINDS that the following reasonable efforts have been made to prevent the removal of the child: A Safety and Risk assessment has been completed.

THE COURT FURTHER FINDS that visitation between Ms. Saez and Mr. Rodriguez with the child shall be supervised by the Department of Family Services.

IT IS FURTHER ORDERED that the natural mother/father be assessed and submit to drug testing.

IT IS FURTHER ORDERED that the Clark County Special Public Defenders' Office be appointed to represent the natural mother, and Maria Avilez, Esq., be appointed to represent the natural father and a CAP attorney be appointed to represent subject minor.

IT IS FURTHER ORDERED that copies of the Protective Custody Report be transmitted to the attorneys appointed in this matter and that the attorneys maintain the confidentiality of the report and, if they are unable to confirm as an attorney of record in this case at the plea hearing that the report be destroyed or returned to the Court.

IT IS FURTHER ORDERED that a PLEA is set for August 6, 2015 at 9:00 a.m. in Courtroom 14.

Dated: July_29, 2015.

ROBERT W. TEUTON, ABUSE/NEGLECT
DISTRICT JUDGE-JUVENILE DIVISION

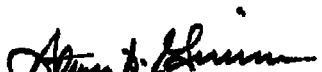
CERTIFICATE OF SERVICE

I hereby certify that on the above stamped date, I placed a copy of the foregoing in the folder(s) of Attorney(s):

Abbie Frierson, DDA
Special Public Defender, attorney for natural mother, Nellie Saez
Maria Avilez, attorney for natural father, Pedro Rodriguez
CAP, attorney for subject minor
in the Office of the Clerk of the Court.

Kelley Houston
Judicial Executive Assistant

Electronically Filed
08/05/2015 02:35:05 PM



CLERK OF THE COURT

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

In the Matter of Child:

ESTHER RODRIGUEZ	**DOB: 06-15-2015**	COURT CASE NO.: J-15-337398-P1
		UNITY CASE # 1407636
		DEPT.: FAMILY JUVENILE
		COURTROOM: HM KURTZ - #14
A Minor Under 18 Years of Age.		PETITION: 1 - ABUSE/NEGLECT
		PLEA: 08-06-2015 AT 9:00 A.M.

PETITION - ABUSE/NEGLECT

The Petitioner, a duly appointed and qualified Deputy District Attorney for the County of Clark, State of Nevada, makes the following declaration:

There is now living or found within the County of Clark, State of Nevada, a minor child whose residence address is: **UNKNOWN**

MOTHER:	**NELLIE SAEZ**	**DOB: 03-17-1972**
FATHER:	**PEDRO RODRIGUEZ**	**DOB: 06-26-1978**

The Petitioner is informed and believes, and therefore on information and belief alleges, that the facts bringing the subject minor within the jurisdiction of the Juvenile Court are:

The subject minor is a child in need of protection and this action is within the jurisdiction of the Court pursuant to N.R.S. 432B, et sec., in that:

(a) The mother to the minor child is NELLIE SAEZ; the father is PEDRO RODRIGUEZ;

(b) NELLIE SAEZ and PEDRO RODRIGUEZ were the persons directly responsible for the welfare of the subject minor pursuant to NRS 432B.130 at the time of removal;

(c) PEDRO RODRIGUEZ neglected the subject minor by engaging in the use of illegal substances, which rendered him unable to provide care for the subject minor when NELLIE SAEZ suffered a medical incident that likewise rendered her incapable of caring for the subject minor; PEDRO RODRIGUEZ admitted to regularly using illegal substances, and named heroin as his drug of choice;

(d) PEDRO RODRIGUEZ lacks the resources to provide for the health

and safety of the subject minor;

(e) PEDRO RODRIGUEZ failed to submit to drug testing that was recommended by both CPS and the court;

(f) NELLIE SAEZ lacks the resources to provide for the health and safety of the subject minor;

(g) NELLIE SAEZ failed to submit to drug testing that was recommended by both CPS and the court;

(h) The subject minor is in need of protection in accordance with NRS 432B.330 as a result of the abuse/neglect described above.

Therefore, Petitioner prays that: upon the admission to/or proving of this Petition, or any part thereof, the subject minor be declared a Ward of this Honorable Court.

The minor is in protective custody, having been placed there by the Department of Family Services.

THEREFORE, your Petitioner prays that this matter be set for hearing to determine the need for protection of the minor and for the Court to take such further action as is deemed fit and proper under the circumstances and in accordance with the law concerning protection of children.

I declare that I am the Petitioner named in the foregoing Petition and know the contents thereof; that this petition is true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 5th day of August, 2015

STEVEN B. WOLFSON
DISTRICT ATTORNEY

BY: _____
Deputy District Attorney
Petitioner

UNITY Doc.
JH/pf
CPS Central B
PC Held
Removal Date: 07-27-2015

DISTRICT COURT
CLARK COUNTY, NEVADA

Juvenile Protection	COURT MINUTES	September 03, 2015

J-15-337398-P1 Saez, Nellie, Mother

September 03, 2015	1:30 PM	Adjudicatory Trial

HEARD BY:	Kurtz, Thomas G.	COURTROOM:	Courtroom 14

PARTIES:	
State of Nevada:	Attorney: Hanrahan, Janne M
Mother: Saez, Nellie	Attorney: Oliver, Melissa
	Attorney: Special Public Defender
Father: Rodriguez, Pedro	Attorney: Perez Avilez, Maria A
Not Present: Rodriguez, Esther	Attorney: Children's Attorney Project

COURT CLERK:	Julie Richmond

JOURNAL ENTRIES

- (Esther Rodriguez) Department of Family Services (DFS) represented by Martha Cardiel. Children's Attorney Project (CAP) represented by Eunice Beattie, Bar #10382.

Court noted this matter is set for trial today.

Ms. Oliver stated Mother will enter a NO CONTEST plea to the Petition filed on 8/5/15. Ms. Oliver further stated, as to placement, the District Attorney wants Mother to stay where she is at for a minimum of two weeks to show some stability, Mother shall do a substance abuse assessment and as long as her levels are going down they will consider her as placement for the child.

Ms. Avilez stated Father will also enter a NO CONTEST plea to the Petition filed on 8/5/15 with no amendments.

Court canvassed the parents and explained the parent's rights. Court ACCEPTED the parent's pleas of NO CONTEST to Petition 1 as written.

Following statements, COURT RECOMMENDED, Matter set for DISPOSITION as to the parents.

FUTURE HEARINGS:	09/29/2015 10:00 AM Disposition Hearing Mother Courtroom 11 Teuton, Robert W.
	01/26/2016 1:30 PM Review Hearing Courtroom 14 Kurtz, Thomas G.

DISTRICT COURT
CLARK COUNTY, NEVADA

Juvenile Protection **COURT MINUTES** October 06, 2015

J-15-337398-P1 Saez, Nellie, Mother

October 06, 2015	**10:00 AM**	**Disposition Hearing**

HEARD BY:	Teuton, Robert W.	**COURTROOM:**	Courtroom 11

PARTIES:	
State of Nevada:	**Attorney: Madden, Mary-Margaret**
Not Present: Saez, Nellie	**Attorney: Oliver, Melissa**
Not Present: Saez, Nellie	**Attorney: Special Public Defender**

COURT CLERK:	Rosa Ardesch

JOURNAL ENTRIES

- Deputy District Attorney Mary Margaret Madden, present.

(Esther Rodriguez) Department of Family Services (DFS) represented by Martha Cardiel.

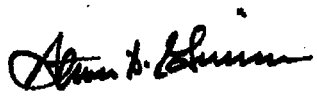
Special Public Defender (SPD) Melissa Oliver, present on behalf of Nellie Saez (not present).

Following statements, COURT FINDS and ORDERED:

Case Plan as to natural mother Nellie Saez is accepted and adopted as submitted. Subject minor was previously DECLARED A WARD OF THE COURT; LEGAL CUSTODY to the Department of Family Services. Review Hearing STANDS.

FUTURE HEARINGS:	01/26/2016 1:30 PM Review Hearing Courtroom 14 Kurtz, Thomas G.

Electronically Filed
08/11/2016 03:04:13 PM



CLERK OF THE COURT

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Tanner Sharp
Deputy District Attorney
Juvenile Division
Nevada Bar No. 13018
601 North Pecos
Las Vegas, Nevada 89101
(702) 455-5320

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

In the Matter of:

ESTHER BELLA RODRIGUEZ Date of Birth: 06-15-2015 A Minor, 1 Years and 01 Month(s) of Age	COURT CASE NO.: J-15-337398-P1 DEPT.: FAMILY JUVENILE COURTROOM: HM NORHEIM - #14

OUT-OF-HOME PLACEMENT ORDER - Licensed Foster Home

This matter having come on for Permanency and Placement Review before the Family Court, Eighth Judicial District, County of Clark, State of Nevada, Clark County Department of Family Services, on this 2 day of August, 2016, with parent(s) NELLIE SAEZ being present in Court, and subject minor(s) being available to the Court, and the Court finding that the minor(s) come(s) within the provisions of NRS 432B.410, 432B.550, 432B.580, 432B.590, and 432B.600, and good cause being shown;

THE COURT FINDS that continuation of the minor(s) in the home of the parent(s)/guardian(s), NELLIE SAEZ, is contrary to the welfare of the child(ren);

THE COURT FURTHER FINDS that reasonable efforts have been made as cited in the Permanency and Planning Review Report to prevent or eliminate the need for removal of the child(ren) from NELLIE SAEZ home;

THE COURT FURTHER FINDS that reasonable efforts have been made as cited in the Permanency and Planning Review Report to make it possible for the child(ren) to return to the home of NELLIE SAEZ; accordingly,

IT IS HEREBY RECOMMENDED that ESTHER BELLA RODRIGUEZ is continued as a Ward of the Family Court as a child in Need of Protection;

IT IS FURTHER RECOMMENDED that legal custody remains with the Clark County Department of Family Services for placement until ESTHER BELLA RODRIGUEZ reach(es) the statutory age as prescribed by law, or until further Order of the Court. Control and custody is awarded with all necessary authority and power to furnish, provide, and authorize care and services to the subject minor(s) as may seem necessary and proper, and in the child(ren)'s best interest and welfare, including but not limited to: food, clothing, shelter, education, and routine medical care and treatment;

IT IS FURTHER RECOMMENDED that the Clark County Department of Family Services shall have legal authority to access and obtain any records that relate to the child's well being to include but not limited to: medical, dental, educational, mental health, and substance abuse;

IT IS FURTHER RECOMMENDED that the Permanency Plan goal of Adoption as recommended by the Clark County Department of Family Services is in the child(ren)'s best interest and shall be adopted by the Court;

IT IS FURTHER RECOMMENDED that continuation of reasonable efforts to reunify ESTHER BELLA RODRIGUEZ with NELLIE SAEZ, as required by NRS 432B.393 is not consistent with the Permanency Plan;

...
...
...
...

IT IS FURTHER RECOMMENDED that the following efforts that have been made by the Clark County Department of Family Services to meet the permanency goal are reasonable efforts:

1. The Department referred MS. SAEZ to Drug Tests.
2. The Department referred MS. SAEZ to a Substance Abuse Assessment.
3. The Department attempted to coordinate visitation as to MS. SAEZ and ESTHER.
4. The Department attempted to maintain contact with MS. SAEZ.
5. The Department conducted a Diligent Search as to MS. SAEZ.
6. The Department conducts announced and unannounced home visits to ensure ESTHER'S safety and well-being and that her needs are being met.
7. The Department provided Medicaid for ESTHER.
8. The Department ordered medical records for ESTHER.
9. The Department contacted paternal relatives regarding a possible ICPC as to ESTHER.
10. The Department coordinated DNA testing with paternal relatives and ESTHER.
11. The Department located a potential adoptive resource as to ESTHER.

IT IS FURTHER RECOMMENDED that sibling visitation is not applicable;

IT IS FURTHER RECOMMENDED that:

☒ Child Support is waived;

☐ Child support is ordered in the amount of $_____ for _____ per child;

IT IS FURTHER RECOMMENDED that the ESTHER BELLA RODRIGUEZ is placed in a licensed foster home.

IT IS FURTHER FOUND AND RECOMMENDED that neither the physical custodian(s) nor the parent(s) may remove the subject minor(s) from the State of Nevada without the written consent of the Clark County Department of Family Services or by Order of the Court;

IT IS FURTHER RECOMMENDED that this matter be reviewed on the 7th day of February, 2017, at the hour of 1:30 p.m., Department: Family Juvenile.

You are hereby notified that you have a right to a rehearing pursuant to Eighth Judicial District Court Rule 1.46. An application for rehearing must be filed within five days after receipt of the Referee's Findings and Recommendations.

Dated this 2nd day of August, 2016.

JUVENILE HEARING MASTER
JON W. NORHEIM

IT IS SO ORDERED.

Dated this 2 day of August, 2016.

DISTRICT JUDGE – JUVENILE
CHARLES J. HOSKIN

Submitted by:

KRISTINA QUINLAN
CASE MANAGER
DEPARTMENT OF FAMILY SERVICES

Submitted by:

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: _____
Deputy District Attorney

COURT CASE NO.: J-15-337398-P1

Hay servicios gratis de ayuda con otros idiomas. Para pedir un intérprete, llame por favor al Coordinador de Servicios de Intérpretes al *671-4578*.

Free language assistance services are available. To request an interpreter, please call the Language Assistance Coordinator at *671-4578*.

DISTRICT COURT
CLARK COUNTY, NEVADA

Termination of Parental Rights - State **COURT MINUTES** January 12, 2017

D-16-541838-R In the Matter of the Parental Rights of:
Esther Rodriguez,
Minor(s).

January 12, 2017 **10:00 AM** **Hearing for Termination of Parental Rights**

HEARD BY: Norheim, Jon **COURTROOM:** Courtroom 14

COURT CLERK: Lillian Hillhouse
PARTIES: Petitioner: State of Nevada Attorney: Barrett, Joseph Thomas

JOURNAL ENTRIES

(Esther Rodriguez) Department of Family Services (DFS) represented by Kristina Quinlan.

COURT NOTED that the minor's attorney was not present.

Atty. Kimberly Abbot, of the Children's Attorney Project, made an appearance and inquired as to whether or not the minor's attorney received notice of today's hearing.

DA Barrett advised it is unknown whether or not he received notice. DA Barrett requested to proceed with prove up as to the mother, John Doe, and any and all putative fathers.

Kristina Quinlan SWORN IN and TESTIFIED.

COURT FINDS, the State has met its burden by clear and convincing evidence. The best interest of the subject minor would be served by termination of parental rights as they are in an adoptive placement. Grounds as to the mother are failure of parental adjustment, token efforts, and abandonment. Grounds as to John Doe and any and all putative fathers is abandonment. COURT RECOMMENDED, the Petition to Terminate Parental Rights shall be GRANTED as to Respondent mother, Nellie Vega Saez, Respondent father, John Doe, and any and all putative fathers. Minor's attorney shall sign off on the order. The State shall file the Order.

PRINT DATE:	01/13/2017	Page 1 of 1	Minutes Date:	January 12, 2017

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

PFFRI
STEVEN B. WOLFSON
District Attorney
Nevada State Bar No.1565
By: JOSEPH BARRETT
Deputy District Attorney
Juvenile Division
Nevada Bar No. 13450
601 N. Pecos
Las Vegas, NV 89101
(702) 455-5320

Electronically Filed
02/18/2017 09:39:17 AM

CLERK OF THE COURT

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

* * *

In the Matter of the Parental Rights as to ESTHER BELLA RODRIGUEZ, A Minor.	Case No. D-16-541838-R Department Dependency 1 Courtroom 14 - HM NORHEIM

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

The above-entitled matter came on for a Termination of Parental Rights hearing before the Court on the 12th day of January, 2017. Present at the hearing were the Petitioners, the Department of Family Services (DFS), by and through Case Manager Kristina Quinlan, and Clark County District Attorney STEVEN B. WOLFSON, by and through his Deputy District Attorney, JOSEPH BARRETT. The 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. The State has met its burden by clear and convincing evidence, and the Court, being fully advised in the premises on the facts and the law, makes its Findings of Fact, Conclusions of Law and final Order as follows:

FINDINGS OF FACT

I

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

II

ESTHER BELLA RODRIGUEZ was born on June 15, 2015, in Las Vegas, Clark County, Nevada.

III

ESTHER BELLA RODRIGUEZ currently resides in foster care in Clark County, Nevada, licensed by the Clark County Department of Family Services.

IV

ESTHER BELLA RODRIGUEZ was adjudicated a neglected child and made a Ward of the Eighth Judicial Court, Juvenile Division, in Case No. J-15-337398-P1, and placed into the custody of the Department of Family Services. ESTHER BELLA RODRIGUEZ was placed into physical custody on July 27, 2015 and the Clark County Department of Family Services has maintained legal custody of ESTHER BELLA RODRIGUEZ since September 15, 2015.

V

The birth certificate for ESTHER BELLA RODRIGUEZ, issued by the State of Nevada - Department of Health and Human Services, Division of Public and Behavioral Health, Vital Statistics lists the mother's name as NELLIE VEGA SAEZ, and no father's name is listed. It is unknown if NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ was married at the time of the birth of ESTHER BELLA RODRIGUEZ. The mother named PEDRO RODRUGIEZ as the father of ESTHER BELLA RODRIGUEZ. The alleged paternal grandparents, LEONOR MUNOZ MERAZ and EPIFANIO RODRIGUEZ ALVAREZ, submitted to genetic testing and the results concluded that they are not the biological grandparents of ESTHER BELLA RODRIGUEZ, since they lack genetic markers that must come from the biological parents of the alleged father, the probability being 0.00%. No person is the legally presumed, legal or putative father of ESTHER BELLA RODRIGUEZ. The true identity of the natural father of ESTHER BELLA RODRIGUEZ is unknown and he will be referred to as JOHN DOE from herein.

VI

NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ,

aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity are necessary and proper parties to these proceedings.

VII

As defined in NRS 128.012, NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity have abandoned ESTHER BELLA RODRIGUEZ, in that for at least the last six (6) months, they have conducted themselves in a manner that evinces a settled purpose to forego all parental custody and relinquish all claims to this child. Further, since the period of abandonment is in excess of six (6) months, it is presumed that NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity intended to abandon ESTHER BELLA RODRIGUEZ.

VIII

Pursuant to NRS 128.105(1)(b)(4), NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ has failed within a reasonable period of time to remedy substantially conditions which led to ESTHER BELLA RODRIGUEZ's out-of-home placement, even though appropriate and reasonable efforts have been made on the part of state agencies and others to return and to reunite NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ with ESTHER BELLA RODRIGUEZ.

IX

Pursuant to NRS 128.105(1)(b)(6), NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ has

made only token efforts to support or communicate with ESTHER BELLA RODRIGUEZ, to prevent neglect of this child; to avoid being an unfit parent and to eliminate the risk of serious physical, mental and emotional injury to this child.

X

Pursuant to NRS 128.105 (1), 128.107 and 128.109, the best interests of ESTHER BELLA RODRIGUEZ will be served by terminating the parental rights of NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity.

XI

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

CONCLUSIONS OF LAW

I

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

II

NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ is the natural mother of ESTHER BELLA RODRIGUEZ.

III

As defined in NRS 128.012, NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity have abandoned ESTHER BELLA RODRIGUEZ, in that for at least the last six (6) months, they have conducted themselves in a manner that evinces a settled purpose to forego all parental custody and relinquish all claims to this child. Further, since the period of abandonment is in excess of six (6) months, it is presumed that NELLIE VEGA SAEZ, aka NELLIE

SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity intended to abandon ESTHER BELLA RODRIGUEZ.

IV

Pursuant to NRS 128.105(1)(b)(4), NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ has failed within a reasonable period of time to remedy substantially conditions which led to ESTHER BELLA RODRIGUEZ's out-of-home placement, even though appropriate and reasonable efforts have been made on the part of state agencies and others to return and to reunite NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ with ESTHER BELLA RODRIGUEZ.

V

Pursuant to NRS 128.105(1)(b)(6), NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ has made only token efforts to support or communicate with ESTHER BELLA RODRIGUEZ, to prevent neglect of this child; to avoid being an unfit parent and to eliminate the risk of serious physical, mental and emotional injury to this child.

VI

Petitioner has proved by clear and convincing evidence that the interests of ESTHER BELLA RODRIGUEZ would be best served by the termination of the parent-child relationship absolutely and forever and that parental fault exists.

VII

Petitioner has proved by clear and convincing evidence that NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka

NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ is an unsuitable parent based on abandonment, failure of parental adjustment and token efforts. Petitioner has proved by clear and convincing evidence that JOHN DOE and all other persons claiming paternity are unsuitable parents based upon abandonment.

VIII

The parental rights of NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity should be terminated, and the minor child should be declared free from the custody, care and control of the parents.

IX

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 NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity are terminated absolutely and forever; it is further

ORDERED, ADJUDGED AND DECREED that ESTHER BELLA RODRIGUEZ is declared free from the custody and control of NELLIE VEGA SAEZ, aka NELLIE SAEZ, aka NELLIE C SAEZ, aka NELLIE CAROLINA SAEZ, aka NELLIE C VEGASAEZ, aka NELLIE VEGA, aka NELLY SAENZ, aka NELLLIE SAEZ, aka CAROLINA VEGA, aka MARIA GAYTAN TALLEZ, JOHN DOE, and all other persons claiming paternity; it is further

ORDERED, ADJUDGED AND DECREED that the custody and control of ESTHER BELLA RODRIGUEZ is vested in the Department of Family Services of the State of Nevada with authority to place the minor child for adoption; it is further

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

Dated this ____ day of _____, 2017.

_____
JUVENILE HEARING MASTER

Dated this ____ day of _____, 2017.

_____
DISTRICT COURT JUDGE

Reviewed and Approved by:

By:_____
RAYMOND McKAY, ESQ.
Nevada Bar No. 8569
Attorney for minor child

Submitted by:

STEVEN B. WOLFSON
District Attorney

By:_____
JOSEPH BARRETT
Deputy District Attorney
Juvenile Division
Nevada Bar No. 13450
601 N. Pecos Road, #470
Las Vegas, NV 89101
(702) 455-5320
JB/trr

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

Dated this 16 day of February, 2017.

JUVENILE HEARING MASTER
JON NORHEIM

Dated this 16 day of February, 2017.

DISTRICT COURT JUDGE

Reviewed and Approved by:

By: _____
RAYMOND McKAY, ESQ.
Nevada Bar No. 8569
Attorney for minor child

Submitted by:

STEVEN B. WOLFSON
District Attorney

By: _____
JOSEPH BARRETT
Deputy District Attorney
Juvenile Division
Nevada Bar No. 13450
601 N. Pecos Road, #470
Las Vegas, NV 89101
(702) 455-5320
JB/trr

CLARK COUNTY
DEPARTMENT OF FAMILY SERVICES
121 SOUTH MARTIN LUTHER KING BLVD.
LAS VEGAS, NEVADA 89106
(702) 455-7200

Electronically Filed
01/30/2017 12:42:10 PM

CLERK OF THE COURT

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

In the Matter of:

ESTHER BELLA RODRIGUEZ
Date of Birth: 06-15-2015
A Minor 1 years, 07 Months of Age

COURT CASE NO.: J-15-337398-P1
DEPT.: FAMILY JUVENILE

REPORT FOR PERMANENCY AND PLACEMENT REVIEW

Date of Hearing: 02-07-2017

Time of Hearing: 01:30 PM

Courtroom: HM NORHEIM - #14

Attachment:

CONCERNING:

Mother: NELLIE SAEZ
DOB: 03-17-1972
Address: Unknown

Father: UNKNOWN
DOB:
Address:

Siblings: The Department learned in October 2016 that ESTHER has a half-sibling in the adoption process in California. ESTHER may have additional half-siblings; their locations are unknown.

☒ The Indian Child Welfare Act does not apply.
☐ The Indian Child Welfare Act does apply.

NOTIFICATION OF HEARING AND TYPE OF SERVICE

Mother:	Not Applicable
Father(s):	Not Applicable
Current Placement:	Via email and certified mail January 24, 2017
CASA:	Not Applicable
Child's Attorney:	Via email and certified mail January 24, 2017
Mother's Attorney:	Not Applicable
Father's Attorney:	Not Applicable
Tribe:	Not Applicable

REMOVAL DATE:

July 27, 2015

TRIAL HOME VISIT DATES:

Not Applicable

REASON FOR CUSTODY AND COURT JURISDICTION (formally known as Wardship):

Petition No. 1 in this Matter cited:

> **(a) The mother to the minor child is NELLIE SAEZ; the father is PEDRO RODRIGUEZ;**
>
> **(b) NELLIE SAEZ and PEDRO RODRIGUEZ were the persons directly responsible for the welfare of the subject minor pursuant to NRS 432B.130 at the time of removal;**
>
> **(c) PEDRO RODRIGUEZ neglected the subject minor by engaging in the use of illegal substances, which rendered him unable to provide care for the subject minor when NELLIE SAEZ suffered a medical incident that likewise rendered her incapable of caring for the subject minor; PEDRO RODRIGUEZ admitted to regularly using illegal substances, and named heroin as his drug of choice;**
>
> **(d) PEDRO RODRIGUEZ lacks the resources to provide for the health and safety of the subject minor;**
>
> **(e) PEDRO RODRIGUEZ failed to submit to drug testing that was recommended by both CPS and the court;**
>
> **(f) NELLIE SAEZ lacks the resources to provide for the health and safety of the subject minor;**
>
> **(g) NELLIE SAEZ failed to submit to drug testing that was recommended by both CPS and the court;**
>
> **(h) The subject minor is in need of protection in accordance with NRS 432B.330 as a result of the abuse/neglect described above.**

PREVIOUS COURT ORDER DEEMED EFFORTS BY THE DEPARTMENT TO ACHIEVE THE PERMANENCY PLAN:

☒ Were Reasonable Efforts For: ESTHER RODRIGUEZ
☐ Were Not Reasonable Efforts For:

PERMANENCY GOAL AND PROJECTED DATE OF ACHIEVEMENT:

☐ Reunification With:
☒ Termination of Parental Rights and Adoption By: Current Foster Placement
☐ Guardianship By:
☐ Long Term Relative Placement With:
☐ Other Planned Permanent Living Arrangement With:
Projected Date of Achievement:

CONCURRENT PERMANENCY GOAL:

☐ Reunification With:
☐ Termination of Parental Rights and Adoption By:
☐ Guardianship By:
☐ Long Term Relative Placement With:
☐ Other Planned Permanent Living Arrangement With:

RATIONALE FOR PERMANENCY PLAN:

ESTHER has been in care since July 27, 2015. MS. SAEZ' parental rights and the rights of all potential fathers were terminated January 12, 2017. ESTHER has resided in her current foster placement since September 9, 2016. This placement is an adoptive resource.

PARENTS' PROGRESS:

Visitation

MS. SAEZ' parental rights were terminated January 12, 2017.

Housing

MS. SAEZ' parental rights were terminated January 12, 2017.

Employment

MS. SAEZ' parental rights were terminated January 12, 2017.

Counseling

MS. SAEZ' parental rights were terminated January 12, 2017.

Parenting

MS. SAEZ' parental rights were terminated January 12, 2017.

Other

The Department was contacted by MS. SAEZ' first cousin regarding possible placement of ESTHER in her home. An ICPC was submitted December 8, 2016 to the State of Georgia. The results are still pending.

CHILD(REN)'S CURRENT PLACEMENT:

ESTHER is placed in a licensed DFS Foster Home. She has resided in this placement since September 9, 2016. She appears bonded to her foster parents and comfortable in the home.

This placement is not within close proximity to the parent(s) for ESTHER BELLA RODRIGUEZ.

This placement is the least restrictive for ESTHER BELLA RODRIGUEZ.

CHILD(REN)'S WELL BEING:

Education

ESTHER is not of school age. She attends daycare at Kiddie Academy Mondays through Fridays from approximately 9:00 a.m. – 5:00 p.m. each day.

Placement

ESTHER is placed in a licensed DFS Foster Home. She has resided in this placement since September 9, 2016. She appears bonded to her foster parents and comfortable in the home. This placement is an adoptive resource.

Emotional/Counseling

ESTHER is not in need of counseling services at this time. ESTHER has a good temperament. She is a happy and loving child. ESTHER does appear to have a slight delay in speech and a referral to Nevada Early Intervention Services (NEIS) was submitted January 23, 2017.

Medical/Dental

ESTHER'S medical needs are met at Positively Kids. Her immunizations are current and she has no ongoing medical concerns at this time.

Safety

The Department conducts announced and unannounced home visits to ESTHER'S foster care placement at least every thirty days. The Department completes Permanency Services Placement Safety Checks and currently has no concerns with regards to ESTHER'S current placement.

Psychiatric Services –

Is the child listed in report currently on any psychotropic medication?

No

Has a Court appointed a person to be legally responsible for the child's psychiatric services?

Not Applicable

When was the child's last appointment? Not Applicable

When will the child have an appointment? Not Applicable

SIBLING CONTACT:

☐ Placed Together

☒ Not Placed Together – The Department learned in October 2016 that ESTHER has a half-sibling in the adoption process in California. ESTHER may have additional half-siblings; their locations are unknown.

REASONABLE EFFORTS TO ACHIEVE THE PERMANENCY PLAN:

Reasonable Efforts have been made in order to achieve Permanency for ESTHER. These efforts include the following:

On behalf of the parents:

1. The Parental Rights were terminated January 12, 2017.

On behalf of the child(ren):

1. The Department conducts announced and unannounced home visits at least every thirty days to ensure ESTHER'S safety and well-being and that her needs are being met.
2. The Department provided Medicaid for ESTHER.
3. The Department ordered ESTHER'S medical records.
4. The Department updated ESTHER'S Social Summary.
5. The Department submitted an ICPC as to ESTHER'S maternal cousin.
6. The Department referred ESTHER to Nevada Early Intervention Services (NEIS).
7. The Department maintains contact with ESTHER'S caregivers between in-person visits to monitor her progress in placement and assist with referrals as needed.

GOALS FOR THE NEXT REVIEW PERIOD:

1. The Department will continue to conduct announced and unannounced home visits to ensure ESTHER'S safety and well-being and that her needs are being met.
2. The Department will continue to order medical records and perform Social Summary updates as to ESTHER.
3. The Department will continue to make needed referrals for services for ESTHER.
4. Permanency will be established for ESTHER.

...

...

...

...

...

...

SUMMARY AND RECOMMENDATIONS:

ESTHER was brought in to care July 27, 2015 and placed in Protective Custody due to concerns of abuse and neglect. ESTHER has resided in her current foster placement since September 9, 2016. This placement is an adoptive resource. MS. SAEZ' parental rights and the rights of all potential fathers were terminated January 12, 2017. The Department was contacted by ESTHER'S maternal cousin in October of 2016 and an ICPC as to the cousin was submitted December 8, 2016. The results of the ICPC are still pending.

The Department respectfully recommends that ESTHER BELLA RODRIGUEZ remain a Ward of the Court and placed in her current foster placement.

CHILD SUPPORT:

Not Applicable

WHEREFORE, DEPARTMENT OF FAMILY SERVICES RESPECTFULLY RECOMMENDS:

(1) That ESTHER BELLA RODRIGUEZ remain under the jurisdiction of the Family Court and in the legal custody of the Clark County Department of Family Services;
(2) That the efforts made by the Department of Family Services are found to be reasonable efforts as outlined in this report;
(3) That this matter be brought back for Formal Review in six months.

Submitted By:

Kristina Quinlan Taryn LaMaison

KRISTINA QUINLAN
CASE MANAGER
CLARK COUNTY
DEPARTMENT OF FAMILY SERVICES

TARYN LAMAISON
SUPERVISOR

DATE: January 30, 2017
COURT CASE NO.: J-15-337398-P1
SITE: Central Perm F

Electronically Filed
02/07/2017
CLERK OF THE COURT

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Tanner Sharp
Deputy District Attorney
Juvenile Division
Nevada Bar No. 13018
601 North Pecos
Las Vegas, Nevada 89101
(702) 455-5320

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

In the Matter of:

ESTHER BELLA RODRIGUEZ Date of Birth: 06-15-2015 A Minor, 1 Years and 07 Month(s) of Age.	COURT CASE NO.: J-15-337398-P1 DEPT.: FAMILY JUVENILE COURTROOM: HM NORHEIM - #14

OUT-OF-HOME PLACEMENT ORDER - Licensed Foster Home

This matter having come on for Permanency and Placement Review before the Family Court, Eighth Judicial District, County of Clark, State of Nevada, Clark County Department of Family Services, on this 7 day of February, 2017 with parent(s) NELLIE SAEZ not being present in Court, and subject minor(s) being available to the Court, and the Court finding that the minor(s) come(s) within the provisions of NRS 432B.410, 432B.550, 432B.580, 432B.590, and 432B.600, and good cause being shown;

THE COURT FINDS that continuation of the minor(s) in the home of the parent(s)/guardian(s), SAEZ, NELLIE , is contrary to the welfare of the child(ren);

THE COURT FURTHER FINDS that reasonable efforts have been made as cited in the Permanency and Planning Review Report to prevent or eliminate the need for removal of the child(ren) from SAEZ, NELLIE home;

THE COURT FURTHER FINDS that reasonable efforts have been made as cited in the Permanency and Planning Review Report to make it possible for the child(ren) to return to the home of SAEZ, NELLIE ; accordingly,

IT IS HEREBY RECOMMENDED that ESTHER BELLA RODRIGUEZ is continued as a Ward of the Family Court as a child in Need of Protection;

IT IS FURTHER RECOMMENDED that legal custody remains with the Clark County Department of Family Services for placement until ESTHER BELLA RODRIGUEZ reach(es) the statutory age as prescribed by law, or until further Order of the Court. Control and custody is awarded with all necessary authority and power to furnish, provide, and authorize care and services to the subject minor(s) as may seem necessary and proper, and in the child(ren)'s best interest and welfare, including but not limited to: food, clothing, shelter, education, and routine medical care and treatment;

IT IS FURTHER RECOMMENDED that the Clark County Department of Family Services shall have legal authority to access and obtain any records that relate to the child's well being to include but not limited to: medical, dental, educational, mental health, and substance abuse;

IT IS FURTHER RECOMMENDED that the Permanency Plan goal of Adoption as recommended by the Clark County Department of Family Services is in the child(ren)'s best interest and shall be adopted by the Court;

IT IS FURTHER RECOMMENDED that continuation of reasonable efforts to reunify ESTHER BELLA RODRIGUEZ with SAEZ, NELLIE , as required by NRS 432B.393 is not consistent with the Permanency Plan;

IT IS FURTHER RECOMMENDED that the following efforts that have been made by the Clark County Department of Family Services to meet the permanency goal are reasonable efforts:

1. The Parental Rights were terminated January 12, 2017.
2. The Department conducts announced and unannounced home visits at least every thirty days to ensure ESTHER'S safety and well-being and that her needs are being met.
3. The Department provided Medicaid for ESTHER.
4. The Department ordered ESTHER'S medical records.
5. The Department updated ESTHER'S Social Summary.
6. The Department submitted an ICPC as to ESTHER'S maternal cousin.
7. The Department referred ESTHER to Nevada Early Intervention Services.
8. The Department maintains contact with ESTHER'S caregivers between in-person visits to monitor her progress in placement and assist with referrals as needed.

IT IS FURTHER RECOMMENDED that sibling visitation is not applicable;

IT IS FURTHER RECOMMENDED that:

☒ Child Support is waived;

☐ Child support is ordered in the amount of $_____ for _____ per child;

IT IS FURTHER RECOMMENDED that the ESTHER BELLA RODRIGUEZ is placed in a licensed foster home.

IT IS FURTHER FOUND AND RECOMMENDED that neither the physical custodian(s) nor the parent(s) may remove the subject minor(s) from the State of Nevada without the written consent of the Clark County Department of Family Services or by Order of the Court;

IT IS FURTHER RECOMMENDED that this matter be reviewed on the 8th Day of August, 2017, 1:30 PM Department: Family Juvenile.

You are hereby notified that you have a right to a rehearing pursuant to Eighth Judicial District Court Rule 1.46. An application for rehearing must be filed within five days after receipt of the Referee's Findings and Recommendations.

Dated this 7th day of February, 2017.

JUVENILE HEARING MASTER

IT IS SO ORDERED.

Dated this 7th day of February, 2017.

DISTRICT JUDGE – JUVENILE

Submitted by:

KRISTINA
QUINLAN
CASE MANAGER
DEPARTMENT OF FAMILY SERVICES

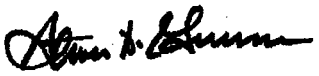
Submitted by:

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: _____
Deputy District Attorney

COURT CASE NO.: J-15-337398-P1

Electronically Filed
05/01/2017 01:54:32 PM



CLERK OF THE COURT

ORD
STEVEN B. WOLFSON
District Attorney
Nevada State Bar No. 1565
TANNER SHARP
Deputy District Attorney
Nevada State Bar No. 13018
Juvenile Division
601 N. Pecos Rd., Ste. 470
Las Vegas, Nevada 89101
(702) 455-5320

DISTRICT COURT
FAMILY DIVISION - JUVENILE
CLARK COUNTY, NEVADA

In the Matter of: ESTHER RODRIGUEZ DOB: 06-15-2015 Minor under 18 Years of Age	CASE NO. J-15-337398-P1 DEPT: FAMILY JUVENILE COURTROOM: 14

HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

This matter came before the Court for an evidentiary hearing on placement on April 13, 2017 and April 14, 2017. Present in Court was the Department of Family Services, represented by Kristina Quinlan; Tanner Sharp, Esq. in behalf of the Clark County District Attorney's Office; maternal relatives Stephanie and Joe Rozier; foster parents Philip and Regina Rivera; and, Raymond McKay, Esq. attorney for the subject minor.

The Court, having reviewed the testimony and evidence offered during the hearing, the record in this matter, relevant statutes, and oral argument, and good cause being shown, makes the following findings and recommendation:

THE COURT HEREBY FINDS that the Department should have located the Rozier's earlier as they had contact with Esther's adult, half sibling Carolina and as Carolina had contact with the Rozier's.

RECEIVED
APR 25 2017
JUVENILE DIVISION

THE COURT FURTHER FINDS that the Department should have notified the Rivera's sooner as to possible placement with the Rozier's.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's are credible witnesses. The Court finds that the two Department employees were inconsistent in their testimony with regard to the information relayed to the Rozier's regarding placement of Esther. As such, the Court does not find the Department's testimony credible as to that issue alone.

THE COURT FURTHER FINDS that the Rozier's demonstrated a reasonable excuse for the delay in coming forward and requesting placement of Esther.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's are extremely good and dedicated parents.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have good, strong family connections. That both are family oriented and would give Esther the opportunity to have a large extended family.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have well thought out plans for Esther's education, moral upbringing, and social interaction.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have good community involvement. That both are involved in church and other organizations.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have more than adequate resources to care for Esther.

THE COURT FURTHER FINDS that Esther is incredibly bonded with the Rivera's and that the Rivera's have proven that they have the ability to care for Esther.

THE COURT FURTHER FINDS that the Rozier's have a biological family connection with Esther and that it is highly likely that the Rozier's will end up with one of the siblings.

THE COURT FURTHER FINDS that the courts and legislature have determined that when comparing bonding with biological, family connection, family connection is the overriding

consideration and the family is where the child should be placed, despite the trauma that Esther will experience with a fourth removal.

Therefore,

THE COURT RECOMMENDS that the subject minor be placed with the Rozier's on the following two conditions: (1) Rozier's must provide proof that they have the requisite familial relationship with Esther as represented in court and (2) the Rozier's must comply with the trauma minimization transition as outlined by the Department during the hearing. Placement will not take place should these conditions not be met.

IT IS SO RECOMMENDED on this 25th day of April, 2017.

HEARING MASTER

****
****

NOTICE OF RIGHT TO FILE OBJECTION TO MASTER'S RECOMMENDATIONS

Objections to the Hearing Master's Recommendations are governed by EDCR 1.46. No Recommendations by the Hearing Master will become effective until expressly approved by the Presiding Juvenile District Court Judge. The Applicant has five (5) days after receipt of this Hearing Master's Recommendations to apply to the Presiding Juvenile District Court Judge for a hearing. Failure to properly file an Application for Hearing shall result in an Order of Approval being entered by the District Court.

****
****

RECEIPT OF SERVICE

Tanner L. Sharp, District Attorney for the State of Nevada, does hereby acknowledge receipt of HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS this _____ day of April, 2017.

By: _____
TANNER L. SHARP
Nevada Bar No. 13018
Deputy District Attorney

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS, was made this 1ST day of ~~April~~ May, 2017, by electronic mailing and/or facsimile and/or depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RAYMOND MCKAY, ESQ.

STEPHANIE AND JOE ROZIER
229 BRITTANY COURT
MACON, GEORGIA 31216

KRISTINA QUINLAN (DFS)

BY _____
An employee of the District Attorney's Office
Juvenile Division

PPOBJ
STEVEN B. WOLFSON, ESQ.
District Attorney
Nevada State Bar No.1565
TANNER SHARP
Deputy District Attorney
Nevada Bar No. 13018
Juvenile Division
601 North Pecos Rd., #470
Las Vegas, NV 89101
(702) 455-5320

Electronically Filed
05/01/2017 03:48:05 PM

CLERK OF THE COURT

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

* * *

In the Matter of the Child: ESTHER RODRIGUEZ Date of Birth: 06/15/15 A Minor.	Case No. J-15-337398-P1 Dept. No. Dependency 1 Courtroom 14

OBJECTION TO HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

COMES NOW, the Clark County Department of Family Services, (hereinafter "DFS"), by and through the Clark County District Attorney's Office, by and through STEVEN B. WOLFSON, District Attorney and TANNER SHARP, Deputy District Attorney, and files this OBJECTION TO HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS.

This Objection is based upon the attached Points and Authorities and the oral arguments of counsel at the time of the hearing if so requested by the Court.

DATED this 1st day of MAY, 2017.

Submitted by:
STEVEN B. WOLFSON
District Attorney

Tanner Sharp
Deputy District Attorney
Nevada Bar No. 13018
Juvenile Division

NOTICE OF OBJECTION

TO: Raymond McKay, counsel for ESTHER RODRIGUEZ;

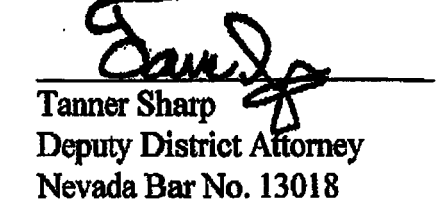
TO: Stephanie Rozier;

TO: Kristina Quinlan;

NOTICE IS HEREBY GIVEN that the Clark County Department of Family Services will bring its Objection on for hearing in Dependency 1, Courtroom 14 of the Eighth Judicial District Court, Family Division located at 601 North Pecos Road, Las Vegas, Nevada, on the 23rd day of May, 2017, at the hour of 10:30 a.m. or as soon as possible thereafter.

DATED this 1st day of May, 2017.

Submitted by:
STEVEN B. WOLFSON
District Attorney



Tanner Sharp
Deputy District Attorney
Nevada Bar No. 13018
Juvenile Division

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

On July 27, 2015, the DFS removed Esther Rodriguez (hereinafter "Esther") from the care of her natural mother, Nellie Saez (hereinafter "Saez"), and was placed in a temporary foster home.[1] At the time of removal, Saez was asked for potential placements for Esther. Saez only provided the first name of Esther's adult half sibling Carolina. On July 29, 2015, the court placed Esther in protective custody. Esther was again moved and placed with a permanent foster home. On September 3, 2015, Saez plead no contest to a petition alleging that she failed to submit to drug testing and lacked

[1] Initially a putative father was named as well, but he was later determined not to be Esther's father after genetic testing.

resources to provide for Esther. On September 15, 2015, the Court took wardship of Esther. (See Affidavit in Support of Objection)

On or about July 29, 2015, DFS submitted a diligent search for family members in order to find potential placements. Four relatives were identified, including Esther's adult half sibling Carolina Tellez and two relatives living in Florida. Notice was sent to each of the relatives. (Exhibit 1: DFS Unity Record) On or about April 8, 2016, Ms. Quinlan, the DFS permanency caseworker, received a call from Carolina Tellez. Ms. Tellez reported that she had in person contact with Saez two to four times a month. Ms. Quinlan notified Ms. Tellez that Saez's rights may be terminated and that Esther may be adopted; however, Ms. Tellez reported she could not take placement and did not provide information as to any other family members who could take placement of Esther. (Exhibit 1: DFS Unity Record)

On August 2, 2016, the Court changed the permanency plan to termination of parental rights and adoption. On September 9, 2016, DFS placed Esther in the adoptive home of foster parents, Phillip and Regina Rivera. (See Affidavit in Support of Objection) On or about October 18, 2016, Stephanie Rozier (hereinafter "Rozier") contacted DFS requesting information as to Esther. On October 20, 2016, Ms. Quinlan contacted Rozier who reported that she and her husband were living in Georgia and interested in placement of Esther. Ms. Quinlan advised Rozier that Esther was in an adoptive foster home and inquired as to why Rozier had not come forward earlier in the case. Ms. Quinlan reported at the time of the call that Rozier was not able to provide a clear answer to the question. Ms. Quinlan advised Rozier that Esther had been in care for sixteen months and that she was in an adoptive home. She then discussed the ICPC process with Rozier and advised that she would work with Rozier to submit the ICPC; however, the final decision of placement belonged to the Court. (Exhibit 1: DFS Unity Record) Rozier reported to Ms. Quinlan that Esther had an older sibling who was also in an adoptive home and that she wanted placement of her as well. (Exhibit 1: DFS Unity Record). Rozier further advised that Saez was pregnant and due around Mother's Day.

(See Affidavit in Support of Objection)

On January 12, 2017, a hearing was held on the petition to terminate Nellie's parental rights.[2] Rozier was aware of the hearing but did not attend. The Court granted the petition. On February 18, 2017, the Court filed the order terminating her parental rights. (See Affidavit in Support of Objection)

On January 30, 2017, DFS reported to the Court that Esther was in an adoptive home, was comfortable, and bonded to the Rivera's. It also reported that Rozier had contacted DFS in October 2016 and that an ICPC had been submitted. (Exhibit 2: DFS Report)

At the review hearing on February 7, 2017, DFS advised the Court that the case had been referred to the adoption's unit. DFS again advised the Court of Rozier and the ICPC. The Court found that the permanency plan was adoption. (Exhibit 3: Court Minutes).

On March 2, 2017, Rozier contacted Ms. Quinlan's supervisor Ms. LaMaison, to inform her that she had almost completed the foster care classes. Rozier requested visitation with Esther at that time. Ms. LaMaison explained that the current permanency goal and court order was for adoption by the current foster parents and that the court was aware of the ICPC; therefore, Rozier would be the concurrent plan if the Rozier's did not adopt Esther. She advised that no visits would be arranged at that time as Rozier had no relationship with the child and as it would not align with the primary permanency goal. (Exhibit 1: DFS Unity Record)

DFS received notice that the ICPC was approved on March 14, 2017. Rozier contacted DFS and again asked for visitation and placement. As a courtesy, the State placed this matter before the Court on April 4, 2017, in order for the Rozier's to address the court. During the hearing, the Court ordered an evidentiary hearing on placement. The hearing was held on April 13, 2017 and April 14, 2017.

[2] See Case No. D-16-541838-R

During the hearing, Rozier testified that she was Nellie's first cousin but had no proof of the relationship at that time.[3] Rozier had known Saez her whole life and was aware that Saez had substance abuse and mental health issues, as were the other members of the family. Rozier also knew that Saez had several children in the system and had been homeless at times. Rozier knew Saez had maintained that lifestyle prior to Esther's birth.[4]

Rozier knew of Esther's birth shortly after Esther was born.[5] Rozier claimed to have had no further contact with Saez until one week prior to the evidentiary hearing when she was able to make contact with Saez and told her that she would be taking Saez to a child welfare history for Esther's sibling.[6]

Rozier advised the Court that she had a close family.[7] Rozier has maintained contact with Ms. Tellez and another half sibling via social media.[8] Rozier also maintained a good relationship with a maternal uncle "Tony" who resided in Florida.[9]

Rozier claimed that on October 18, 2016, Tony advised her that Esther had been removed in Las Vegas and that Esther's twelve year old half sibling was also in care.[10] Rozier claimed that she was completely unaware that Esther had been removed prior to that date; however Rozier admitted "it wasn't surprising considering what we know about her".[11] Rozier contacted DFS on October 18, 2016 and left a message for Ms. Quinlan.[12] Ms. Quinlan contacted Rozier on October 20, 2016. Rozier claimed that Ms. Quinlan told her that the child was taken into care when the child was ten months old, that Rozier called just in time to be considered, and that she would need to take foster care classes as part of the ICPC process. Rozier admitted that she was told that Esther

[3] (4/13/17 14:37:00-14:38:24) - As transcripts are not available, time stamps on the video of the hearing are used as citations.
[4] (4/13/17 14:38:30 -14:43:15, 14:50:51-14:52:10, 14:55:00-14:5530).
[5] (4/13/17 14:44:00-14:44:39)
[6] (4/13/17 14:44:50-14:48:40)
[7] (4/13/17 14:56:15-14:57:00)
[8] (4/13/17 14:44:00-14:44:39).
[9] (4/13/17 14:49:10-14:49:52).
[10] (4/13/17 14:52:11-14:54:35, 14:57:00-14:58:00)
[11] (4/13/17 14:50:51-14:52:10)
[12] (4/13/17 14:58:05-14:59:48)

was in an adoptive home, but she did not believe that she would only be considered for placement if the adoption with the Rivera's fell through.[13]

Rozier was aware of the hearing on the termination of parental rights and that there would be further court hearings.[14] Rozier also testified that she was told she could begin visiting Esther in October, 2016. The opportunity to visit was not closed until February 2016. To this date, Rozier has not met Esther. Rozier stated that she had not visited Esther as she thought it best to complete the ICPC classes first.[15]

When questioned about what she could offer Esther, Rozier first addressed the foster parents and stated that, "There is no doubt in my mind that they can provide the same life... We can equally give her the same life, the same love, the same care... There's no doubt about that."[16] Rozier stated that she was aware that Esther was two years old and knew that moving to her home would cause Esther trauma; however, with time, Esther would get used to her family.[17]

During the evidentiary hearing, the State called Ms. Quinlan who testified regarding the diligent search for family members as well as the notification sent to those who were located. Ms. Quinlan confirmed that in April 2016, Ms. Tellez contacted her and that she advised Ms. Tellez that DFS was looking for an adoptive placement. No other relatives made contact with DFS until Ms. Rozier.[18]

Ms. Quinlan confirmed the information included in DFS's records regarding her conversation with Rozier. She spoke with Rozier on October 20, 2016, and advised her that Esther had been in care for sixteen months and that she was in an adoptive home. Ms. Quinlan asked Rozier why she had not come forward earlier and Rozier was unable to give a clear response. Ms. Quinlan advised Rozier that she would begin the ICPC process; however, Ms. Quinlan testified that she explained to Rozier that the goal was

[13] (4/13/17 15:01:05-15:03:40)
[14] (4/13/17 15:04:40-15:05:10)
[15] (4/13/17 15:05:55-15:07:05, 15:08:40-15:08:43, 15:33:45-15:34:15)
[16] (4/13/17 15:26:10 – 15:26:36).
[17] (4/13/17 15:38:20-15:38:50, 15:52:45-15:54:50)
[18] (4/13/17 16:13:07-16:15:58)

for the child to be adopted by the foster parents. Additionally, Ms. Quinlan did not advise Rozier that she needed to take foster care classes as she always advises families to wait for their state's ICPC to contact them regarding what they are required to do.[19]

Ms. Quinlan testified that Esther does have a half sibling in foster care; however, that child is currently in an adoptive foster home and Saez's rights have not yet been terminated. She was also made aware that Saez was pregnant.[20]

Ms. Quinlan reported that Esther is extremely bonded to the Rivera's. Esther refers to them as "mom" and "dad" and adores them. She is attached to the point of being "clingy". [21] Esther is meeting developmental milestones, although there was initially some concern with speech delay.[22]

Ms. Quinlan testified that she has had education and training on the effect that multiple removals can have on a young child. Quinlan's training included graduate school courses that covered advanced mental health counseling, reviewing approximately ten to twenty scientific studies on the issue, and training provided through DFS. Ms. Quinlan testified that the effects of multiple removals can be long term, that every removal can set the child's development back four to six months, and that multiple removals can cause reactive attachment disorder and other behavioral issues. It may also result in trouble forming bonds in the future.[23]

When asked if, based on her experience with the Rivera's and Esther, she believed it to be in the best interest of Esther to place her with Rozier, Ms. Quinlan stated no as: (1) it would delay permanency for Esther as the Rivera's are set to adopt her in approximately thirty days, which would comply with ASFA guidelines. Placement with Rozier would delay permanency for one year; (2) Esther has been with the Rivera's for one third of her life, a significant amount of time for a child her age; (3) Esther is extremely bonded to the Rivera's and Esther considers them family; (4) the

---

[19] (4/13/17 16:16:10-16:19:15, 16:23:15-16:23:50)
[20] (4/13/17 16:20:40-16:22:44)
[21] (4/13/17 16:23:52-16:25:00)
[22] (4/13/17 16:25:02-16:25:20)
[23] (4/13/17 16:25:52-16:28:23)

Rivera's have ensured that Esther maintains contact with the second foster family who cared for her and Esther is able to maintain that bond; and, (5) the Rivera's are willing to allow Rozier to visit and have contact with Esther once the adoption is finalized.[24]

The State also called Ms. LaMaison during the evidentiary hearing. Ms. LaMaison testified that she has education and training on the effects of removals on children. Ms. LaMaison is one of thirteen certified trainers nationwide in the MAPS program. The MAPS program focuses on how to minimize trauma on children, children and bonding, and ways to support children. Her training and experience also include DFS' 357 program which addresses successful bonding in adoptions, courses on reactive attachment disruptions and trauma. She also has training through DFS, as well as eleven years of experience as a juvenile probation officer in which she was trained in abnormal psychology with those juveniles who have unstable relationships.

Ms. LaMaison testified that a child's foundational building blocks are created during the first two years of life and this time period is when a child builds loving, secure attachments with their caregivers. This time period is the most essential for children. Ms. LaMaison testified that removal results in trauma including, changes in the overall development of the brain, effects on the child's long term and short term memory, abnormal behaviors, impulse control, increased anxiety, maladaptive behaviors, control issues, aggression, and can increase the risk of criminal behavior. Ms. LaMaison stated that at all cost, the general consensus is that children should not be moved.[25]

Ms. LaMaison stated that she had observed Esther with the Rivera's and found that Esther was very bonded to the Rivera's and that the Rivera's were excellent caregivers.[26] When asked about a possible fourth removal and placement with Rozier, Ms. LaMaison stated that such a move would cause severe, long term trauma to Esther as the child is in the bonding period. Esther already demonstrates some trauma, even

[24] (4/13/17 16:29:08-16:33:40)
[25] (4/14/17 10:18:40-10:24:400)
[26] (4/14/17 10:24:50-10:27:20)

with the careful transition from the previous placement change. Ms. LaMaison testified that, if moved, one could expect Esther to have control issues and that she might regress. Esther may no longer be toilet trained and will probably lose the verbal skills she has. Further, negative behaviors would increase such as tantrums.[27]

With regard to a possible long term, therapeutic transition, Ms. LaMaison stated that it would be problematic given that Rozier lives out of state. Furthermore, one would still expect to see long term trauma in Esther. As such, it would not be in the best interest of the child to be placed with Rozier.[28]

Ms. LaMaison also testified that she had spoken with Rozier in March 2017, and advised her that the plan was to have the child adopted by the current caregiver.[29]

Ms. Rivera testified that Esther has an established daily routine that includes consistent, positive contact with Esther. Esther demonstrates loving physical affection to both of the Rivera's such as hugs and kisses and Esther is a "daddy's girl." Esther refers to Regina Rivera as "mama" and Phillip Rivera as "Dada." Since coming into their home, Esther has overcome her speech delay. Esther is very bonded to Ms. Rivera's mother, whom Esther sees at least once a week and speaks to her often on the phone. Esther has met, formed relationships with, and bonded with the Rivera's extended family members. The Rivera's have continued communication with the previous foster family. The Rivera's ensure that Esther is able to socialize with other children and gain an education. Esther's teachers report that she has shown progress in social and emotional development, that she appears happy and safe, and that she has bonded to the staff. Esther has strong relationships with the children at her school. (See also Exhibit 4: Previously Admitted Rivera References) The Rivera's are active in their faith and Esther is well bonded with her faith community. (See also Exhibit 4: Previously Admitted Rivera References) The Rivera's have been consistent in ensuring Esther's medical care. The Rivera's are financially able to care for Esther. Ms. Rivera stepped down from her

[27] (4/14/17 10:27:21-10:28:50)
[28] (10:29:55-10:31:30)
[29] (10:33:00-10:33:45).

high level, employment position in which she was the director of human resources when Esther came into her care in order to care for Esther. (See also Exhibit 4: Previously Admitted Rivera References) Esther is happy and healthy. The Rivera's are willing to allow the Rozier's to have visits with Esther once the adoption is complete. Ms. Rivera testified that removal would result in trauma and is not in Esther's best interest.[30]

At the conclusion of the hearing, the hearing master recommended that the child be placed with Rozier. (Exhibit 5: Hearing Master's Findings of Facts and Recommendations).

II. ARGUMENT

The Rules of Practice for the Eight Judicial District Court 1.46(g) allows a party in a child welfare proceeding to object to a hearing master's recommendation:

> (5) At any time prior to the expiration of 5 days after the service of a written copy of the findings and recommendations of a master, a party, a minor's attorney, or guardian or person responsible for the child's custodial placement may file an objection motion to the supervising district court judge for the division represented by the master for a hearing. Said motion must state the grounds on which the objection is based and shall be accompanied by a memorandum of points and authorities.
> (6) A supervising district judge may, after a review of the record provided by the requesting party and any party in opposition to the review, grant or deny such objection motion. The court may make its decision on the pleadings submitted or after a hearing on the merits. In the absence of a timely objection motion, the findings and recommendation of the master, when confirmed or modified by an order of the supervising district court judge, become an order of the court.

The Nevada Supreme Court has held the following in regards to the review of a hearing master's recommendations:

> The constitutional power of decision vested in a trial court in child custody cases can be exercised only by the duly constituted judge, and that power may not be delegated to a master or other subordinate official of the court. Thus, although a master has the authority to hear dependency cases and make findings and recommendations, a master does not possess the same powers conferred to a juvenile court judge through Article 6, Section 6 of the Nevada Constitution. As a result, only the juvenile court judge makes the dispositional decision in a matter. The judge may not transfer his or her judicial decision-making power to a master. This is not to say that the juvenile court should not give serious consideration to the master's findings of fact and recommendation. However,

[30] (4/14/17 11/19 11:19:51-11:40:38)

> since the ultimate disposition lies with the juvenile court, the master's findings and recommendation are not binding on the court.... the dependency master's findings must be carefully reviewed by the juvenile court, but a master's findings and recommendation are only advisory. The juvenile court is not required to rely on the master's findings, but if the court chooses to rely on the master's findings, it may do so only if the findings are supported by the evidence and not clearly erroneous. After reviewing the findings, the juvenile court is free to determine the applicable facts and to exercise its independent judgment in reaching a disposition. Clark County of Dep't of Family Servs. v. Eight Judicial Dist. (In re A.B.), 291 P.3d 122, 127-128 (Nev. 2012) (citations and quotations omitted).

The State respectfully objects to the Hearing Master findings of fact, conclusions of law, and recommendations as: (1) the Hearing Master did not apply the standard set forth by the Supreme Court of Nevada in determining placement under NRS 432B.550; (2) familial preference does not exist in this case; (3) Rozier did not demonstrate a reasonable excuse for delay; (4) It is not in the best interest of Esther to be placed with Rozier; (5) DFS could not have located Rozier earlier as they did not know of her existence; (6) It was not determined when DFS advised the Rivera's of Rozier's ICPC; (7) the testimony of Ms. Quinlan and Ms. LaMaison was not inconsistent in what was relayed to the Rozier's regarding placement; (8) there is no evidence that Rozier is an extremely good and dedicated parent; (9) Rozier does not have custody of Esther's siblings.

(1) The Hearing Master did not apply the standard set forth by the Supreme Court of Nevada in determining placement under NRS 432B.550.

The Hearing Master did not apply the standard set forth by the Supreme Court; therefore, his findings and recommendations are clearly erroneous. The Hearing Master found that "the courts and legislature have determined that when comparing bonding with biological, family connection, family connection is the overriding consideration and the family is where the child should be placed, despite the trauma that Esther will experience with a fourth removal." This is simply not the case.

In **Clark County Dist. Atty. v. Eighth Judicial Dist. Court**, the Nevada Supreme Court held that, when determining placement of a child under NRS 432B.550, "the child's best interest necessarily is the main consideration for the district court when exercising its discretion concerning placement. Accordingly, after concluding that a

familial preference exists, the **district court's analysis should center on the child's best interest**." 123 Nev. 337, 346, 167 P.3d 922, 928 (2007)

The Court explained "the district court must first determine whether the relatives seeking custody of a child are sufficiently related to the child, **then the court must determine suitability**. Once the criteria for the statutory preference are established, the statute creates a **familial placement preference, not a presumption**, and the district court must then consider placing the child with the relatives. The placement decision ultimately rests in the district court's discretion, which **must be guided by careful consideration of the child's best interest.**" Id. at 348.

With regard to the legislative intent behind NRS 432B.550, the Supreme Court of Nevada found that the Legislature's use of the word "preference," rather than "presumption," suggests its concern that relatives who are "ready, willing, and able" to keep a family together be favored for placement over nonrelatives, but that suitable relatives are not necessarily entitled to custody." As such, **the Court construed NRS 432B.550(5)(b)'s placement preference to operate within the overall umbrella of the child's best interest**. Id. at 346.

The law set forth by the Nevada Supreme Court clearly demonstrates that the Court and legislature have determined that, despite family relationships, the best interest of the child is the standard in determining placement.

(2) Familial preference does not exist in this case

In determining placement under NRS 432B.550, the Court must first determine whether a familial preference exists. Id. at 346.

As Saez's rights were terminated, the familial relationship between the Esther and the Rozier's is severed. Therefore, the familial preference does not exist. In Bopp v. Lino, the Nevada Supreme Court reversed a district court's decision to allow grandparents visitation rights where the grandparents petitioned the court for visitation after the child was adopted. 110 Nev. 1246, 1247, 885 P.2d 559, 560 (1994). The Court found that when an order for adoption is entered, the statute establishes a new legal

family for the adopted child and terminates the legal relationship between the child and her natural kindred. Id. at 1250. In its analysis, the Court cited to Lipginski v. Lipginski and summarized it as follows "the consequence of adoption is to divest the natural parent of all legal rights and obligations to the child; **such abrogation of all legal relationship and rights as to a natural parent must likewise apply to the grandparent of an adopted child**." 476 N.E.2d 924 (Ind. Ct. App. 1985)

The Court explained that the Nevada Revised Statutes carve out an exception for certain relatives who petition for visitation rights prior to the adoption being finalized; however, where the statute fails to provide an exception the ex-relative has no right. Bopp v. Lino at 1251.

In reviewing the aforementioned statute, NRS 125C.050, grandparents, siblings, and those with whom the child has resided, have a right to visitation after the termination of parent's rights. [31] Therefore, the Legislature carved out the exception after the parental rights were terminated, thereby demonstrating that the relationship with the relatives was terminated at the time the parents' rights were terminated.

Taken together, it is clear that the relationship between the child and relatives is actually severed when the parents' rights are terminated, although the statute allows a select few to petition for limited rights of visitation prior to adoption.

As such, Rozier can no longer claim familial preference as that relationship was terminated when Saez's rights were terminated.

(3) Rozier did not demonstrate a reasonable excuse for delay

The Hearing Master found that the "Rozier's demonstrated a reasonable excuse for the delay in coming forward and requesting placement of Esther." This was based upon Ms. Rozier's representation that she had no further contact with Saez after Esther's birth and was not made aware of the removal until October 18, 2016.

The Nevada Supreme Court held that if a family member, with knowledge that a child has been placed into protective custody, delays seeking custody of the child for

[31] Previously NRS 127.171

more than one year after the child's initial placement, the family member must demonstrate a reasonable excuse for the delay in order to retain the familial preference's application. Additionally, the Court found that despite DFS' duty to locate familial placements, the family member has a concomitant duty to step forward and request custody. Id. at 347.

Rozier knew Saez had substance abuse and mental health issues. She knew that Saez had several children in the system and had been homeless at times. She knew Saez had maintained this lifestyle prior to Esther's birth. Rozier admitted that when she learned of Esther's removal "it wasn't surprising considering what we know about" Saez. As such, Rozier should have known that Esther was either in danger or had been removed. However, Rozier, according to her testimony, did not attempt to contact Saez about the child.

Additionally, Rozier claimed that her family was close. She maintained some communication with Ms. Tellez who clearly knew that Esther was removed as she spoke with Ms. Quinlan. She was close with her maternal uncle "Tony" in Florida who had access to information as he was aware that both Esther and her half sibling had been removed. DFS also provided written notice to family members found via a diligent search. Given that her family is close and as her family had information as to the removals, it is unreasonable to believe that she was not advised of the removal until sixteen months later.

Furthermore, as noted in the DFS records on the date of the call and pursuant to Ms. Quinlan's testimony, Ms. Saez was not able to provide a clear response as to why she had waited to contact the Department. She was aware or should have been aware of Esther's removal. Therefore, Saez did not provide a reasonable excuse for the delay.

Finally, after Rozier made contact with the DFS, she failed to petition the Court, did not attend the TPR or review hearing, did not visit Esther, and has never filed a motion with the Court seeking placement.

As such, Rozier failed to provide a reasonable excuse for the delay and the

familial preference should not apply.

(4) It is not in the best interest of Esther to be placed with Rozier

The Nevada Supreme Court has held that in hearings to determine placement pursuant to NRS 432B.550, the standard is the best interest of the child. The Court stated "when placement with nonrelatives best serves the child's best interest, the familial preference is negated." Id. at 345. The Court continued, "The child's best interest continues to be the overarching standard to be used by the district court in making placement decisions, even those involving the familial preference." Id. at 344. The Court again emphasized this standard by stating, "The child's best interest necessarily is the main consideration for the district court when exercising its discretion concerning placement. Accordingly, after concluding that a familial preference exists, the district court's analysis should center on the child's best interest." Id. at 346.

It is not in Esther's best interest to be placed with Rozier for the following reasons:

(a) The permanency goal for Esther is adoption

On August 2, 2016, the Court found that it was in Esther's best interest to be adopted. The Court made this same conclusion at the latest review hearing. At the time of the evidentiary hearing, Esther adoption was set to be finalized within thirty days. Esther is almost two years old. Not only would the adoption provide Esther with permanency but it would be within the ASFA guidelines.

Placement with the Rozier's is uncertain. Certainly the Rozier's hope the placement will work out, but there is no evidence to support that assumption. Furthermore, it would delay permanency for Esther for approximately one year given the adoption process.

(b) Rozier failed to demonstrate that it is in Esther's best interest to be placed with her

Rozier does not believe that the quality of Esther's life will be improved by placing the child with her. She stated "There is no doubt in my mind that they [the

Rivera's] can provide the same life... We can equally give her the same life, the same love, the same care... There's no doubt about that."

However, the State has concerns with the Rozier's ability to care for Esther. First, despite testifying about her close family and the number of relatives that Esther would have contact with, no other relatives have come forward seeking placement. Aside from one phone call from Ms. Tellez a year ago, no other family members have even called to check on Esther. It is unclear what family support Rozier and her husband would actually have. Second, Rozier was aware of Saez's issues and failed to make contact with her or seek Esther out until sixteen months after removal, despite the threat to Esther's safety. Third, Rozier failed to visit Esther when the option was available. Fourth, Rozier failed to contact or petition the Court. Fifth, Rozier is unaware of or minimizes the trauma that Esther will experience if placed with her.

(c) Esther has formed relationships with and bonded those in her community

Esther has established relationships and has bonded with her friends, teachers, faith community, and the Rivera's relatives. She continues to have a relationship with her prior foster home. It is not in her best interest to traumatized Esther by severing these relationships.

(e) Esther is extremely bonded to the Rivera's

To Esther, the Rivera's are her parents. She refers to them as "mama" and "dada." She is "daddy's little girl." She expresses love and affection to the Rivera's which they reciprocate. She is attached to the point of being "clingy". She has a daily routine with the Rivera's. They are her emotional and mental support. Since coming into their care, Esther has overcome her speech delay. Esther is not only bonded to the Rivera's but to their family and friends. The Hearing Master found that Esther is **incredibly bonded** to the Rivera's. Severing this relationship would not be in Esther's best interest.

(f) The Rivera's have proven themselves to be an excellent placement

The Hearing Master found that the Rivera's have proven that they are capable of caring for Esther. They have demonstrated their willingness to sacrifices, as shown by

Ms. Rivera stepping down from her high level position. They have shown their ability to care for Esther's physical, emotional, and social wellbeing. DFS, the community, and the Hearing Master all confirm that they are excellent caregivers. It is not in Esther's best interest to remove her from a stable, proven environment and place her elsewhere.

(g) Removing Esther from her home would result in long term trauma to her

The Court received uncontroverted evidence that removing Esther from her current home would result in long term trauma to Esther. This trauma includes changes in the overall development of the brain, effects on the child's long term and short term memory, abnormal behaviors, impulse control, increased anxiety, maladaptive behaviors, control issues, aggression, and increase risk of criminal behavior. The testimony was that, at all cost, the general consensus is that children should not be moved.

Esther is almost two years old. She has been moved a total of three times thus far. She is currently extremely bonded to the Rivera's. Esther already demonstrates some trauma after the last move, even with the careful transition from the previous placement change. Another move would cause severe, long term trauma to Esther as the child is in the bonding period. Additionally, long term trauma is not mitigated by a long transition. It is not in Esther's best interest to undergo such trauma in order to be placed with Rozier.

The overwhelming evidence during the hearing as well as the Hearing Master's finding of incredible bonding between Esther and the Rivera's demonstrates that it is not in Esther's best interest to be moved from the Rivera's care. Additionally, the State would add a policy concern. Removing a child from an adoptive home when the adoption is set to finalize within thirty days will discourage good foster parents from seeking to adopt. This, in turn, will affect children needing permanency.

(5) DFS could not have located Rozier earlier as they did not know of her existence

The Hearing Master found that DFS should have located Rozier as DFS had contact with Ms. Tellez who had contact with Rozier. However, as Ms. Tellez did not

disclose information about Rozier to DFS, DFS could not have known about Rozier's existence. Furthermore, this does not negate Rozier's duty to come forward in a timely manner.

(6) It was not determined when DFS advised the Rivera's of Rozier's ICPC

The Hearing Master found that DFS should have advised the Rivera's of the ICPC sooner. The State does not recall testimony during the hearing as to when the Rivera's were first told of the ICPC.

(7) The testimony of Ms. Quinlan and Ms. LaMaison was not inconsistent in what was relayed to Rozier regarding placement

The Hearing Master found that Ms. Quinlan and Ms. LaMaison were inconsistent in their testimony with regard to the information relayed to the Rozier regarding placement of Esther. As such, the Court did not find the Department's testimony credible as to that issue alone. However, both the testimony of Ms. Quinlan and Ms. LaMaison and the DFS records make it clear that both DFS employees informed Rozier that the plan was for the Rivera's to adopt Esther. Rozier was to be a second option should the adoption not occur. This was not inconsistent.

The inconsistency lies with Rozier. Rozier claimed that Ms. Quinlan informed her that she would be considered as an adoptive placement, but that Ms. LaMaison informed her differently in February 2016. However, Rozier also claimed that Ms. Quinlan advised her that Esther had been removed at ten months, was in an adoptive home, and that she would need to take foster care classes. This demonstrates Rozier's lack of credibility as Esther had been removed for sixteen months and as Ms. Quinlan would not have advised her to take classes for another state's ICPC. Further, as Esther was in an adoptive home. Rozier knew or should have known that the plan was for Esther to be adopted by that home.

(8) There is no evidence that Rozier is an extremely good and dedicated parent

The Hearing Master found that the Rozier's are extremely good and dedicated parents. The Rozier's provided no evidence that they are extremely good and dedicated parent that the State can recall. There is no foundation for this recommendation.

(9) Rozier does not have custody of Esther's siblings

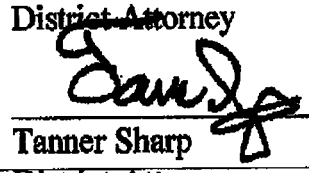
The Hearing Master found that the Rozier's are likely to gain custody of one of Esther's siblings. However, at this time, the Rozier's do not have custody of either sibling. The older sibling is currently in an adoptive home and Saez's parental rights are intact. Since the time of the hearing, Saez gave birth. That child was taken into protective custody and is currently residing with the Rivera's, although an ICPC is pending to Rozier. However, wardship has not been taken of that child and Saez's rights have not been terminated.

III. CONCLUSION

Based on the foregoing, it is requested that the Court reject the Hearing Master's findings and recommendations as outlined in this objection and that the Court not remove Esther from her current home.

DATED this 5 day of May, 2017.

Submitted by:
STEVEN B. WOLFSON
District Attorney



Tanner Sharp
District Attorney
Nevada Bar No. 13018
Juvenile Division

AFFIDAVIT OF TANNER SHARP IN SUPPORT OF OBJECTION

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, TANNER SHARP, hereby swear under penalty of perjury that the assertions of this affidavit are true.

1. I am a deputy district attorney with the Clark County District Attorney's Office.

2. I am currently assigned to the child welfare case involving subject minor Esther Rodriguez.

3. That I am familiar with the history and facts of the cases as outlined in the brief.

TANNER SHARP

SUBSCRIBED AND SWORN TO before me this 1st day of MAY, 2017.

ROBERTINA C. RAMOS
Notary Public, State of Nevada
No. 16-3719-1
My Appt. Exp. Sept. 8, 2020

NOTARY PUBLIC in and for the said County and State of Nevada

CERTIFICATE OF SERVICE

I hereby certify that service of the above OBJECTION TO HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS was made this 1ST day of May, 2017, by electronic mailing and/or facsimile and/or depositing in the U.S. Mail in a sealed envelope with first-class postage fully prepaid thereon, to the following:

Raymond McKay
Raymond.Mckay@LibertyMutual.com

Kristina Quinlan (DFS)

Stephanie Rozier
229 Brittany Court
Macon, Georgia 31216

BY: _____
Employee, District Attorney's Office,
Juvenile Division

EXHIBIT 1

[redacted]

Note Type(s)
DILIGENT SEARCH

Contact With

Contact About
RODRIGUEZ, PEDRO
SAEZ, NELLIE

Author: VANDERBUSSE, LORE
Title: OFFICE SPECIALIST

This writer received a Diligent Search request to locate Nellie Saez, 3/17/72, 327-62-8794; and Pedro Rodriguez, 6/26/78, 552-55-4712; both LKA: 415 S. 11th St, #3, LVN 89101; and family members for possible placement

Nellie Saez:
Nomads: Nellie Saez, 3/17/74, 327-62-8794
Receiving family medical
Last reported address: 4413 San Joquin Ave, LVN 89102
Msg: 702-474-4104
Scope: Maria Gaytan Tellez, 3/17/74, 327-62-8794
Last reported address: 600 E. Bonanza Rd, #106, LVN 89101 - 4/19/15
Lexis Nexis: Nellie Carolina Saez, 1974, 327-62-8794
Last reported addresses/phones:
770 GEORGIA ST, IMPERIAL BEACH CA 91932-2345, SAN DIEGO COUNTY (Dec 1992 - Jun 2015)
914 GRANGER ST, SAN DIEGO CA 92154-1859, SAN DIEGO COUNTY (Mar 2002 - Jul 2015)
10802 PALMA VISTA AVE APT 5, GARDEN GROVE CA 92840-1340, ORANGE COUNTY (Jan 2012 - Jun 2015)
Phone Number: 760-681-0945

Relatives For: NELLIE CAROLINA SAEZ 327-62-8794
Lizardo Saez, 6448 113th St, Seminole, FL 33772-6749
Martha Saez, 1717 Thames St, Clearwater, FL 33755-2341
Carolina Saez Tellez, 4520 N. River Rd, #25N, Oceanside, CA 92057-5119
Nancy Saez, 1222 N. Fig St, #A, Escondido, CA 92026-2810

Name not listed at CCDC, LV jail, or NV & CA Department of Corrections.

Pedro Rodriguez:
Nomads: Pedro M. Rodriguez, 6/6/78, 552-55-4712
Receiving family medical
Last reported residence: Homeless
Last reported mailing: 4413 San Joquin Ave, LVN 89102
Msg: 702-209-0629
Scope: No listing found
Lexis Nexis: Pedro Rodriguez Sr, 6/26/78, 552-55-4712
Last reported addresses/phones:
550 LOS ARBOLITOS BLVD APT 72, OCEANSIDE CA 92058-1558, SAN DIEGO COUNTY (Mar 2008 - Jul 2015)
1344 BUSH ST, OCEANSIDE CA 92058-2607, SAN DIEGO COUNTY (Aug 2009 - Jun 2015)
Phone Number: 760-715-0162

Relatives For: PEDRO RODRIGUEZ 552-55-4712
Epifanio, Leonor, Claudia, Pedro, & Cecilia Rodriguez, and Esther Gomez, &, 1344 Bush St, Oceanside, CA 92058-2607
Martin Rodriguez, 544 Greenbrier Dr, #18, Oceanside, CA 92054-4362

Name not listed at CCDC, LV jail, but possible matches in NV & CA DOC, unable to verify.

The above information was emailed to Caseworker Martha Cardiel on 7/29/15.

[redacted]

TCM Activity Type(s)
NONE

Contact With:

Contact About
RODRIGUEZ, ESTHER, B.

Author: QUINLAN, KRISTINA
Title: FAMILY SERVICES SPEC II

This specialist spoke with Danell Tronholm, possible adoptive placement as to Esther. This specialist informed Danell natural parents still have time to complete caseplan and family may still come forward however Esther is not currently placed in adoptive resource and we would like to find an adoptive resource as parents have not yet made any progress. Danell will speak with her husband and call or email this specialist.

[redacted]

Note Type(s)
RELATIVECONTACT

TCM Activity Type(s)
NONE

Contact With

Contact About
RODRIGUEZ, ESTHER, B.
SAEZ, NELLIE

Author: QUINLAN, KRISTINA
Title: FAMILY SERVICES SPEC II

This specialist received call from a woman who identified herself as Carolina Tellez. Ms. Tellez reports to be the adult daughter of natural mother. Ms. Tellez called from 702-623-7428. Ms. Tellez reports to see natural mother between 2 - 4 times per month. Ms. Tellez reports natural mother is a hotel manager at Safari Motel 2001 Fremont Street. Ms. Tellez reports natural mother is doing well, has lost a lot of weight, and has cirrhosis. Ms. Tellez reports she believes it is ok to take her own children around natural mother and she will always love her. Ms. Tellez reports natural mother does not have a telephone but she will have natural mother call this specialist tomorrow. Ms. Tellez asked if this specialist can go to natural mother's workplace tomorrow. This specialist informed Ms. Tellez this specialist does not work on Saturday or Sunday but asked Ms. Tellez if natural mother can call this specialist ASAP. Ms. Tellez asked about status of the case and reports natural mother informed her natural mother has to drug test but hasn't done so. This specialist informed Ms. Tellez this specialist cannot disclose information to her regarding natural mother's case plan. Ms. Tellez inquired as to Esther's well being. This specialist informed Ms. Tellez Esther is doing well and inquired if Ms. Tellez is a placement option. Ms. Tellez reports she is not a placement option as she has three children of her own, works, and goes to school. Ms. Tellez asked if it is possible for natural mother to reunify with Esther. This specialist informed Ms. Tellez reunification is possible, but as the case goes on TPR and Adoption are possible as well. Ms. Tellez reports she will have natural mother call this specialist as she will see natural mother tomorrow.

[redacted]

Note Type(s)
CHILDCONTACT

TCM Activity Type(s)
ASSESS NEEDS REASSESS NEEDS

Contact With
RODRIGUEZ, ESTHER, B.

Contact About
RODRIGUEZ, ESTHER, B.

[redacted]

Note Type(s)
RELATIVECONTACT

Contact With

Contact About
RODRIGUEZ, ESTHER, B.

Author: QUINLAN, KRISTINA
Title: FAMILY SERVICES SPEC II

This specialist received voicemail message from maternal cousin Stephanie Rodriguez to call 478-952-9383; this specialist returned the call and left a voicemail message requesting a return phone call.

[redacted]

Note Type(s)
COLLATERAL MEDICAL CONTACT

TCM Activity Type(s)
NONE

Contact With

Contact About
SAEZ, NELLIE

Author: PEARL, GINA
Title: FAMILY SERVICES SPEC SUPV

A hospital alert was sent to all Clark County Medical Hospitals in regards to mother Nellie Saez. The current case worker became aware that mother is pregnant but it is unknown how far along she is. The behaviors and circumstances that led to CPS involvement have not been addressed by the mother. There have been concerns or substance abuse and mental health for mother and she has not maintained contact with the Department.

[redacted]

Note Type(s)
RELATIVECONTACT

TCM Activity Type(s)
NONE

Contact With

Contact About
RODRIGUEZ, ESTHER, B.

Author: QUINLAN, KRISTINA
Title: FAMILY SERVICES SPEC II

This specialist spoke with Stephanie Rodriguez who reports to be the maternal first cousin to natural mother. Ms. Rodriguez reports her mother and Esther's maternal grandmother are siblings. Ms. Rodriguez reports she is interested in placement of Esther. This specialist discussed with Ms. Rodriguez that Esther is in an adoptive foster home and inquired as to why Ms. Rodriguez did not come forward regarding Esther earlier in the case. This specialist did not receive a clear answer to the question. Ms. Rodriguez reports that Esther has an older half-sibling who is also in an adoptive home that Ms. Rodriguez wanted placement of as well. Ms. Rodriguez reports she and her husband live in Macon, Georgia; they own their own residential cleaning/pest control/property management company and have had the company for over 8 years; that they cannot have children of their own and they want to adopt family. This specialist discussed with Ms. Rodriguez that family that comes forward in the first year usually will have priority in placements but Esther has already been in care 16 months and she is in an adoptive resource. This specialist and Ms. Rodriguez discussed ICPC process and this specialist will work with Ms. Rodriguez to submit ICPC however final decision of placement belongs to the Court. Ms. Rodriguez reports that if Esther cannot be placed with them that she would still like to know Esther if possible. Ms. Rodriguez provided email of spotless09@yahoo.com and requested photographs of Esther if possible. Ms. Rodriguez reported belief that natural mother is pregnant at this time.

[redacted]

Note Type(s)
MEDICAL CONTACT

TCM Activity Type(s)
ASSESS NEEDS

Contact With

Contact About
RODRIGUEZ, ESTHER, B.

Author: SWANSON, NATALIE
Title: CHILD DEVELOPMENT ASSISTANT

Esther was seen for a medical exam at Positively Kids/Tompkins Clinic by Jennifer Douglas, PA-C on 10/19/2016. Patient was assessed with a forehead contusion. FOLLOW UP: 11/14/2016 at 9:00 and 1/16/2017 at 9:00.

[redacted]

Note Type(s)
MEDICAL CONTACT

TCM Activity Type(s)
ASSESS NEEDS

Contact With

Contact About
RODRIGUEZ, ESTHER, B.

Author: SWANSON, NATALIE
Title: CHILD DEVELOPMENT ASSISTANT

Esther was seen for a well child exam at Positively Kids/Tompkins Clinic by Jennifer Douglas, PA-C on 10/13/2016. Immunizations given: Influenza. FOLLOW UP: 11/14/2016 at 9:00 and 1/16/2017 at 9:00.

[redacted]

Contact With

Contact About
RODRIGUEZ, ESTHER, B.

Author: NELSON, BETH-ANN
Title: SOCIAL WORK SUPERVISOR

This supervisor reviewed the Adoption Referral initially received on 2/21/17, from permanency worker, Kristina Quinlan, and Supervisor, Taryn Lamaison.

The referral is for one child, Esther Rodriguez, placed into her current PSMAPP foster home on 9/09/16. It is unclear who the adoptive resource is, as per Court Notes for the 2/7/17 Permanency Review Hearing, permanency advised that a maternal aunt has been identified and an ICPC has been initiated. Phone call to permanency worker and was advised that per her staffing with her supervisor, it remains their intent to move forward with the foster parent adoption. She advised that the relative came forward after year, however, before the TPR, so they felt the needed to proceed with the ICPC. She states they have been very upfront with the relatives about their intent to finalize the foster parent adoption; however, is some thing should prevent this from moving forward, then they relatives would be the next consideration, provided they have an approved ICPC Home study. Kristina has advised that the foster parents are anxious to move this process forward.

Permanency Review Hearing - 8/08/17; Norheim

Protective Custody: 7/27/15 Clark Custody: 9/15/15

CAP - Raymond McKay

The Notice of Entry of Order for the Findings of Fact terminating parental rights as to the mother, Nellie Saez and the father, John Doe (true identity of Esther's father is unknown), was filed on 2/21/17. Esther is legally free for adoptions.

ICWA Status - Not Applicable - Child reported to be Hispanic.

The Social Summaries provided are dated 1/2/17, as completed by the permanency/out of home worker, Kristina Quinlan.

Refer for Service / Case Assignment - Assigned to Adoption Social Worker Brian Potts

[redacted]

Note Type(s)
RELATIVECONTACT

TCM Activity Type(s)
ASSESS NEEDS

Contact With

Contact About
RODRIGUEZ, ESTHER, B.
SAEZ, NELLIE

Author: LAMAISON, TARYN
Title: FAMILY SERVICES SPEC SUPV

Spoke with Stephanie Rodriguez, maternal second cousin to the child. Stephanie asked to speak with the Supervisor without the case manager's knowledge. Stephanie wanted to update this Supervisor that she is nearly done with the foster care classes and believes that she will have a completed home study in the next week, or two. This supervisor thanked her for the update, but explained that the home study then needs approval by the ICPC coordinators in both states prior to being received by Clark County. Stephanie requested to come to Las Vegas and see the child daily for a period of 4 days. This supervisor explained that the current permanency goal and court order is Adoption by the current foster parent, but that the court is aware of the ICPC to this relative that therefore she will be the concurrent plan if the Adoption cannot finalize with the current foster parent. That no visits will be arranged at this time as she and the child have had no relationship up to this point and that this does not align with the primary permanency goal for the child. This supervisor agreed to discuss the possibility of (1) visit with the foster parents if the second cousin comes to Las Vegas. This relative further confirmed that she has not met the child and only although she is the cousin to the mother, she does not have a relationship with the child's mother and only sees mother's activity through occasional Facebook posts and information given by other relatives. The relative asked for the next court date and the CAP attorney's contact information and it was explained at this time since she is not a party to the case this information cannot be shared due to confidentiality. The relative states that the mother may be pregnant again and wanted to know if the adoptive resource would be willing to take the new child. It was explained to this relative that until the unborn child is born and abused in Clark County this agency cannot predict if/ when/ where the unborn child will reside if into care and that this conversation has not occurred with the adoptive resource.

[redacted]

Note Type(s)
SPVSYCONTACT

TCM Activity Type(s)
REFERRAL

Contact With

Contact About
RODRIGUEZ, ESTHER, B.

Author: LAMAISON, TARYN
Title: FAMILY SERVICES SPEC SUPV

Adoption referral and social summary received and reviewed by supervisor. Child will be adopted by foster parent. Referral sent to adoptions supervisor Beth-Ann Nelson.

[redacted]

Note Type(s)
CHILDCONTACT

TCM Activity Type(s)
ASSESS NEEDS REASSESS NEEDS

Contact With
RODRIGUEZ, ESTHER, B.

Contact About
RODRIGUEZ, ESTHER, B.

Author: QUINLAN, KRISTINA
Title: FAMILY SERVICES SPEC II

EXHIBIT 2

CLARK COUNTY
DEPARTMENT OF FAMILY SERVICES
121 SOUTH MARTIN LUTHER KING BLVD.
LAS VEGAS, NEVADA 89106
(702) 455-7200

Electronically Filed
01/30/2017 12:42:10 PM

CLERK OF THE COURT

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

In the Matter of:

ESTHER BELLA RODRIGUEZ
Date of Birth: 06-15-2015
A Minor 1 years, 07 Months of Age

COURT CASE NO.: J-15-337398-P1
DEPT.: FAMILY JUVENILE

REPORT FOR PERMANENCY AND PLACEMENT REVIEW

Date of Hearing: 02-07-2017

Time of Hearing: 01:30 PM

Courtroom: HM NORHEIM - #14

Attachment:

CONCERNING:

Mother: NELLIE SAEZ
DOB: 03-17-1972
Address: Unknown

Father: UNKNOWN
DOB:
Address:

Siblings: The Department learned in October 2016 that ESTHER has a half-sibling in the adoption process in California. ESTHER may have additional half-siblings; their locations are unknown.

☒ The Indian Child Welfare Act does not apply.
☐ The Indian Child Welfare Act does apply.

NOTIFICATION OF HEARING AND TYPE OF SERVICE

Mother:	Not Applicable
Father(s):	Not Applicable
Current Placement:	Via email and certified mail January 24, 2017
CASA:	Not Applicable
Child's Attorney:	Via email and certified mail January 24, 2017
Mother's Attorney:	Not Applicable
Father's Attorney:	Not Applicable
Tribe:	Not Applicable

REMOVAL DATE:

July 27, 2015

TRIAL HOME VISIT DATES:

Not Applicable

REASON FOR CUSTODY AND COURT JURISDICTION (formally known as Wardship):

Petition No. 1 in this Matter cited:

(a) The mother to the minor child is NELLIE SAEZ; the father is PEDRO RODRIGUEZ;

(b) NELLIE SAEZ and PEDRO RODRIGUEZ were the persons directly responsible for the welfare of the subject minor pursuant to NRS 432B.130 at the time of removal;

(c) PEDRO RODRIGUEZ neglected the subject minor by engaging in the use of illegal substances, which rendered him unable to provide care for the subject minor when NELLIE SAEZ suffered a medical incident that likewise rendered her incapable of caring for the subject minor; PEDRO RODRIGUEZ admitted to regularly using illegal substances, and named heroin as his drug of choice;

(d) PEDRO RODRIGUEZ lacks the resources to provide for the health and safety of the subject minor;

(e) PEDRO RODRIGUEZ failed to submit to drug testing that was recommended by both CPS and the court;

(f) NELLIE SAEZ lacks the resources to provide for the health and safety of the subject minor;

(g) NELLIE SAEZ failed to submit to drug testing that was recommended by both CPS and the court;

(h) The subject minor is in need of protection in accordance with NRS 432B.330 as a result of the abuse/neglect described above.

PREVIOUS COURT ORDER DEEMED EFFORTS BY THE DEPARTMENT TO ACHIEVE THE PERMANENCY PLAN:

☒ Were Reasonable Efforts For: ESTHER RODRIGUEZ
☐ Were Not Reasonable Efforts For:

PERMANENCY GOAL AND PROJECTED DATE OF ACHIEVEMENT:

☐ Reunification With:
☒ Termination of Parental Rights and Adoption By: Current Foster Placement
☐ Guardianship By:
☐ Long Term Relative Placement With:
☐ Other Planned Permanent Living Arrangement With:
Projected Date of Achievement:

CONCURRENT PERMANENCY GOAL:

☐ Reunification With:
☐ Termination of Parental Rights and Adoption By:
☐ Guardianship By:
☐ Long Term Relative Placement With:
☐ Other Planned Permanent Living Arrangement With:

RATIONALE FOR PERMANENCY PLAN:

ESTHER has been in care since July 27, 2015. MS. SAEZ' parental rights and the rights of all potential fathers were terminated January 12, 2017. ESTHER has resided in her current foster placement since September 9, 2016. This placement is an adoptive resource.

PARENTS' PROGRESS:

Visitation

MS. SAEZ' parental rights were terminated January 12, 2017.

Housing

MS. SAEZ' parental rights were terminated January 12, 2017.

Employment

MS. SAEZ' parental rights were terminated January 12, 2017.

Counseling

MS. SAEZ' parental rights were terminated January 12, 2017.

Parenting

MS. SAEZ' parental rights were terminated January 12, 2017.

Other

The Department was contacted by MS. SAEZ' first cousin regarding possible placement of ESTHER in her home. An ICPC was submitted December 8, 2016 to the State of Georgia. The results are still pending.

CHILD(REN)'S CURRENT PLACEMENT:

ESTHER is placed in a licensed DFS Foster Home. She has resided in this placement since September 9, 2016. She appears bonded to her foster parents and comfortable in the home.

This placement is not within close proximity to the parent(s) for ESTHER BELLA RODRIGUEZ.

This placement is the least restrictive for ESTHER BELLA RODRIGUEZ.

CHILD(REN)'S WELL BEING:

Education

ESTHER is not of school age. She attends daycare at Kiddie Academy Mondays through Fridays from approximately 9:00 a.m. – 5:00 p.m. each day.

Placement

ESTHER is placed in a licensed DFS Foster Home. She has resided in this placement since September 9, 2016. She appears bonded to her foster parents and comfortable in the home. This placement is an adoptive resource.

Emotional/Counseling

ESTHER is not in need of counseling services at this time. ESTHER has a good temperament. She is a happy and loving child. ESTHER does appear to have a slight delay in speech and a referral to Nevada Early Intervention Services (NEIS) was submitted January 23, 2017.

Medical/Dental

ESTHER'S medical needs are met at Positively Kids. Her immunizations are current and she has no ongoing medical concerns at this time.

Safety

The Department conducts announced and unannounced home visits to ESTHER'S foster care placement at least every thirty days. The Department completes Permanency Services Placement Safety Checks and currently has no concerns with regards to ESTHER'S current placement.

Psychiatric Services –

Is the child listed in report currently on any psychotropic medication?

No

Has a Court appointed a person to be legally responsible for the child's psychiatric services?

Not Applicable

When was the child's last appointment? Not Applicable

When will the child have an appointment? Not Applicable

SIBLING CONTACT:

☐ Placed Together

☒ Not Placed Together – The Department learned in October 2016 that ESTHER has a half-sibling in the adoption process in California. ESTHER may have additional half-siblings; their locations are unknown.

REASONABLE EFFORTS TO ACHIEVE THE PERMANENCY PLAN:

Reasonable Efforts have been made in order to achieve Permanency for ESTHER. These efforts include the following:

On behalf of the parents:

1. The Parental Rights were terminated January 12, 2017.

On behalf of the child(ren):

1. The Department conducts announced and unannounced home visits at least every thirty days to ensure ESTHER'S safety and well-being and that her needs are being met.
2. The Department provided Medicaid for ESTHER.
3. The Department ordered ESTHER'S medical records.
4. The Department updated ESTHER'S Social Summary.
5. The Department submitted an ICPC as to ESTHER'S maternal cousin.
6. The Department referred ESTHER to Nevada Early Intervention Services (NEIS).
7. The Department maintains contact with ESTHER'S caregivers between in-person visits to monitor her progress in placement and assist with referrals as needed.

GOALS FOR THE NEXT REVIEW PERIOD:

1. The Department will continue to conduct announced and unannounced home visits to ensure ESTHER'S safety and well-being and that her needs are being met.
2. The Department will continue to order medical records and perform Social Summary updates as to ESTHER.
3. The Department will continue to make needed referrals for services for ESTHER.
4. Permanency will be established for ESTHER.

...

...

...

...

...

...

SUMMARY AND RECOMMENDATIONS:

ESTHER was brought in to care July 27, 2015 and placed in Protective Custody due to concerns of abuse and neglect. ESTHER has resided in her current foster placement since September 9, 2016. This placement is an adoptive resource. MS. SAEZ' parental rights and the rights of all potential fathers were terminated January 12, 2017. The Department was contacted by ESTHER'S maternal cousin in October of 2016 and an ICPC as to the cousin was submitted December 8, 2016. The results of the ICPC are still pending.

The Department respectfully recommends that ESTHER BELLA RODRIGUEZ remain a Ward of the Court and placed in her current foster placement.

CHILD SUPPORT:

Not Applicable

WHEREFORE, DEPARTMENT OF FAMILY SERVICES RESPECTFULLY RECOMMENDS:

(1) That ESTHER BELLA RODRIGUEZ remain under the jurisdiction of the Family Court and in the legal custody of the Clark County Department of Family Services;
(2) That the efforts made by the Department of Family Services are found to be reasonable efforts as outlined in this report;
(3) That this matter be brought back for Formal Review in six months.

Submitted By:

Kristina Quinlan — Taryn LaMaison

KRISTINA QUINLAN
CASE MANAGER
CLARK COUNTY
DEPARTMENT OF FAMILY SERVICES

TARYN LAMAISON
SUPERVISOR

DATE: January 30, 2017
COURT CASE NO.: J-15-337398-P1
SITE: Central Perm F

EXHIBIT 3

DISTRICT COURT
CLARK COUNTY, NEVADA

Juvenile Protection **COURT MINUTES** **February 07, 2017**

J-15-337398-P1 Saez, Nellie, Mother

February 07, 2017	**1:30 PM**	**Review Hearing**

HEARD BY:	Norheim, Jon	**COURTROOM:**	Courtroom 14

PARTIES:	
State of Nevada:	**Attorney: Sharp, Tanner L.**
Not Present: Rodriguez, Esther	**Attorney: McKay, Raymond E.**

COURT CLERK:	Lillian Hillhouse

JOURNAL ENTRIES

(Esther Rodriguez) Department of Family Services (DFS) represented by Kristina Quinlan. Foster parents present in the gallery.

Ms. Quinlan reported that the matter has been referred to the adoption unit. A maternal cousin has made contact with the Department and an ICPC has been initiated.

Atty. McKay advised that the minor is doing well in placement.

COURT FINDS, reasonable efforts have been met. COURT RECOMMENDED, subject minor is CONTINUED under the Court's jurisdiction as an abused/neglected minor. Legal custody to the Department of Family services. Placement in foster care. Permanency plan is Adoption. Matter SET for REVIEW.

FUTURE HEARINGS:	
	08/08/2017 1:30 PM Permanency Planning Hearing Courtroom 14 Norheim, Jon

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

EXHIBIT 4

April 11, 2017

TO WHOM IT MAY CONCERN:

I am writing on behalf of Regina Rivera, Foster Parent of Esther Rodriguez.

I have known Regina for over 12 years when I first interviewed and hired her to be a part of the Human Resources Team for Station Casinos. Regina has proven that she is an exceptional leader with exemplary integrity, trustworthiness and she continues to model our Company's standards.

Regina has her Masters in Organizational Management. As a result of her education, experience and exhibited capabilities, I promoted Regina multiple times in a variety of HR positions. She has worked at several of our properties. Her most recent assignment was to lead our Human Resources operations at Green Valley Ranch as our Director of Human Resources, one of our Company's luxury properties that employ over 1700 Team Members. Regina led the HR function at GVR for over five years.

In 2016, Regina met with me to discuss her future with our Company, since she was about to complete her Foster Parent training and was anticipating welcoming a child into her family. For all the years I have known Regina, she had dreamed of becoming a mother. This was her number one priority and as a result, she needed to change her work life in order to properly focus on her family life.

After lengthy emotional discussions, I encouraged Regina to follow her heart. Regina initially wanted to resign, but fortunately I had an opportunity within the Corporate HR department that would meet her family life needs. Regina opted to voluntarily step down from being our Human Resources Director at Green Valley Ranch and accepted the position of Human Resources Manager.

I was thrilled to retain Regina in our Company, while also helping her achieve her life dream to be a mother. Regina sacrificed her successful career and took a step down and also accepted a significant reduction in salary of $26,000. There is no better indication that someone's heart and soul are in the right place when they are willing to personally compromise themselves in order to enrich their life with a beautiful child.

1505 S. PAVILION CENTER DRIVE, LAS VEGAS, NEVADA 89135 • TELEPHONE (702) 495-3000 • TOLL FREE: (866) 922-6777

As a mother of 3 grown young ladies, I would entrust my children in the hands of Regina anytime and I am certain she will continue to provide Esther with a magical life filled with love, compassion, education and guidance to also grow to be a beautiful young lady and contributor in our community.

Should you have any questions or need additional information, I am available to discuss at 702-495-3458.

Sincerely,

Valerie Murzi
Senior Vice President of Human Resources/Training
Station Casinos, LLC
1505 South Pavilion Center Drive
Las Vegas, NV 89135

I have know Regina since I was born. She is like a second mother to me, babysitting my brother and I when we were younger. She is kind, compassionate and driven. These qualities make her the perfect mother. Her love for Esther is immeasurable. Esther is a happy, strong and intelligent child and this is because of the love and care given to her by Regina and Phillip. Every time I see Esther she is radiant, she is so full of joy as she plays with her toys and squeals in delight as she runs around the living room. She is also very intelligent, she has learned simple sign language and is able to communicate her needs and wants. Esther is one of the happiest child I have ever met. Her connection with Regina is strong and trusting. She has developed a secure attachment with Regina as she is upset when she leaves and comforted when she comes back. The same goes for Phillip. They treat Esther with the same love and compassion you would expect any child to be treated with his/her parents. The connection between Regina, Philip and Esther is strongly bonded with love. The love given to Esther fills her days with joys, fills her life with happiness and gives her the radiant smile that makes her so cute. Regina is the perfect mother. She cares about this child more than anything, I feel Esther fits in the family like a glove. At first glance you would never think Esther was anyone's baby instead of Regina and Phillip. They are the idealistic family. For myself, I cannot picture anyone more deserving to care for this child than Regina and Phillip. Even now, I surprise myself when I remember Esther is in the adopting process. It is hard to picture them without Esther. Esther brings them joy and happiness and the occasional poopy diaper. But in all seriousness I have never seen Regina so content with life as she is caring for Esther. Regina, Phillip and Esther create the perfect family.

Sincerely,
Jaden Womack

April 6, 2017

To Whom It May Concern,

I am writing today to give my personal affidavit regarding Phillip and Regina Rivera and their family.

I have known Regina for over 20 years from a professional and a personal basis. I have known Phillip for over 10 years. Philip and Regina are genuine people that I have come to trust and call family. However, I would like to focus on their family life which includes baby Esther.

I understand how the foster care system works; however, I have never considered Regina and Philip just "foster parents". Their intent has always been to be able to share the life they have built with a child and truly build a family. I met Esther very soon after she first came home to Philip and Regina. You would not know that they did not have Esther since birth. They had prepped their home to welcome this baby like the baby was their own coming home from the hospital. As a parent myself, I was very touched by the level of care Philip and Regina had put into making sure that Esther would be home.

Since Esther came home, I have spent time on several occasions both at Philip, Regina & Esther's home and also in public. In the 6 months of time, I have seen Esther develop child/parent bonds with Philip and Regina and vice versa. Their ability to love her as their own day one is apparent, and the result is a thriving baby girl who has a family that she trusts, loves and above all needs. She is social, she is progressing just as any other healthy toddler, she laughs, she plays and she clearly shows her love for her mom and dad. This is not a one sided relationship – part of the care and love they provide is also being a parent, teaching her manners, helping her learn and develop, socializing her and start the guidance so that she will be a happy adult one day.

The home that they have brought Esthar into is more than four walls, food, shelter and clothes. While those are definitely provided for, the value of their home is how Esther on day one was not a foster child or a child waiting to be adopted, she was their daughter and by watching her interact with Philip and Regina, it is clear that Esther has chosen her family.

Please feel free to reach out to me with any additional clarifications.

Warm regards,

Minhvan (Vanesa) Bui
Vice President, Hospitality Revenue
5897 Sterling Moon Ave.
Las Vegas, NV 89131
702-480-3430

SAINT FRANCIS
OF
ASSISI
ROMAN CATHOLIC CHURCH
HENDERSON, NEVADA

April 6, 2017

Family Courts
601 North Pecos Road
Las Vegas, NV 89101

To whom it may concern:

Philip and Regina have been members of St. Francis of Assisi Roman Catholic Church in Henderson, Nevada since March 12, 2008. I have known them since I was assigned to St. Francis of Assisi Roman Catholic Church in July 2009. As well as being their pastor and spiritual advisor, I have been extremely good friends with Philip and Regina since we met and can testify to their stability, spiritual well-being and character.

Since Esther was placed with Philip and Regina, I have observed how dedicated they are with Esther's welfare. They are caring and loving parents, and they have welcomed Esther into their family fully and completely. When Esther was first placed in Philip and Regina's care, they showed kindness and patience and allowed Esther time to adjust to her new home and surroundings. They have and continue to provide Esther with a well-adjusted, secure, well-balanced and constantly stable home and loving family.

In my professional opinion as a Pastor of over 7300 families, and as one who witnesses directly families raising their children each and everyday, I could not see Ester apart from Phillip and Regina. I cannot see Esther being raised by anyone else other than Phillip and Regina Rivera. I believe it would adversely affect Esther, Phillip and Regina, should they be denied adoption of Esther.

As I observe Esther now, I see a happy, healthy and well-adjusted little girl who is thriving in her home and with her family. She is affectionate toward people, playful with other children, and curious about new things. When I see Esther at mass on the weekends, she is well behaved and comfortable in her surroundings. When I call her name, she comes running with a gregarious smile and you cannot but see the joy in her life. This is a pure reflection of the love she receives from her parents Phillip and Regina. Yes, Phillip and Regina for all intent and purposes are her parents (the ones who care for her, provide for her needs, and love her as their very own).

2300 Sunridge Heights Pkwy. · Henderson, Nevada 89052 · (702) 914-2175

As Pastor, I have observed Philip and Regina bring Esther to mass on a weekly basis. I feel this is important as they are committed to Esther's spiritual development and growth. Philip and Regina are fine examples of the Catholic faith as they regularly attend mass as a family, as well as, participate in our parish ministries. By their loving example, they are sharing their faith with Esther. They are providing Esther with a solid foundation of religious beliefs, ethics and morals. I have been blessed to have the Rivera's regularly over for dinner and visits at my home on numerous occasions, and have personally witnessed Esther's growth and the love shared by all.

I cannot implore you enough to please do not breakup this loving family. Esther has adjusted so well to her new family with her mom Regina and dad Phillip. She has become so attached to Phillip and Regina, in my opinion, and they have in kind also. I believe that it could be adversely detrimental to the spiritual well-being of all involved, should Esther not be able to be adopted by two very loving and caring parents in Regina and Phillip Rivera.

I can testify that I know Regina and Phillip quite well. I believe Esther is living in a highly stable, loving, caring and committed home to two loving parents.

If you would like to discuss anything with me, or need additional testimony, I am more than happy to make myself available at your convenience. I may be reached directly at 702-321-9686.

Sincerely, yours,

Rev. John T. Assalone, Pastor
St. Francis of Assisi
Henderson, Nevada

KIDDIE ACADEMY.
EDUCATIONAL CHILD CARE

To Whom It May Concern, April 10, 2017

Esther Rodriguez has been enrolled in our toddler program since October 31, 2016. It has been a pleasure to be a part of Esther's learning experience. In the short time she has been with us, we have watched her grow and adapt in a very loving and curious way.

On her first day, she was very shy and nervous. It's to be expected on their first day of childcare. She adjusted to her environment fairly quickly considering the circumstances of being a foster child. This smooth transition tells us that she is able to recognize a stable environment.

Esther has shown progress with social and emotional development, as it is typical of that of her peers, and she is always happy and content. Emotional development involves toddlers feeling safe in their environment. They will establish a strong bond with their teachers and experience a wide variety of emotions.

These behavioral signs are good indicators that she is currently in a stable environment in our care and in a home that is conducive to both her physical growth and emotional development.

Philip and Regina Rivera have always been involved in Esther's child development and learning experience with us at Kidde Academy. They have always provided the support we need for parent connection. It takes a village to raise a child and we believe parent and family involvement is necessary to educate our children.

We consider Philip and Regina Rivera loving parents that provide a stable, loving, and safe environment for sweet Esther to grow and thrive.

Michelle Wennerberg, Director
Michelle
KIDDIE ACADEMY.
EDUCATIONAL CHILD CARE
Kiddie Academy of Henderson
870 Coronado Center Drive
Henderson, NV 89052
(702) 333-1177
(702) 333-1188 fax
(626) 221-5066 cell
www.kiddieacademy.net/henderson
www.facebook.com/kiddieacademyofhenderson

life essentials EDUCATIONAL EXCELLENCE

ACADEMY.
EDUCATIONAL CHILD CARE

To Whom It May Concern, April 10, 2017

My name is Lindsay Bush. I am currently a Lions 2 year old teacher at Kiddie Academy. I have worked in the Penguins, Kangaroos, and Lions classrooms. I was hired as a toddler teacher, but recently I have transitioned to the 2 year old teacher position.

My experience working with Esther Rodriguez has been extensive since she started with us back in October 2016. I have had the pleasure of working with Esther in both group and one on one settings. I can remember when she first started with us. She seemed distant and emotional as drop off in the morning was difficult for her. Over a short time she has found comfort in the familiarity and consistency of the classroom routines. Esther has adjusted well and we enjoy having her a part of our Kiddie Academy family.

The experience we have had with Esther's parents, Philip and Regina have always been positive and they are very loving people. It is easy to speak to them and we find comfort in knowing she has a nice family to go home to everyday.

Esther's learning experience has been progressive. She is now recognizing colors, shapes and numbers. She easily follows one to three step verbal directions. She is speaking and loves to listen to music. During circle time, Esther enjoys trying to sing along as we all recite the ABC's. She loves singing Row, Row, Row, Your Boat and Twinkle, Twinkle Little Star. We are getting ready to potty train and most of the time her diaper is dry. She has also established meaningful connections with teachers and friends in the classroom. Some of her favorite activities is to do arts and crafts, puzzles, and play with friends.

Esther is a sweet girl she is usually the first one to give hugs to friends who are sad, or if they get hurt. Everyone here at Kiddie Academy loves her and we are all so proud of how much she has blossomed.

Lindsay Busch, Lead Teacher

KIDDIE ACADEMY.
EDUCATIONAL CHILD CARE
Kiddie Academy of Henderson
870 Coronado Center Drive
Henderson, NV 89052
(702) 333-1177
(702) 333-1188 fax

EDUCATIONAL EXCELLENCE

KIDDIE ACADEMY.
EDUCATIONAL CHILD CARE

To Whom It May Concern, April 10, 2017

My name is Maribelle Manankil. I am currently a Kangaroos toddler teacher at Kiddie Academy. I have worked in the Penguins and Kangaroos for almost 2 years.

In the Kangaroos classroom we work on cognitive skills, communication skills, emotional skills, fine motor skills, gross motor skills and social skills. Toddlers need a consistency in routines to help them adjust to their environment and feel safe. My goal as a teacher is to make sure we provide a fun, safe learning environment for all the children to thrive.

I have had the pleasure of working with Esther and her loving family since she started with us in October 2016. Esther is about to make a full transition to the two year old Lions classroom with Ms. Lindsay. She will transition easily as she is very familiar with Ms. Lindsay. We are confident she will continue to learn and explore with ease.

Esther has come a long way since she started with us. She now follows verbal directions, making cognitive meaningful connections, showing readiness for potty training, and she is social. Esther is learning new ideas about sharing.

My favorite part about my morning is seeing sweet Esther run to me for a good morning hug. We all love Esther and we are blessed to have her a part of our preschool. It is evident that Esther comes from a loving home. Philip and Regina Rivera are match made in heaven for Esther. If no one told us she was a foster child I personally would not be able to tell. I could not imagine Esther with anyone else. They are involved in her progress at school and we all know how loving they are to Esther.

Maribelle Manankil, Lead Teacher

KIDDIE ACADEMY.
EDUCATIONAL CHILD CARE
Kiddie Academy of Henderson
870 Coronado Center Drive
Henderson, NV 89052
(702) 333-1177
(702) 333-1188 fax

life essentials EDUCATIONAL EXCELLENCE

EXHIBIT 5

Electronically Filed
05/01/2017 01:54:32 PM

CLERK OF THE COURT

COPY

ORD
STEVEN B. WOLFSON
District Attorney
Nevada State Bar No. 1565
TANNER SHARP
Deputy District Attorney
Nevada State Bar No. 13018
Juvenile Division
601 N. Pecos Rd., Ste. 470
Las Vegas, Nevada 89101
(702) 455-5320

DISTRICT COURT
FAMILY DIVISION - JUVENILE
CLARK COUNTY, NEVADA

In the Matter of:

ESTHER RODRIGUEZ
DOB: 06-15-2015

Minor under 18 Years of Age

CASE NO. J-15-337398-P1
DEPT: FAMILY JUVENILE
COURTROOM: 14

HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

This matter came before the Court for an evidentiary hearing on placement on April 13, 2017 and April 14, 2017. Present in Court was the Department of Family Services, represented by Kristina Quinlan; Tanner Sharp, Esq. in behalf of the Clark County District Attorney's Office; maternal relatives Stephanie and Joe Rozier; foster parents Philip and Regina Rivera; and, Raymond McKay, Esq. attorney for the subject minor.

The Court, having reviewed the testimony and evidence offered during the hearing, the record in this matter, relevant statutes, and oral argument, and good cause being shown, makes the following findings and recommendation:

THE COURT HEREBY FINDS that the Department should have located the Rozier's earlier as they had contact with Esther's adult, half sibling Carolina and as Carolina had contact with the Rozier's.

RECEIVED
APR 25 2017
JUVENILE DIVISION

THE COURT FURTHER FINDS that the Department should have notified the Rivera's sooner as to possible placement with the Rozier's.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's are credible witnesses. The Court finds that the two Department employees were inconsistent in their testimony with regard to the information relayed to the Rozier's regarding placement of Esther. As such, the Court does not find the Department's testimony credible as to that issue alone.

THE COURT FURTHER FINDS that the Rozier's demonstrated a reasonable excuse for the delay in coming forward and requesting placement of Esther.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's are extremely good and dedicated parents.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have good, strong family connections. That both are family oriented and would give Esther the opportunity to have a large extended family.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have well thought out plans for Esther's education, moral upbringing, and social interaction.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have good community involvement. That both are involved in church and other organizations.

THE COURT FURTHER FINDS that both the Rivera's and the Rozier's have more than adequate resources to care for Esther.

THE COURT FURTHER FINDS that Esther is incredibly bonded with the Rivera's and that the Rivera's have proven that they have the ability to care for Esther.

THE COURT FURTHER FINDS that the Rozier's have a biological family connection with Esther and that it is highly likely that the Rozier's will end up with one of the siblings.

THE COURT FURTHER FINDS that the courts and legislature have determined that when comparing bonding with biological, family connection, family connection is the overriding

consideration and the family is where the child should be placed, despite the trauma that Esther will experience with a fourth removal.

Therefore,

THE COURT RECOMMENDS that the subject minor be placed with the Rozier's on the following two conditions: (1) Rozier's must provide proof that they have the requisite familial relationship with Esther as represented in court and (2) the Rozier's must comply with the trauma minimization transition as outlined by the Department during the hearing. Placement will not take place should these conditions not be met.

IT IS SO RECOMMENDED on this 25th day of April, 2017.

HEARING MASTER

****
****

NOTICE OF RIGHT TO FILE OBJECTION TO MASTER'S RECOMMENDATIONS

Objections to the Hearing Master's Recommendations are governed by EDCR 1.46. No Recommendations by the Hearing Master will become effective until expressly approved by the Presiding Juvenile District Court Judge. The Applicant has five (5) days after receipt of this Hearing Master's Recommendations to apply to the Presiding Juvenile District Court Judge for a hearing. Failure to properly file an Application for Hearing shall result in an Order of Approval being entered by the District Court.

****
****

RECEIPT OF SERVICE

Tanner L. Sharp, District Attorney for the State of Nevada, does hereby acknowledge receipt of HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS this _____ day of April, 2017.

By: _____
TANNER L. SHARP
Nevada Bar No. 13018
Deputy District Attorney

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS, was made this 1st day of ~~April~~ May, 2017, by electronic mailing and/or facsimile and/or depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

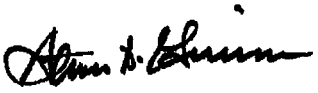
RAYMOND MCKAY, ESQ.

STEPHANIE AND JOE ROZIER
229 BRITTANY COURT
MACON, GEORGIA 31216

KRISTINA QUINLAN (DFS)

BY _____
An employee of the District Attorney's Office
Juvenile Division

Electronically Filed
02/01/2016 02:26:36 PM



CLERK OF THE COURT

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Tanner Sharp
Deputy District Attorney
Juvenile Division
Nevada Bar No. 13018
601 North Pecos
Las Vegas, Nevada 89101
(702) 455-5320

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

In the Matter of:

ESTHER RODRIGUEZ Date of Birth: 06-15-2015 A Minor, 0 Years and 07 Months of Age	COURT CASE NO.: J-15-337398-P1 DEPT.: FAMILY JUVENILE COURTROOM: HM NORHEIM - #14

OUT-OF-HOME PLACEMENT ORDER - Licensed Foster Home

This matter having come on for Permanency and Placement Review before the Family Court, Eighth Judicial District, County of Clark, State of Nevada, Clark County Department of Family Services, on this 26 day of January, 2016, with parent(s) NELLIE SAEZ being present and PEDRO RODRIGUEZ ~~not~~ being present in Court, and subject minor(s) being available to the Court, and the Court finding that the minor(s) come(s) within the provisions of NRS 432B.410, 432B.550, 432B.580, 432B.590, and 432B.600, and good cause being shown;

THE COURT FINDS that continuation of the minor(s) in the home of the parent(s)/guardian(s), SAEZ, NELLIE and/or RODRIGUEZ, PEDRO, is contrary to the welfare of the child(ren);

THE COURT FURTHER FINDS that reasonable efforts have been made as cited in the Permanency and Planning Review Report to prevent or eliminate the need for removal of the child(ren) from SAEZ, NELLIE and/or RODRIGUEZ, PEDRO home;

THE COURT FURTHER FINDS that reasonable efforts have been made as cited in the Permanency and Planning Review Report to make it possible for the child(ren) to return to the home of SAEZ, NELLIE and/or RODRIGUEZ, PEDRO; accordingly,

IT IS HEREBY RECOMMENDED that ESTHER RODRIGUEZ is continued as a Ward of the Family Court as a child in Need of Protection;

IT IS FURTHER RECOMMENDED that legal custody remains with the Clark County Department of Family Services for placement until ESTHER RODRIGUEZ reach(es) the statutory age as prescribed by law, or until further Order of the Court. Control and custody is awarded with all necessary authority and power to furnish, provide, and authorize care and services to the subject minor(s) as may seem necessary and proper, and in the child(ren)'s best interest and welfare, including but not limited to: food, clothing, shelter, education, and routine medical care and treatment;

IT IS FURTHER RECOMMENDED that the Clark County Department of Family Services shall have legal authority to access and obtain any records that relate to the child's well being to include but not limited to: medical, dental, educational, mental health, and substance abuse;

IT IS FURTHER RECOMMENDED that the Permanency Plan goal of Reunification as recommended by the Clark County Department of Family Services is in the child(ren)'s best interest and shall be adopted by the Court;

IT IS FURTHER RECOMMENDED that continuation of reasonable efforts to reunify ESTHER RODRIGUEZ with SAEZ, NELLIE and/or RODRIGUEZ, PEDRO, as required by NRS 432B.393 is consistent with the Permanency Plan;

IT IS FURTHER RECOMMENDED that the following efforts that have been made by the Clark County Department of Family Services to meet the permanency goal are reasonable efforts:

1. The Department referred MS. SAEZ to Drug Tests.
2. The Department referred MS. SAEZ to a Substance Abuse Assessment at Community Counseling Center of Southern Nevada.
3. The Department provided MS. SAEZ with bus passes.
4. The Department coordinated visitation with MS. SAEZ and ESTHER.
5. The Department attempted to maintain contact with MS. SAEZ.
6. The Department conducted a Diligent Search as to MS. SAEZ.
7. The Department referred MR. RODRIGUEZ to Drug Tests.
8. The Department referred MR. RODRIGUEZ to a Substance Abuse Assessment at Community Counseling Center of Southern Nevada.
9. The Department provided MR. RODRIGUEZ with bus passes.
10. The Department coordinated visitation with MR. RODRIGUEZ and ESTHER.
11. The Department attempted to maintain contact with MR. RODRIGUEZ.
12. The Department conducted a Diligent Search as to MR. RODRIGUEZ.
13. The Department conducts announced and unannounced home visits to ensure ESTHER'S safety and well-being and that her needs are being met.
14. The Department provided Medicaid for ESTHER.
15. The Department completed the Initial Social Summary for ESTHER.
16. The Department ordered medical records as to ESTHER.
17. The Department referred ESTHER to Nevada Early Intervention Services.

IT IS FURTHER RECOMMENDED that sibling visitation is not applicable;

IT IS FURTHER RECOMMENDED that:

☒ Child Support is waived;

☐ Child support is ordered in the amount of $_____ for _____ per child;

IT IS FURTHER RECOMMENDED that the ESTHER RODRIGUEZ is placed in a licensed foster home.

IT IS FURTHER FOUND AND RECOMMENDED that neither the physical custodian(s) nor the parent(s) may remove the subject minor(s) from the State of Nevada without the written consent of the Clark County Department of Family Services or by Order of the Court;

IT IS FURTHER RECOMMENDED that this matter be reviewed on the 2nd day of August, 2016, at the hour of 1:30 p.m., Department: Family Juvenile.

You are hereby notified that you have a right to a rehearing pursuant to Eighth Judicial District Court Rule 1.46. An application for rehearing must be filed within five days after receipt of the Referee's Findings and Recommendations.

Dated this 26th day of January, 2016

JUVENILE HEARING MASTER
JON W. NORHEIM

IT IS SO ORDERED.

Dated this 26 day of January, 2016.

DISTRICT JUDGE – JUVENILE
CHARLES J. HOSKIN

Submitted by:

KRISTINA QUINLAN
CASE MANAGER
DEPARTMENT OF FAMILY SERVICES

Submitted by:

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: Deputy District Attorney

COURT CASE NO.: J-15-337398-P1

Hay servicios gratis de ayuda con otros idiomas. Para pedir un intérprete, llame por favor al Coordinador de Servicios de Intérpretes al *671-4578*.

Free language assistance services are available. To request an interpreter, please call the Language Assistance Coordinator at 671-4578.

Electronically Filed
5/22/2017 10:44 AM
Steven D. Grierson
CLERK OF THE COURT

RSPN
RAYMOND McKAY, ESQ.
Nevada Bar No.: 8569
Law Offices of Elizabeth Mikesell
7251 West Lake Mead, Ste. 250
Las Vegas, Nevada 89128
Telephone: (702) 284-5919
Raymond.mckay@libertymutual.com
Pro Bono Counsel for the Minor Child,
Esther Rodriguez

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Child: Esther Rodriguez Date of Birth: 06/15/15	CASE NO.: J-15-337398-P1 DEPT.: Dependency 1 Courtroom: 14

RESPONSE TO THE DISTRICT ATTORNEY'S OBJECTION TO HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

COMES NOW, the minor child at issue, ESTHER RODRIGUEZ (hereinafter, the "Child"), by and through her attorney of record, Raymond McKay, Esq., Pro Bono CAP Attorney, of the Law Offices of Elizabeth Mikesell, who hereby files her Response to the District Attorney's Objection to Hearing Master's Findings of Fact, Conclusions of Law, and Recommendations.

....

....

....

This Response is based upon the attached Points and Authorities and the oral arguments of counsel at the time of the hearing currently set in this matter, and states and alleges as follows:

DATED this 19th day of May, 2017.

Law Offices Of Elizabeth Mikesell

/s/ Raymond E. McKay

RAYMOND McKAY, ESQ.
Nevada Bar No.: 8569
Law Offices of Elizabeth Mikesell
7251 West Lake Mead, Ste. 250
Las Vegas, Nevada 89128
Telephone: (702) 284-5919
Raymond.mckay@libertymutual.com
Pro Bono Counsel for the Minor Child, Esther Rodriguez

INTRODUCTION & STATEMENT OF FACTS

This case involves a child who was removed from the care of her mother (Nellie Saez, hereinafter "Nellie") on July 27, 2015, and placed in protective custody on July 29, 2015. Nellie has a long history of drug addiction, and has had many children (approximately ten), and because of Nellie's persistent drug addiction issues, as well as her inability to maintain any living arrangement other than homelessness, understandably, her parental rights have been routinely terminated. The rights of the father have also been terminated. The Child has been moved from place to place since she was removed from Nellie's care July 27, 2015. Currently, the Child has been ordered to be placed with her biological family members (hereinafter, the "Roziers").

The Nevada Department of Family Services' (hereinafter, "DFS") Objection seeks to shift blame for the persistent instability in the Child's life to the Roziers in an effort to cover-up its negligence and completely improper handling of this case. Literally, the core of DFS's argument is that the Roziers, because they knew Nellie was a homeless drug addict, and that Esther *existed*, should have known that Esther would, at some point in the hypothetical future, be taken into protective custody by one of the fifty states. The facts of this case actually tend to show a coordinated effort by DFS to prevent the Roziers from being able to properly come forward as a placement option.

On October 18, 2016, the Roziers came forward and presented themselves to DFS expressing a deep desire to adopt the Child. To be clear, October 18, 2016 was the *exact* day that the Roziers learned the Child had been placed in the custody of the State. There was not even an eight (8) hour delay in the Roziers coming forward in this case. Disturbingly, instead of immediately notifying the Court that a potential family member placement option

had come forward, DFS swept the fact under the rug, and even in DFS's instant Objection, it did not notify the Court until April 4, 2017 of the existence of the Roziers. To be clear, it took DFS almost five (5) months to notify the Court that the Roziers existed and wanted placement of the Child.

In the intervening period between DFS finding out about the Roziers, and its notifying the Court of their existence, arrangements had already been set in motion for the Roziers to accept placement of the Child through the initiation of an ICPC. Additionally, DFS was working with the Roziers to accept placement of, and ultimately adopt, Nellie's newborn child, Olivia, who is the subject minor in a different J-Case involving Nellie. By all accounts, Olivia is going to be placed with the Roziers and adopted in the near future. Nonetheless, instead of DFS coordinating with the Roziers to figure out a way to keep the Child and Olivia together, it proceeded to push an agenda designed to deprive the Roziers of their ability to accept placement of the Child.

Now, based on an incorrect interpretation of statutory legal ties of family members, DFS states that because Nellie's parental rights to the Child were terminated prior to the evidentiary hearing on the Child's placement, the Roziers' family ties to the child were severed, and the familial preference for placement has been negated and eliminated forever. *A creative, but woefully flawed argument that would set a disturbing precedent, especially considering the name of the agency that is making that argument,* ***The Department of Family Services***. However, instead of objecting to the evidentiary hearing setting made by the Hearing Master in this case, DFS proceeded in an attempt to discredit the Roziers and walk back its deplorable conduct. In the end, DFS knew that it had made serious missteps in this case, and is apparently too ashamed to admit the same.

The facts as exposed at the evidentiary hearing on placement established that DFS failed to fulfill its obligation to the Child by failing to notify the Roziers of the fact that the Child had been taken into protective custody by the State of Nevada. The Hearing Master noted that the testimony elicited by DFS at the evidentiary hearing was inconsistent with the record. Since the credibility of DFS has been destroyed in this matter, this Court's mere consideration of DFS's instant Objection is an affront to the civil justice system, and will only propagate the same bad acts that have been pervasive in this case, and which have been pervasive in DFS for a long time.

The most important dates and events which were thoroughly presented at the evidentiary hearing on placement are as follows:

1. The Roziers contacted DFS on October 18, 2016 to inquire about the Child, and at the time DFS did not indicate that the Roziers would not be considered by DFS as a placement option, and specifically told the Roziers that they needed to initiate the ICPC process. At this time, DFS informed the Roziers that once the ICPC was initiated, no one would be able to adopt the Child until it was sorted out. Also, DFS asked the Roziers if they were willing to take Nellie's unborn child. The Roziers answered in the affirmative, as they are also in the process of adopting a the Child's older sister, so the Roziers were seeking to keep three children together;
2. On November 3, 2016, DFS began investigating the Roziers as a placement option, and asked for pertinent personal information for each of them;
3. Between November 8, 2016 and November 22, 2016, DFS failed to return any of the Roziers calls.

4. On November 22, 2016, DFS sent the Roziers pictures of the Child, and stated that it would be submitting the ICPC paperwork to Carson City. At this time, the Roziers requested visitation with the Child, and on February 21, 2017 (three months later) DFS stated that it would inquire with the foster family to see if it was *okay* for the Roziers to visit with the Child;
5. On February 25, 2017, the Roziers inquired again about visitation, and received no response;
6. On March 1, 2017, DFS contacted the Roziers and said that they could not have any visitation with the Child, and at this same time, the Roziers were informed that the Child would be adopted by the foster family in the next month, which was the first time the Roziers had been told that they would not be able to receive the Child into their home;
7. On March 2, 2017, the Roziers contacted the Supervisor at DFS working on this case, and asked if they could obtain the information for the CAP attorney representing the Child, and the Supervisor told the Roziers that if they wanted the CAP attorney's phone number they would need to subpoena those records. Additionally, the Supervisor went on to state that the Roziers were never an option for placement unless the foster family backed out, the foster family died, the judge changes his mind, or if DFS changed its mind on placement. The Supervisor told the Roziers that none of those things would ever happen, and that she was sorry to be the barer of bad news, and that the department had been stringing the Roziers along this whole time, because the DFS caseworker was afraid to deliver that same news.

What this whole situation boils down to is DFS has displayed a preference for the foster family, because if it did not, and instead made efforts to place the Child with her

family members, it would make DFS look bad, because it had informed the foster family that they would be permitted to adopt the Child.

DFS is basing its objection to the Hearing Master's orders on unsubstantiated concern for things that could go wrong with the Child in the future. There is no actual evidence that the Child will suffer any trauma as a result of being placed with the Roziers, and the Hearing Master did not say that such a change for the Child would cause trauma. What the Hearing Master recommends is that the Child should be placed with her family members, because all other factors are equal. The Hearing Master's Recommendation is consistent with the law, and this Court should overrule the District Attorney's Objection.

RESPONSE TO DISTRICT ATTORNEY'S OBJECTION

POINTS AND AUTHORITIES

NRS 432B.121 Definition of when person has "reasonable cause to believe" and when person acts "as soon as reasonably practicable." For the purposes of this chapter, a person:

> 1. Has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.
> 2. Acts "as soon as reasonably practicable" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would act within approximately the same period under those facts and circumstances.

NRS 432B sets out the standard for when a party has reasonable cause to believe a child has been taken into protective custody, and that standard suggests that they have reasonable cause to believe that an actual act, transaction, event, or situation exists. Therefore, the party would have reasonable cause to believe that a condition exists if under the facts and

circumstances then known to the individual, another reasonable person under the same set of facts and circumstances would have cause to believe the condition exists.

Here, it is abundantly clear that the Roziers had no idea that the Child, and this particular child had been taken into the custody of the State. The Roziers knew that Nellie had issues, and that she was unstable, and even that Nellie had the Child, but there was never any indication that the Child had been taken into custody by the State. Nellie did not tell them, and in fact another relative in Florida told the Roziers that Nellie had had the Child taken from her by the State. So, as soon as the Roziers heard that information, they immediately endeavored to contact DFS to inquire about the Child.

NRS 432B.390 Placement of Child in Protective Custody:

States in pertinent part:

> 6. A child placed in protective custody pending an investigation and a hearing held pursuant to NRS 432B.470 **must be placed**, except as otherwise provided in NRS 432B.3905, in the following order of priority:
>
> (a) In a hospital, if the child needs hospitalization.
>
> **(b) With a person who is related within the fifth degree of consanguinity or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.**
>
> (c) In a foster home that is licensed pursuant to chapter 424 of NRS.
>
> (d) In any other licensed shelter that provides care to such children.

(Emphasis Added).

DFS is tasked by statute, to follow a priority order of placement options. The statute is not discretionary, and is in fact a command by the Legislature, unless the child needs serious medical attention, to place children with family members within the fifth degree of consanguinity. The statutory command specifically contemplates the importance of family

relationships. The applicability of the statute does not expire, and therefore is an ongoing obligation for DFS to place children with their biological families over all other placement options.[1]

Here, DFS intentionally failed to meet the requirements of NRS 432B.390, ostensibly to save face, because it failed to follow up on, or investigate further, the potential familial ties the Child actually had. What DFS did was contact one family member, and when that one family member did not disclose any others, it immediately presumed that the foster family was the only viable option for placement.

> **NRS 432B.3905 Limitations on transfer and placement of child who is under 6 years of age; notice.**
>
> 1. An employee of an agency which provides child welfare services or its designee, an agent or officer of a law enforcement agency, an officer of a local juvenile probation department or the local department of juvenile services or any other person who places a child in protective custody pursuant to this chapter:
>
> (a) Except as otherwise provided in subsection 2, shall not transfer a child who is under the age of 6 years to, or place such a child in, a child care institution unless appropriate foster care is not available at the time of placement in the county in which the child resides; and
>
> **(b) *Shall* make all reasonable efforts to place siblings in the same location.**

(Emphasis Added).

Just like NRS 125C factors on a child's best interest when it comes to custodial orders, NRS 432B carves out a special placement consideration for children below the age of six (6). Again, as in 432B.390, NRS 432B.3905 actually *commands* DFS to make all

---

[1] In this case, DFS specifically states, "As a courtesy, the State placed this matter before the court on April 4, 2017, in order for the Roziers to address the court." DFS OBJ at 4:23-25. The statute applicable to this situation is clear; the State is obligated to present the Roziers to the court, and to categorize it as a courtesy in order to appear magnanimous is disingenuous.

reasonable efforts to place siblings in the same location. Further, the statutory command does not expire, and requires DFS to place siblings in the same house if at all possible.

Here, Nellie's newborn, Olivia, is without a doubt going to be placed with the Roziers, as that was noted in the Hearing Master's recommendation, and additionally, the Roziers are likely to adopt a third child of Nellie's named Destenee. In this case, DFS has conceded that Olivia is going to be placed with, and ultimately adopted by the Roziers, but instead of making all reasonable efforts to keep these siblings together, DFS is doubling down on its position, with regard to the Child, to absolutely ***ensure*** that these children are permanently separated and their familial ties severed.

CONCLUSION

The Rivera's are a wonderful couple, however, the Hearing Master applied the appropriate standard in awarding placement to the Roziers, because they came forward as soon as they possibly could. The familial preference exists in Nevada until a Decree of Adoption is finalized, as an adoption is the only legal mechanism for severing legal familial ties. There was no delay between the Roziers learning of the Child being taken into protective custody and their efforts to come forward as an option for placement. The Hearing Master properly recommends that the Child be placed in a home with her family members, and more particularly with at least one sibling, as Olivia will be placed with the Roziers as soon as possible, because their ICPC paperwork has been completed, and their home state is ready and eager to facilitate their receipt of the Child at issue here, as well as the newborn Olivia. DFS has an ongoing obligation to place children with family when family within the fifth degree of consanguinity comes forward in a timely manner. The

timeliness of coming forward is based on a legal standard of reasonableness that was clearly met here.

The Hearing Master is the one that observed the sworn testimony of the workers from DFS, and the hearing Master determined that those workers were not credible when it came to the information they provided to the Roziers. Conversely, the Hearing Master found the Roziers to be credible and to disturb the Hearing Master's judgment on the credibility of the witnesses would literally negate the purpose of Hearing Masters which is to take impressions of facts and circumstances of cases before them. The Roziers are incredibly responsible and loving people, and their ability to be good parents is simply not in question. Finally, the Roziers are going to take placement and adopt at least one of the Child's siblings, therefore, the Roziers are the only household that will actually consist of blood relations within the fifth degree of consanguinity.

Based on the foregoing and the papers and pleadings on file herein this Court should overrule the District Attorney's Objection, and accept and adopt the Hearing Master's Findings of Fact, Conclusions of Law, and Recommendations as an order of the Court.

DATED this 19th day of May, 2017.

Law Offices of Elizabeth Mikesell

/s/ Raymond E. McKay

RAYMOND McKAY, ESQ.
Nevada Bar No.: 8569
Law Offices of Elizabeth Mikesell
7251 West Lake Mead, Ste. 250
Las Vegas, Nevada 89128
Telephone: (702) 284-5919
Raymond.mckay@libertymutual.com
Pro Bono Counsel for the Minor Child, Esther Rodriguez

Electronically Filed
5/22/2017 11:08 AM
Steven D. Grierson
CLERK OF THE COURT

GREGORY S. MILLS, ESQ.
State Bar #8191
DANIEL W. ANDERSON, ESQ.
Nevada Bar #9955
MILLS, MILLS & ANDERSON
703 S. 8th Street
Las Vegas, Nevada 89101
(702) 386-0030
Attorney for Philip and Regina Rivera
attorneys@millsnv.com

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of:

ESTHER RODRIGUEZ DOB: 06/15/2015	CASE NO.: J-15-337398-P1 DEPT. NO.: FAMILY JUVENILE COURTROOM: 14
A Minor under 18 years of age	**Date of Hearing: 5/23/2017** **Time of Hearing: 10:30 A.M.**

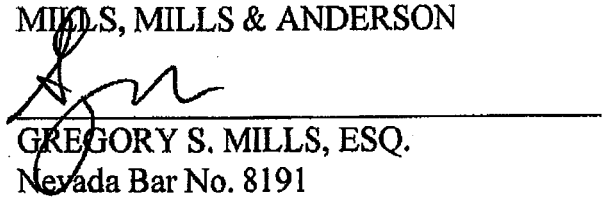
JOINDER OF PHILIP RIVERA AND REGINA RIVERA IN CLARK COUNTY DEPARTMENT OF FAMILY SERVICES' OBJECTION TO HEARING MASTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS

COMES NOW, Philip Rivera and Regina Rivera, by and through GREGORY S. MILLS, ESQ. of the law firm of MILLS, MILLS & ANDERSON, their attorneys and hereby join in DFS' Objection filed May 1, 2017 to Hearing Master's Findings of Fact Conclusions of Law and Judgment filed May 1, 2017.

This Objection is made and based upon the papers and pleadings on file herein, Points and Authorities cited below and any oral argument entertained at the time of hearing.

DATED this 19 day of May, 2017

MILLS, MILLS & ANDERSON



GREGORY S. MILLS, ESQ.
Nevada Bar No. 8191
DANIEL W. ANDERSON, ESQ.
Nevada Bar No. 9955
703 S. 8TH Street
Las Vegas NV 89101
Attorneys for Philip and Regina Rivera

POINTS AND AUTHORITIES

I

STATEMENT OF FACTS

Philip Rivera and Regina Rivera (hereinafter the Riveras), are the current placement of the minor child, Esther Rodriguez. Esther was placed with the Riveras on September 9, 2016, which was Esther's fourth placement in less than two years. Fortunately, the Riveras are committed to adopting Esther and had anticipated completing the adoption process by the end of May, 2017.[1] The Riveras also recently received placement of Esther's younger sister, Olivia. Olivia was removed from the natural mother's care at birth on April 24, 2017 and placed with the Riveras on April 27, 2017.

[1] The Natural mother's rights were terminated by Order of the Court filed February 18, 2017.

Unfortunately, in the Findings of Fact, Conclusions of Law and Recommendations filed in this case on May 1, 2017, the Hearing Master recommended that Esther should be removed from her adoptive home with the Riveras and placed with Stephanie Rozier, who currently lives in Georgia. Ms. Rozier contacted DFS on approximately October 18, 2016, claiming to be a cousin of the natural mother's and requesting information regarding Esther.

Ms. Rozier was never identified by the natural mother or any other family member as a potential placement, and she was unknown to DFS until October 2016, despite DFS submitting a diligent search for family members in July 2015. The diligent search identified four relatives, none of which were a viable placement. Furthermore, none of those family members identified Ms. Rosier as an additional family member or placement option. Ms. Rozier's first contact with DFS occurred approximately 15 months after Esther was removed from her mother's care.

Notwithstanding Ms. Rozier's significant delay in coming forward to seek placement, and notwithstanding that the natural mother's parental rights were terminated in February 2017, the Hearing Master ordered that a placement hearing take place to determine whether Esther should be moved from her adoptive home and placed with Ms. Rozier in Georgia. This evidentiary hearing occurred on April 13 and 14, 2017.

The Hearing Master's Recommendations were filed on May 1, 2017. In its decision, the Court made no findings that were adverse to the Riveras in terms of the their parenting ability, financial resources, community involvement, their bond with and commitment to Esther or their long term plans for her upbringing. In fact, the Court made positive findings regarding all aspects of the Riveras' care of Esther. These findings were supported by the Riveras testimony, every report filed by the caseworkers since the time Esther was placed in the Riveras' care, and the sworn testimony of multiple case workers. The Court concluded that Esther was

"incredibly bonded" with the Riveras and that they "have proven" that they have the ability to care for Esther.

Conversely, the findings in support of Ms. Rozier as to placement were supported only by her and her husband's testimony. No collateral witnesses were called in support of placement with the Roziers and no documentary evidence was submitted on their behalf other then them on an ICPC approval. The Court made findings in favor of the Roziers, similar to those made in favor of the Riveras, excepting the Riveras' bond and proven ability to care for Esther.

It appears that the Court's decision ultimately rested on its belief that 1) the Roziers would likely end up with at least one half sibling of Esther's and 2) when comparing bonding to biological family connection, family connection is the overriding consideration. The court concluded that Esther should be placed with the Roziers, despite hearing significant testimony that removing Esther again could cause significant and potentially long term trauma to Esther.

The Hearing Master's recommendations are clearly erroneous for three reasons:

A. The Hearing Master applied a familial preference where none exists. At the time of the placement decision, the natural mother's rights had been terminated in February 2017. As such, if Ms. Rozier was in fact a cousin of the natural mother's, Ms. Rozier's legally identifiable familial relationship with Esther ended when the mother's rights were terminated.

B. Even if the familial preference was not terminated in February 2017, Ms. Rozier failed to come forward to seek placement within one year of removal, thereby making the familial preference inapplicable to the case.

C. Even if the familial preference was applicable, the great weight of the evidence presented at hearing proved that Esther's best interests required that she remain in the Riveras care in her adoptive home. The Hearing

Master failed to state in the decision how moving Esther from her current adoptive placement to a putative relative, who she has never met, is in her best interest.

Based on the foregoing facts and argument below, The Riveras' join the District Attorney's objection to the Hearing Master's decision.

II

ARGUMENT

A. The Hearing Master Abused Discretion by Appling a Familial Preference where None Existed as a Basis for Changing Placement.

While this Court has the authority to make and modify placement of a child under its care and to amend the permanency plan pursuant to NRS 432B.550, the Hearing Master's use of the familial preference in this case was clear error. The relevant statute states in pertinent part as follows:

> NRS 432B.550 Determination of custody and placement of child by court; retention of certain rights by parent when child placed other than with parent; determination of whether agency which provides child welfare services has made reasonable efforts required.
>
> 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:
>
> (a) Permit the child to remain in the temporary or permanent custody of the parents of the child or a guardian with or without supervision by the court or a person or agency designated by the court, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe;
>
> (b) Place the child in the temporary or permanent custody of a relative, a fictive kin or other person the court finds suitable to receive and care for the child with or without supervision, and with or without

retaining jurisdiction of the case, upon such conditions as the court may prescribe; or

...

5. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of the parents of the child or guardian:

(a) It must be presumed to be in the best interests of the child to be placed together with the siblings of the child.

(b) Preference must be given to placing the child in the following order:

(1) With any person related within the fifth degree of consanguinity to the child or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.

(2) In a foster home that is licensed pursuant to chapter 424 of NRS.

6. Any search for a relative with whom to place a child pursuant to this section must be completed within 1 year after the initial placement of the child outside of the home of the child. If a child is placed with any person who resides outside of this State, the placement must be in accordance with NRS 127.330.

...

The foregoing statute sets an order of preference for placement if the child cannot be returned to the parent or parents. In this case, the Hearing Master used this preference as the determining factor for removing Esther from her adoptive home and ordering placement with Ms. Rozier. This application was erroneous because the familial preference does not exist where the parent's rights have already been terminated at the time the placement decision is made. This conclusion is inescapable when the Court considers the familial preference in conjunction with NRS 127.171 and NRS 125C.050.

NRS 127.171 allows for certain relatives to petition the Court for post-adoption visitation of a child "only if a similar right had been granted previously

pursuant to NRS 125C.050." Essentially, the statute is designed to preserve a familial preference for contact between relatives and the adoptive child if that right to contact was preserved by the relatives taking some affirmative action under NRS 125C.050.

NRS 125C.050 allows relatives to petition the Court for visitation with a child whose parents' rights have been terminated under the following conditions:

> 7. If the parental rights of either or both natural parents of a child are relinquished or terminated, and the child is placed in the custody of a public agency or a private agency licensed to place children in homes, the district court in the county in which the child resides may grant to the great-grandparents and grandparents of the child and to other children of either parent of the child a reasonable right to visit the child during the child's minority ***if a petition therefor is filed with the court before the date on which the parental rights are relinquished or terminated.***

NRS 125C.050(7)(emphasis added) The foregoing statute requires petitioners under NRS 125C.050 to file a petition for visitation with the child prior to entry of the order terminating parental rights. If the petitioners fail to do so, the familial preference upon which the visitation is based is eliminated at the time the child's parents' rights are terminated. Furthermore, even if such a petition is filed and visitation granted, the Court is still required to terminate those visitation rights at the time parental rights are terminated unless "the court finds, by a preponderance of the evidence, that visits by those persons would be in the best interests of the child." NRS 125C.050(9).

The foregoing statutes make it clear that the right to petition the court for visitation under NRS 125C. 050 is based on the existence of a familial preference. The same concept of familial preference is the basis for the placement preference under NRS 432B.550(5), upon which the Hearing Master relied when he

recommended removal of Esther from the Riveras. However, it is also clear under NRS 125C.050 that the relative's right to petition for visitation based on the familial preference ends the moment parental rights are terminated. This is because the termination of the parents' rights to the child, by extension, also terminates the relationships of the child to the parents' other family members. While this conclusion is not explicitly set forth in NRS 432B.550, any other interpretation would be inconsistent with NRS 125C.050's operation.

Furthermore, NRS 127.171, the statute that permits post-adoptive contact with biological family members, explicitly relies on the mechanism in NRS 125C.050 as the method for preserving the familial preference to justify post-adoptive contact. Since both NRS 125C.050 and NRS 127.171 both require a formal petition be filed prior to termination of parental rights to preserve the familial preference, it would be illogical and inconsistent to conclude that the familial preference extends beyond the date of termination when considered in NRS 432B.550.

Based on the foregoing, the Riveras submit that the Hearing Masters' application of the familial preference as the determinative factor was clear error. There was no familial preference in play at the time of the placement hearing because the natural mother's parental rights were already terminated. As such, this Court should order that Esther remain in her current placement so her adoption by the Riveras can go forward.

B. The Hearing Master Should Not have Applied the Familial Preference Because Ms. Rozier Failed to Seek Placement within One year of Esther's removal.

Assuming *arguendo* that the termination of Esther's parents' rights did not eliminate the familial preference, the Hearing Master still should have found that Ms. Rozier lost the preference when she failed to come forward within one year of

the date of Esther's removal. The Hearing Master's failure to do so was clear error. The case of *Clark County Dist. Atty. V. Dist. Ct.*, 167 P.3d 922 (Nev., 2007) provides explicit instructions regarding the impact of a family member's failure to timely come forward seeking placement:

> A family member's failure to timely and definitively request custody of a child who has been placed in protective custody, when that family member knows of the protective custody placement, may ultimately either render the statutory familial preference inapplicable or influence the district court's determination of the child's best interest. If a family member, with knowledge that a child has been place into protective custody, delays seeking custody of the child for more than one year after the child's initial placement, the family member must demonstrate a reasonable excuse for the delay in order to retain the familial preference's application. And even when a family member seeks custody within one year of the child's initial removal, the district court may consider any delay by the family member in determining the child's best interest.

The foregoing excerpt states that a family member's failure to come forward within one year, "may ultimately render the statutory familial inapplicable or influence the district court's determination of the child's best interest." Furthermore, a family member seeking placement after one year must demonstrate "a reasonable excuse for the delay in order to retain the familial preference." Both requirements assume that the family member is aware of the proceedings for placement of the child.

In this case, the Hearing Master determined DFS should have located Ms. Rozier earlier, because DFS had contact with a relative who had contact with Ms. Rozier. However, the diligent search for relatives of Esther did not return Ms. Rozier's name, nor did the family member who had contact with Ms. Rozier disclose her name. As such, it is not clear why the Hearing Master found that DFS

should have located Ms. Rozier earlier and notified her sooner of a need for Esther's placement.

Furthermore, the Hearing Master's finding in this regard completely ignores the fact that Ms. Rozier waited approximately 15 full months after removal to come forward. The *Clark County* case above specifically held that family members on notice of the child's removal "had a concomitant duty to step forward and request custody if they wished to have the child placed with them."

Ms. Rozier should have come forward to seek placement sooner than 15 months after Esther was removed. Her failure to do so should have resulted in the Hearing Master finding the familial preference inapplicable. Absent the familial preference in Ms. Rozier's favor, there is no evidence to support that changing Esther's placement from the Riveras, whom the Court found to be exceptional parents, to Ms. Rozier who had no bond or relationship of any kind with Esther and whose parenting ability as to Esther was completely untested. As such, the Hearing Master's recommendation to change Esther's placement was clear error.

C. The Hearing Master's Use of the Familial Preference as the Determinative Factor for Esther's Placement was Clear Error.

The Hearing Master's recommendation to place Esther with Ms. Rozier accorded the familial preference far too much weight in this case. The *Clark County Dist. Atty.* V. Dist. Ct., 167 P.3d 922 (Nev., 2007)

> When the district court is determining a child's initial placement under the statute and relatives interested in having the child placed with them are before the court, the court should first resolve whether a familial preference exists. With respect to this issue, the court must first consider whether the relative is sufficiently related—within the third degree of consanguinity—and whether the relative is "suitable and able to provide proper care and guidance for the child." If so, then the court should consider placing the child with this relative before

contemplating nonrelative placement, but the placement decision lies in the district court's discretion.

If, however, an initial non-family placement is made before interested relatives are before the court, and interested relatives then timely seek custody, the court should again determine whether the familial preference exists and, if so, consider placing the child with the relatives, **if this placement serves the child's best interest.**

While NRS 432B.550(5) does not expressly provide for consideration of the child's best interest, the statute concerns the placement of a child with someone other than the child's parent, and since neither the relatives nor nonrelatives who seek custody of the child occupy the status of parent in the proceedings, **the child's best interest necessarily is the main consideration for the district court when exercising its discretion concerning placement. Accordingly, after concluding that a familial preference exists, the district court's analysis should center on the child's best interest.**

In the instant case, a non-familial placement was made as the initial placement determination. According to the foregoing case, when the Roziers came forward, the Hearing Master should have 1) determined whether a familial preference exists and, if so, 2) considered whether placement with the Roziers would serve Esther's best interest. Additionally, Ether's best interest should have necessarily been the main consideration for the Hearing Master and the analysis should have centered on Esther's best interest.

First, that the Roziers failed to provide definitive proof at the hearing that they were actually related to Esther's mother should have ended the analysis. Rather than follow the order of steps laid out in the foregoing case, the Hearing Master conditionally approved placement with the Roziers "if" they could provide proof that they were cousins of Esther's mother. This was clearly an incorrect application of the law under the Clark County case above. It also demonstrates that the Hearing

Master placed an inordinate amount of importance on the alleged relationship over Esther's best interest.

Second, it is virtually impossible to say that the Hearing Master's recommendation in this case was centered on Esther's best interest. The Hearing Master found that the Riveras were exceptional parents to whom Esther was extremely bonded. The Hearing Master also noted that Esther would be traumatized by the removal. Notwithstanding these findings and the Roziers' failure to prove their relationship to Esther, the Hearing Master stated that biological connection is the overriding consideration and, as such, Esther should be placed with the Roziers. The Hearing Master did not find that that removing Esther from the Riveras would be in Esther's best interest, to the contrary, the Hearing Master found that doing so would traumatize Esther. The Hearing Master does not even mention the words best interest of the children.

Based on the Hearing Master's failure to center the placement decision on Esther's best interest and his decision to place Esther with the Roziers in spite of the trauma it would cause Esther, the Riveras submit that the Hearing Master's decision was clear error and should be reversed by this Court. Esther and her younger sibling should remain in the Riveras care because it is in their best interest. The Riveras are an adoptive resource for both children and dedicated to providing them with a safe and stable family that will be in Esther's best interest.

III

CONCLUSION

WHEREFORE, based on the above and foregoing, the Movants respectfully requests the following:

1. An order of the Court reversing the Hearing Master's Recommendation and directing that Esther remain with and be adopted by the Riveras;
2. For such other and further relief as this court deems appropriate in the premises.

DATED this 19 day of May, 2017.

MILLS, MILLS & ANDERSON

GREGORY S. MILLS, ESQ.
Nevada Bar No. 8191
DANIEL W. ANDERSON, ESQ.
Nevada Bar No. 9955
703 S. 8th Street
Las Vegas NV 89101
Attorney for Movants

Electronically Filed
6/12/2017 12:04 PM
Steven D. Grierson
CLERK OF THE COURT

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

IN THE MATTER OF:

ESTHER BELLA RODRIGUEZ
Date of Birth: 06-15-2015

A Minor

CASE NO: J-15-337398-P1
DEPT. NO. K
COURTROOM 22

ORDER

This matter came on calendar for an objection hearing on May 23, 2017. The court is not required to rely on the master's findings, but if the court chooses to rely on the master's findings, it may do so only if the findings are supported by the evidence and not clearly erroneous. *In the Matter of A.B, a Minor*, 291 P.3d 122 (Nev. 2012). This court is not obligated to adopt the juvenile dependency master's findings and can exercise its own independent judgment in deciding the disposition of a case. *Id.* After reviewing the record and considering the pleadings filed in this matter, the court hereby finds as follows:

The minor child was placed into protective custody on July 27, 2015. An order terminating the parental rights of the natural parents was filed on February 18, 2017. The minor child has resided in her current foster placement since September 9, 2016. The current foster placement is an adoptive resource. The natural mother's cousin, Stephanie Rozier, contacted the Department in October 2016 when she became aware that the child was placed in protective custody. An ICPC for placement of the child with Ms. Rozier and her husband was approved in

CYNTHIA N. GIULIANI
DISTRICT JUDGE
FAMILY DIVISION, DEPT. K
LAS VEGAS NV 89101

March 2017. At the status check hearing on April 4, 2017, the Hearing Master set a placement hearing since the Department objected to placement with the Rozier's.

After the placement evidentiary hearing which occurred on April 13, 2017 and April 14, 2017, Hearing Master Norheim found that the Department should have located Ms. Rozier earlier. He further found that Ms. Rozier demonstrated a reasonable excuse for the delay in coming forward and requesting placement of the child and it is highly likely that the Rozier's will end up with one of the siblings of the minor child. The Hearing Master recommended that the child be placed with the Rozier's so long as they provides proof of the familial relationship and comply with the trauma minimization transition as outlined by the Department. On May 1, 2017, the Department of Family Services filed an Objection to the Hearing Master's Findings of Fact, Conclusions of Law, and Recommendations.

The Department makes numerous arguments including that the Hearing Master did not apply the placement standard set forth under NRS 432B.550; the familial preference does not exist since the parents' rights have been terminated; Ms. Rozier did not provide a reasonable excuse for the delay in seeking placement; DFS could not have known about Ms. Rozier's existence since the child's adult half sibling failed to disclose the existence of Ms. Rozier; at this time, Ms. Rozier does not have custody of the child's sibling; and it is not in the child's best interest to be placed with Ms. Rozier since the child is bonded to her foster family.

Ms. Rozier, who resides in Georgia, testified that she was not aware that the minor child was placed into foster care until maternal uncle "Tony" told her in October 2016. This court agrees with the Hearing Master that Ms. Rozier had a reasonable excuse for not coming forward sooner. The court further agrees with the Hearing Master that the Department should have located Ms. Rozier earlier since the Department had contact with the child's adult half sibling in April 2016. The unity notes from the Department attached as Exhibit 1 to the objection do not indicate that the Department asked the child's adult half sibling in April 2016 about other relatives who could take placement of the child.

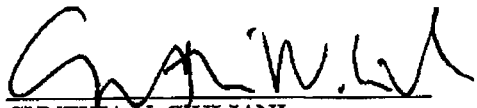
NRS 432B.550 provides that in determining the placement of a child, it must be presumed to be in the best interests of the child to be placed together with the siblings of the child. Here, the child's adult sibling indicated that she was not a placement option for the child. Ms. Rozier is seeking placement of the child's other sibling who is presently in foster care. NRS 432B.550 provides that preference must be given to placing the child with any person related within the fifth degree of consanguinity to the child or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State. Any search for a relative with whom to place a child must be completed within 1 year after placement of the child outside the home. Here, the child was placed outside the home in July 2015. The Department had contact with the child's adult sibling but it doesn't appear that the Department asked the child's adult sibling whether there were other relatives who could take placement of the child.

This court agrees with the Hearing Master's finding that the Department should have located Ms. Rozier earlier since they had contact with the child's adult sibling. This court finds that the familial preference does apply in this case. The Hearing Master appropriately found that Ms. Rozier had a reasonable excuse for the delay in seeking placement of the child. Further, he appropriately found that both the foster parents and the Rozier's are good and dedicated parents; both have good community involvement; and both have more than adequate resources to care for the child. The Hearing Master appropriately determined suitability of the Rozier's and considered the best interest of the child when making his decision. The Hearing Master found that although the child is bonded to the foster parents, the Rozier's have a biological connection with the child and it is highly likely that the Rozier's will end up with one of the child's siblings.

The court finds that the Hearing Master's findings are not clearly erroneous. It is hereby ordered that the Department of Family Services objection to the Hearing Master's Findings of Fact, Conclusions of Law, and Recommendations is DENIED.

IT IS SO ORDERED.

Dated this 12th day of June, 2017.



CYNTHIA N. GIULIANI
DISTRICT COURT JUDGE

CYNTHIA N. GIULIANI
DISTRICT JUDGE

FAMILY DIVISION, DEPT. K
LAS VEGAS NV 89101

Electronically Filed
5/18/2017 1:20 PM
Steven D. Grierson
CLERK OF THE COURT

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

In the Matter of:

Olivia Saez-Rozier

Date of Birth: 04-24-2017 Age: 0 yrs.

CASE NO.: **J-15-337398-PC**
DEPT. NO.: **Dependency 1**
COURTROOM: **14**
FAMILY JUVENILE

Natural Mother's Name: Nellie Saez

Putative/Natural Father's Name: UNKNOWN

PRELIMINARY PROTECTIVE FINDINGS AND ORDER

This matter came before the Court on April 28, 2017, for a preliminary protective custody hearing pursuant to NRS 432B.470 and NRS 432B.480. Present in Court for the hearing were Evita Henry, Gina Pearl and Delshanna Moore of the Department of Family Services, Deputy District Attorney Tanner L. Sharp, Christal Dixon, Esq., of the Children's Attorney Project, natural mother Nellie Saez, present and based on the statements made and the report that was submitted:

THE COURT FINDS that the mother of the child is Nellie Saez. A father has not been named for the subject minor.

THE COURT FURTHER FINDS that it is unknown at this time if a father is listed on the child's birth certificate.

THE COURT FURTHER FINDS that notification of this preliminary protective custody hearing to the mother, Nellie Saez, was made by oral notice.

THE COURT FURTHER FINDS that an inquiry was made by the Department of Family Services into whether the Indian Child Welfare Act applies to this family and Ms. Saez denied that there is any Native American heritage.

THE COURT FURTHER FINDS that the natural mother has been advised of the right to be represented by an attorney and the right to present statements regarding the protective custody of the child.

THE COURT FURTHER FINDS there is reasonable cause to believe that it would be contrary to the welfare of the child to remain in the home. Specifically, the Court finds that there are concerns over parental substance abuse and a substance exposed infant. At the time of delivery, the subject minor and the natural mother tested positive for Amphetamines.

THE COURT FURTHER FINDS that the child was placed in protective custody on April 25, 2017.

THE COURT FURTHER FINDS that the minor child should remain in protective custody pending a disposition of the Court.

THE COURT FURTHER FINDS that inquiries have been made about relatives and fictive kin to the child pursuant to NRS 432B.480(2) and the Department of Family Services shall work with maternal cousin as and for placement of the child.

THE COURT FURTHER FINDS that the following reasonable efforts have been made to prevent the removal of the child: A Safety and Risk assessment has been completed.

IT IS HEREBY RECOMMENDED that the Clark County Department of Family Services is to continue to provide for the placement, care and supervision of the above named minor child.

IT IS FURTHER RECOMMENDED that the Department to initiate ICPC Reg. 7 to the maternal cousin in the state of Georgia.

IT IS FURTHER RECOMMENDED that Jennifer McDonald, Esq., is appointed to represent the natural mother and the matter be referred to the Children's Attorney Project.

IT IS FURTHER RECOMMENDED that an ADJUDICATORY PLEA be set for May 16, 2017 at 9:45 a.m. in Courtroom 14.

Dated: May 4, 2017

JON W. NORHEIM
JUVENILE HEARING MASTER

///

NOTICE OF RIGHT TO FILE AN OBJECTION TO HEARING MASTER'S RECOMMENDATIONS

Objections to Hearing Master's Recommendations are governed by EDCR 1.46. No Recommendations by the Hearing Master will become effective until expressly approved by the Presiding Juvenile District Court Judge. The Applicant has five (5) days after receipt of this Hearing Master's Recommendations to apply to the Presiding Juvenile District Court Judge for a hearing. Failure to properly file an Application for Hearing shall result in an Order of Approval being entered by the District Court.

CERTIFICATE OF SERVICE

I hereby certify that I did deposit in the U.S. Mail at Las Vegas, Nevada, on the 5th day of May, 2017, in a sealed envelope with first-class postage fully prepaid thereon, a true and correct copy of the above and foregoing PRELIMINARY PROTECTIVE FINDINGS AND ORDER AND NOTICE OF RIGHT TO FILE AN OBJECTION, addressed to:

Tanner L. Sharp, DDA – 601 N. Pecos Rd., #470, Las Vegas, NV 89101

Christal Dixon, Esq., CAP – 725 E. Charleston Blvd., Las Vegas, NV 89104

Jennifer McDonald, Esq. – 6166 S. Sandhill Rd., Ste. 118, Las Vegas, NV 89120

Legal Assistant to Juvenile Hearing Masters

ORDER OF APPROVAL

The above Findings and Recommendations of the Hearing Master are hereby approved and such are hereby made an Order of the Eighth Judicial District Court of Nevada Family Division.

Dated: May 18, 2017

CHARLES HOSKIN
DISTRICT COURT JUDGE

///

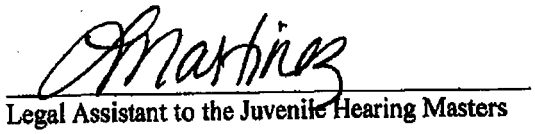
CERTIFICATE OF SERVICE

I hereby certify that on the above file stamped date, I placed a copy of the foregoing PRELIMINARY PROTECTIVE FINDINGS AND ORDER in the folder(s) in the Office of the Clerk of the Court of the following Attorney(s):

Tanner L. Sharp, DDA

Christal Dixon, Esq., CAP

Jennifer McDonald, Esq.



Legal Assistant to the Juvenile Hearing Masters

Electronically Filed
6/13/2017 4:31 PM
Steven D. Grierson
CLERK OF THE COURT

STEVEN B. WOLFSON
DISTRICT ATTORNEY
NEVADA STATE BAR NO. 001565
TANNER SHARP
Deputy District Attorney
Nevada State Bar No. 13018
601 North Pecos Road
Las Vegas, NV 89101-2408
(702) 455-5320
Attorney for the State of Nevada

DISTRICT COURT
JUVENILE DIVISION
CLARK COUNTY, NEVADA

In the Matter of: **ESTHER RODRIGUEZ** Date of Birth: 06-15-2015 A Minor(s).	CASE NO. J-15-337398-P1 DEPT NO. 1 COURTROOM NO. 14

EX PARTE MOTION FOR EXPEDITED TRANSCRIPT

I respectfully request a transcript of the Evidentiary Hearing that was held in front of Hearing Master Norheim on the following dates: April 13, 2017 and April 14, 2017, in courtroom #14 and a transcript of the Objection Hearing held in front of Judge Giuliani on May 23, 2017 in courtroom #22, for the purpose of preparing a Writ of Attachment to be filed with the Nevada Supreme Court.

Submitted by:

TANNER SHARP
Deputy District Attorney
Nevada State Bar No. 13018

ORDER FOR PRODUCTION OF EXPEDITED TRANSCRIPT

This matter coming before the Court upon Ex Parte Application, the Court having reviewed the matter, and good cause appearing therefore:

IT IS HEREBY ORDERED that the above requested transcript be made available and released to the above named individual upon payment of the transcribing cost. Requesting 1 (one) copy.

DATED this 12 day of June, 2017.

DISTRICT COURT JUDGE