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IN THE SUPREME COURT OF NEVADA

YOAV EGOSI,

Appellant,

vs.

PATRICIA EGOSI,

Respondent.

Case. No.: 76144

Dist. Ct.

Case. No.: D-16-540174-D

APPELLANT'S APPENDIX

VOLUME 8 of 10

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On Appeal from the Eighth Judicial District Court – Family Division

County of Clark, State of Nevada

Case No. D-16-540174-D

The Honorable Bryce C. Duckworth, District Court Judge

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1 able to make that payment?

2 A Savings.

3 Q With savings?

4 A Yes.

5 Q What bank do you keep your savings in?

6 A Currently, I don't have any.

7 MR. GHIBAUDO: Objection, Your Honor. What's the
8 relevance of what bank he keeps savings in in this -- in this
9 litigation?

10 MR. BLACKMON: A big part of the relocation is the
11 opportunities that the Defendant is claiming he has --

12 THE COURT: Overruled.

13 MR. BLACKMON: -- in Israel.

14 THE COURT: It's overruled.

15 THE WITNESS: At the time it was at Chase.

16 BY MR. BLACKMON:

17 Q No, right now. Where do you keep your money?

18 A I don't have any now.

19 Q You have no money.

20 A I have a few hundred dollars.

21 Q At the last hearing, your attorney stated that he
22 had been paid about \$14,000.

23 A Yes.

24 Q So where did that come from?

1 A My family paid him directly.

2 Q And which family members paid him?

3 A My parents and then my other family give money to my
4 parents as well.

5 Q What's the other family?

6 A That's -- you're going to have to ask them for
7 testimony.

8 Q No, I'm asking you who they are.

9 A I don't know. My parents help -- help with the
10 legal fees. My parents help -- help with the legal fees. My
11 -- I know my parents also took a loan recently for equivalent
12 of about \$40,000 in Israel. I think my grandmother actually
13 before she died she helped them as well.

14 Q When did your grandmother die? I'm sorry to hear
15 that.

16 A I don't hear sincerity in your voice, but I will
17 take that. About a -- a year -- a little bit more than a year
18 ago.

19 Q And were you set to inherit any money from your
20 grandmother's death?

21 A No.

22 Q Is there any litigation pending?

23 MR. GHIBAUDO: Objection, Your Honor. What is the
24 relevance of this? I'm not --

1 THE COURT: What's the offer --

2 MR. BLACKMON: All goes to --

3 THE COURT: -- on that?

4 MR. BLACKMON: -- finances. All goes to finances.

5 THE COURT: Sustained.

6 BY MR. BLACKMON:

7 Q Is there litigation pending regarding the death of
8 your grandmother?

9 MR. GHIBAUDO: Objection, Your Honor. There's no
10 relevance to this line of questioning.

11 MR. BLACKMON: That -- it all goes to financial
12 matters, credibility.

13 MR. GHIBAUDO: That's the conclusion --

14 THE COURT: How -- how does that tie into
15 relocation? How does that?

16 MR. BLACKMON: It -- it -- I'm -- I'm getting there.
17 If the Court will ask him to answer the question, I can get
18 right to it.

19 THE COURT: Okay. I'll -- I'll overrule the
20 objection.

21 THE WITNESS: I'm not a part of any litigation
22 regarding my grandmother.

23 BY MR. BLACKMON:

24 Q You are not a part.

1 A I'm not --
2 Q Okay.
3 A -- a part.
4 Q Do you know of the existence of any litigation about
5 it?
6 MR. GHIBAUDO: Objection, Your Honor. Again, we're
7 wasting time here. What is the purpose of this? He already
8 said he's not part of any litigation. There's nowhere else to
9 go.
10 THE COURT: Overruled.
11 THE WITNESS: Oh, I -- I need to answer? I'm sorry.
12 I -- I believe there is -- my family's involved, but I don't
13 have the details about that.
14 BY MR. BLACKMON:
15 Q Okay. Now you said earlier that because Patricia
16 had converted to Judaism in the correct way, I think --
17 A Correct.
18 Q -- you mentioned -- I'm sorry, and I don't know --
19 A I don't know --
20 Q -- the --
21 A -- the exact phrase, but yes, she did at the --
22 Q The -- the correct way. So then you had Benjamin
23 and by virtue of Patricia's being Jewish, Benjamin's Jewish.
24 A Correct.

1 Q Is Benjamin circumcised?

2 A No, sir.

3 Q How come he's not circumcised?

4 A The reason is is because he have -- forgot the legal
5 term for it, but he has a twisted head on on his penis which
6 is a cosmetic issue. It's not a -- a health issue. And we
7 are waiting for him for to be five-years-old so he can do
8 surgery to correct that and we wanted to have extra skin to be
9 -- if they need it for that correction.

10 Q Did any doctor ever recommend that he be
11 circumcised --

12 MR. GHIBAUDO: Your Honor --

13 Q -- after he was born?

14 MR. GHIBAUDO: -- I object to this line of
15 questioning, because it is not relevant to relocation and it
16 is even outside the scope. We didn't even talk about the
17 kid's health. I'm not sure --

18 MR. BLACKMON: It's relevant --

19 MR. GHIBAUDO: -- why we're doing this.

20 MR. BLACKMON: -- to the fact that he testified as
21 to the Jewish connection to Israel and that being an important
22 part and factor of the relocation.

23 MR. GHIBAUDO: It assumes that the Jewish religion
24 demands circumcision somehow and that not doing it somehow

1 makes --

2 THE COURT: Well --

3 MR. GHIBAUDO: -- not makes you --

4 THE COURT: -- that --

5 MR. BLACKMON: That's not what I'm getting at.

6 THE COURT: The objection's overruled.

7 BY MR. BLACKMON:

8 Q Did a doctor recommend that Benjamin be circumcised

9 before five-years-old?

10 A Circumcised?

11 Q Uh-huh.

12 A How can a doctor recommend circumcision?

13 Q To have -- have his -- the condition of his penis

14 fixed --

15 A Yes.

16 Q -- and then be circumcised?

17 A Yes.

18 Q That was recommended --

19 A When he was three-months-old.

20 Q Okay. And how -- and you say you didn't do it

21 because you got another opinion that said you should wait

22 until he's a little --

23 MR. GHIBAUDO: Your Honor --

24 Q -- older?

1 MR. GHIBAUDO: -- I'm going to renew my objection.
2 This is again outside the scope of direct and I don't see any
3 relevance to the matter of relocation. More importantly, we
4 didn't even address the child's health. This is outside of
5 the scope of direct and it's also completely irrelevant to the
6 issue of relocation.

7 MR. BLACKMON: The best interest --

8 MR. GHIBAUDO: And custody is not --

9 MR. BLACKMON: -- of -- the best --

10 MR. GHIBAUDO: Custody is not at issue.

11 MR. BLACKMON: -- interest of the child is always at
12 issue.

13 THE COURT: Listen, I -- one of the factors that I
14 am required to consider is the physical and developmental and
15 emotional needs of the child. So physical health is clearly
16 -- I -- not -- not only is it relevant, I believe I'm required
17 to -- to make findings regarding that specific sub factor
18 under 0035 in the context of a relocation motion under 007.

19 MR. GHIBAUDO: And Mr. -- Counsel could have noticed
20 his own witnesses to discuss this. His client can testify as
21 to these matters. This is not something that I directed my
22 client to discuss. There's nothing that he talked about that
23 would even merit this -- this cross examination.

24 MR. BLACKMON: And when he talked about the

1 Jewishness and the -- that the -- the --

2 MR. GHIBAUDO: But now we're getting into the --

3 MR. BLACKMON: -- cultural part of it, so that

4 opened the door for me to discuss the --

5 THE COURT: Yeah.

6 MR. BLACKMON: -- tenets of Judaism.

7 THE COURT: Yeah, it -- it's --

8 MR. GHIBAUDO: The tenets of Judaism, fine, but he's
9 -- he's trying to get to this -- the -- I think where Counsel
10 is going is somehow he did -- he neglected the child's health.
11 That's a whole different issue.

12 THE COURT: Well, the objection's overruled.

13 MR. BLACKMON: Okay. Well, Your Honor, he did
14 answer the question. He did say that in three months he was
15 recommended. So my next question was that the Judge permitted
16 me to ask is, was --

17 BY MR. BLACKMON:

18 Q Was it your dec -- your decision to wait based on
19 some other recommendation to wait until he was older?

20 A Us -- our decision to wait, me and Patricia at the
21 time. Remember, we were still married. We talked to his
22 pediatrician at the time and we also found studies done by
23 Children Cleveland Clinic talking about putting kids on
24 anesthesia and there's actually federal guidelines that says

1 that the surgeons must tell the parent about the danger of
2 anesthesia for a kid less than five-years-old. And the danger
3 -- and the danger is is that if you do anesthesia for a kid
4 that is less than five-years-old, and I -- and I -- I can't
5 quote you that study, but I -- I -- if you give me some time,
6 I'll bring you the study. It says that the -- the kids that
7 they followed --

8 MR. BLACKMON: And Your Honor, I move to strike.

9 THE WITNESS: You asked me a question.

10 MR. BLACKMON: I know, but I'm just going to move to
11 strike because --

12 MR. GHIBAUDO: But he did ask him a --

13 MR. BLACKMON: -- now it is --

14 MR. GHIBAUDO: -- question.

15 THE WITNESS: You don't like the answer.

16 MR. GHIBAUDO: -- and he's answering it, Your Honor.

17 MR. BLACKMON: I asked for --

18 THE COURT: He's -- he's answering with hearsay at
19 this point.

20 MR. BLACKMON: Exactly.

21 THE COURT: So the --

22 MR. BLACKMON: I asked for an answer. I think he
23 gave it to me and then he --

24 THE COURT: Counsel can conduct his cross

1 examination --

2 MR. BLACKMON: Yeah, so --

3 THE COURT: -- how he desires.

4 MR. BLACKMON: Thank you for that, but move to

5 strike as far as all of the expert opinions based on Cleveland

6 Clinic articles --

7 THE COURT: Yeah, it's --

8 MR. BLACKMON: -- and stuff like that.

9 THE COURT: -- it's sustained.

10 BY MR. BLACKMON:

11 Q Now this is highly speculative, and I understand

12 that, and I ask the Court's indulgence as I get through the

13 question.

14 MR. GHIBAUDO: Having said that, then I object. It's

15 speculation.

16 MR. BLACKMON: It'll seem like it.

17 MR. GHIBAUDO: I mean, you --

18 MR. BLACKMON: It'll seem like it.

19 MR. GHIBAUDO: -- you just admitted to it.

20 THE COURT: Well, that's -- ask --

21 MR. BLACKMON: It'll seem like it, but --

22 THE COURT: -- ask the question.

23 MR. BLACKMON: -- but it's not really. So -- well,

24 I guess I'll ask one question.

1 BY MR. BLACKMON:

2 Q In Israel, is -- is common showers part of the
3 social norm?

4 A Explain common showers.

5 Q Like gender specific locker rooms in schools,
6 physical activity, you know, like gym where they would shower
7 together afterwards?

8 MR. GHIBAUDO: I object to this line.

9 THE WITNESS: I -- I don't understand the question.

10 MR. GHIBAUDO: I mean, there's no foundation as to
11 why this is even -- why we're even discussing this. What is
12 the purpose?

13 THE COURT: Overruled.

14 THE WITNESS: I'm not familiar -- I'm not fully
15 understanding what you're referring to, but I'm also --

16 BY MR. BLACKMON:

17 Q Well, I can clarify.

18 A Sure.

19 Q So in the United States at least many sports teams
20 are made up of the same -- people of the same sex. And after
21 an event or practice, there's a community shower where these
22 people will go and shower together. Does that happen -- is
23 that part of the life in Israel?

24 A Are you talking about females and males go to the

1 shower together? I -- I wouldn't ask --

2 Q No. No. No. No.

3 A -- for him.

4 Q No.

5 A No, I don't understand.

6 Q Segregated. Women have their own, men have their

7 own.

8 A Oh, okay. Okay.

9 Q So is that something that happens in Israel?

10 A Do people have -- yeah, the pool have a shower for

11 men and for women. I -- I don't --

12 Q Okay.

13 A -- your -- your question.

14 Q So when you said that Ben likes to swim.

15 A Yes, sir.

16 Q So if Ben was at a pool in Israel and he was

17 swimming and had to go shower afterwards --

18 A Yes, sir.

19 Q -- and the -- you know, his community of friends

20 or --

21 A Yes.

22 Q -- at least children his age --

23 A Yes.

24 Q -- see that he's not circumcised, would that have --

1 would that carry any stigma?

2 A Of course not.

3 Q And how come?

4 A But I -- what you have to understand about Israel is
5 Israel is -- we -- we are Israelis. Why would anybody look at
6 his penis in the first place? And second, kids that are four-
7 years-old do not have an opinion and won't even have the
8 chance to have an opinion. I can tell you from his school
9 today he's going to a Jewish school. He goes to a community
10 bathroom. And you can ask the -- his own teachers and
11 director. That's never been a problem. The -- and what you
12 have to understand about Jewish law, Jewish law says that you
13 must obey as long as there's no health reasons against it.
14 And in this case, even the rabbi said that because Ben have
15 potential harm from -- from during a surgery now as opposed to
16 waiting until five-years-old.

17 Jewish law mandate that he waits and do not -- you
18 do not -- health comes before -- before religious laws. It's
19 the same as if you are Shabbat and you're not allowed to
20 drive. If you get hurt, you're going to call an ambulance.
21 You're going to get in a car and you're going to drive,
22 because health is always comes first.

23 Q Okay. Are there any other Jewish people living in
24 the United States?

1 A Is this a rhetoric -- rhetorical question or --
2 Q No, this is a serious question.
3 A Oh, you know that there are Jewish people living in
4 the United States.
5 Q And do you believe that the Jewish people living in
6 the United States have lost their Jewish identity by virtue of
7 being present here instead of in Israel?
8 A Most of them do, if you look at the research.
9 Q Okay.
10 A The -- the synagogues are losing --
11 Q I'm sorry --
12 A -- members --
13 Q -- there's no question pending.
14 MR. BLACKMON: Move to strike.
15 BY MR. BLACKMON:
16 Q Are there any Christians living in Israel?
17 A Yes, there are.
18 Q And how are Christians treated in Israel?
19 A Equal rights.
20 Q Okay. You talked about holidays in the United
21 States that could muddy somebody's Jewish heritage or
22 culture --
23 A Yes.
24 Q -- Christmas. I think you -- you said Halloween.

1 Have you ever celebrated Halloween?

2 A In America? Yes.

3 Q And what impact did that have on your Jewishness?

4 A Well, what Halloween is based on is -- is
5 Christianity. This is -- we have a -- we have a different
6 holiday that you dress up in and it's called Purim.

7 Q Okay.

8 A But --

9 Q So just --

10 A -- as you get older --

11 MR. BLACKMON: I'm sorry. I'm sorry. Move to
12 strike.

13 BY MR. BLACKMON:

14 Q That wasn't part of my question. I asked
15 specifically your celebration of Halloween --

16 A Yes.

17 Q -- what adverse effect did it have on your Jewish
18 identity?

19 A Instead of celebrating Jewish holidays, I'm
20 celebrating holidays of another religion.

21 Q And what days --

22 A As I call --

23 Q What days do you celebrate that -- that holiday on,
24 the one that you're saying is equivalent to the United

1 States --

2 A Purim?

3 Q -- Halloween?

4 A In April.

5 Q In April. So you've never celebrated Halloween in

6 October?

7 A In America?

8 Q Yes.

9 A Yes.

10 Q And that's what I'm asking. You celebrated

11 Halloween in the United States --

12 A Yes.

13 Q -- on its day.

14 A Yes.

15 Q What adverse impact has that had on your

16 Jewishness?

17 A As I said before, we celebrate our Jewish holidays

18 and by celebrating other holidays, eventually you become more

19 and more and more Christian and you will lose the -- the

20 importance of our religion and our tradition. And eventually

21 maybe he will marry a non-Jew and then his kids will be

22 non-Jewish and -- and it's a cycle that starts with something

23 as simple as being exposed to Santa Claus. In the beginning,

24 Santa Claus --

1 Q Okay.

2 A -- is just a --

3 Q Okay.

4 A -- guy with a beard.

5 Q Thank you. Thank you. How many Halloweens do you

6 have to celebrate before you dilute all the Jewishness out of

7 yourself?

8 A It's not about celebrating.

9 MR. GHIBAUDO: Objection, Your Honor.

10 THE WITNESS: It's about going to the store --

11 MR. GHIBAUDO: He's asking for --

12 THE WITNESS: -- and seeing --

13 MR. GHIBAUDO: -- speculation -- stop, Joe, until

14 there's a ruling on --

15 THE COURT: Sustained.

16 MR. GHIBAUDO: -- the objection.

17 THE COURT: Sustained.

18 MR. BLACKMON: Your Honor, I -- I understand you

19 sustained that.

20 THE COURT: Yeah.

21 MR. BLACKMON: But he said celebrated the more you

22 do it --

23 THE COURT: I -- I --

24 MR. GHIBAUDO: Striking it.

1 THE COURT: I'm not expecting --
2 MR. BLACKMON: Okay.
3 THE COURT: -- this witness to quantify -- I -- I
4 don't -- yeah.
5 BY MR. BLACKMON:
6 Q What's this supervisor's name?
7 A Viktorin Newman.
8 Q Viktorin Newman. Does she go by another name?
9 A Vicki.
10 Q What -- do you -- do you know what Vick -- Vicki
11 goes -- do you know what Vicki does for a living?
12 MR. GHIBAUDO: Objection, Your Honor. This is
13 outside the scope of direct.
14 THE COURT: Overruled.
15 MR. BLACKMON: Well, I'm sorry, we talked about
16 supervised visitation.
17 THE COURT: Overruled.
18 MR. BLACKMON: Okay.
19 BY MR. BLACKMON:
20 Q Do you pay Vicki Newman?
21 A Yes, sir.
22 Q How much do you pay her?
23 A A hundred and sixty a week.
24 Q And why do you pay her a hundred and sixty dollars a

1 week?

2 A She provides supervision for my -- for my child.

3 Q Okay.

4 MR. BLACKMON: Are we still -- Dr. Paglini's report
5 as admitted last time. Is it admitted now?

6 THE COURT: It's part of the record.

7 MR. BLACKMON: Okay.

8 BY MR. BLACKMON:

9 Q You testified a little bit ago that when you were
10 operating Joybiz and Hawk Communications you were making about
11 \$8,000 a month.

12 A Correct.

13 Q Now was that a salary?

14 A That was the income.

15 Q That was the total income? You received nothing
16 else?

17 A It depends on -- it depends on -- on the -- on the
18 year and it depends on the month, but I believe at the time
19 that you asked me that was a salary.

20 Q Okay. What was the -- do -- can you remember the
21 best month that you ever had?

22 A No.

23 Q So you -- you stated in that -- your motion for
24 relocation that you sold Joybiz in December 2017.

1 A My dad took over the company and -- and bought the
2 -- Hawk Communications.

3 Q But Hawk Communications. So he did not buy Joybiz?

4 A Hawk Communica -- Joybiz is part of Hawk
5 Communications.

6 Q That's in dispute, but -- so you're saying that part
7 of the deal was he got Joybiz as well.

8 A As I said before, he got Hawk Communications and
9 he's got maybe the customers of Joybiz. Joybiz doesn't have
10 any assets. It doesn't have any hardware, doesn't have any
11 network, so I don't -- I don't understand your question.

12 Q You said that in Israel family is very important.

13 A That is correct.

14 Q Now do you think that your family members that --
15 from whom you descend --

16 A Yes.

17 Q -- are more important to your child than your
18 child's mother?

19 A No.

20 Q Do you know of any reason right now that Patricia's
21 unable to be a normal physical custodian of Benjamin?

22 A Well, I -- I read the reports that you read.
23 Personal -- I also have personal knowledge from what I've seen
24 when -- when she lived in the house. I have personal

1 knowledge from what I see, you know, in -- in the reports that
2 the different evaluators have done, the reports from the
3 supervisors. The -- what is it, four supervisors have done.

4 Q For the reports you're talking about, those were
5 done more than a year ago.

6 A Bergquist has done an updated report and she was
7 going to testify for that.

8 Q Well, that's -- but that's irrelevant because it's
9 not coming in --

10 A But I saw it.

11 Q -- because she's not testifying.

12 A You're asking how I -- give my opinion. I'm giving
13 my opinion basing what I saw.

14 Q Okay. So based on the -- the Bergquist report that
15 you saw --

16 A Yes.

17 Q -- did it have any indication that Dr. Bergquist had
18 met with Patricia to do her update?

19 A She looked at the information that you guys provided
20 as far as what she has done and she -- and -- and we asked her
21 in a report has what she's done so far enough to relief (sic)
22 supervision. And --

23 MR. BLACKMON: Move --

24 THE WITNESS: -- if so --

1 MR. BLACKMON: Your Honor, move to strike.

2 Non-responsive.

3 MR. GHIBAUDO: He -- he's answering --

4 THE COURT: Sustained.

5 MR. GHIBAUDO: -- the question, are --

6 THE COURT: No. No, he's not. The objection's
7 sustained.

8 BY MR. BLACKMON:

9 Q Did Dr. Bergquist meet with Patricia --

10 A No.

11 Q -- as part of her updates? Okay. So when you say
12 you're talking about the reports, you're talking about reports
13 that are old.

14 A No, I'm talking about an updated report that she did
15 today.

16 Q Okay. So you're relying on the report that doesn't
17 include my client's participation.

18 A I'm relying on a report -- the report that Bergquist
19 did update her previous report.

20 MR. BLACKMON: Move to strike, non-responsive.

21 THE COURT: Sustained.

22 BY MR. BLACKMON:

23 Q You're relying on a report --

24 A Yes.

1 Q -- that did not include my client's participation.

2 A I'm not relying on -- on that report based on -- on
3 her participation. I'm relying on a report that based on the
4 evidence that she provided of what she's done so far and we
5 asked her if what she's done so far --

6 MR. BLACKMON: Your Honor, move to strike. I'm
7 sorry. The -- I'm not even going to ask again.

8 THE WITNESS: Okay.

9 MR. BLACKMON: Can we imply the answer?

10 THE COURT: You're beating a dead horse. I -- I get
11 the message.

12 MR. GHIBAUDO: I'm sorry, what's the implied answer?

13 MR. BLACKMON: I was being facetious, Alex. I have
14 a dictionary with me.

15 MR. GHIBAUDO: All right. Well, we'll see what all
16 the requirements -- but seriously -- I don't know what it is.

17 BY MR. BLACKMON:

18 Q Now is there -- what's going on in this town that
19 you're going to be moving to? Is there any -- any big
20 projects happening in Israel near Haifa?

21 A Well, there's a lot of things happening. Israel is
22 a startup nation.

23 Q Okay. Are there any new military defense efforts
24 being put in place right near where you testified you were

1 going to be living?

2 A No.

3 Q Do you read the newspaper in Israel?

4 A Yes.

5 Q And do you read the Jerusalem Post?

6 A Sometimes.

7 Q Do you think that that is a reliable newspaper?

8 A Why don't you ask -- my -- my dad is in the

9 military. You ask him about it if you want to ask about what

10 the army is doing. My dad is going to be --

11 Q I may do that, but I'm asking you now.

12 A Okay. Israel is not doing anything different today

13 to my knowledge than it's done over the last two years.

14 Q Okay. I'm going to encourage you to read the

15 newspaper from the Jerusalem Post from August 31st, 2018.

16 A I appreciate that.

17 Q Now during the supervised visitation that Patricia

18 gets with Vicki present, is it your testimony that Vicki is

19 always supervising the visitation?

20 A I don't follow your question.

21 Q To -- I guess to the best of your knowledge, is

22 Vicki always supervising the visitation?

23 A I don't -- I still don't follow your question.

24 Q So you said you paid Vicki a hundred and sixty

1 dollars a week to supervise visitation between Benjamin and
2 Patricia.

3 A Right.

4 Q To the best of your knowledge --

5 A Yes.

6 Q -- does Vicki fulfill her obligation?

7 A Yes.

8 Q She supervised the visits always.

9 A I -- I don't understand always. She -- she -- I
10 take her three times a week and she take -- give her Ben and
11 she brings back Ben. There's nobody else that -- that --

12 Q So you don't know what happens during that time?

13 A I -- I get -- I -- I read a report about what's
14 going on, but other than that, I don't have any way of knowing
15 what's going on, like there's no video recording other than
16 Plaintiff obviously had an illegal recoding. As the Judge
17 says, that we're not allowed to have a recording, neith --
18 neither one of us. So therefore, she doesn't have a
19 recording. Before, I used to know what's going on during
20 visitation because we had a hidden camera. Now I -- I rely on
21 the reports --

22 Q Okay.

23 A -- and what Ben tells me.

24 Q How did you meet Vicki Newman?

1 A How did I meet her? How did I find her?

2 Q Uh-huh. Sure.

3 A Through the Israeli Council. She was a
4 recommendation. We -- we contacted Israeli Council and they
5 recommended -- her daughter was working for the Israeli
6 Council. And then she -- she give us her mother as a
7 potential. We interviewed three other people and Vicki seemed
8 the strongest candidate for the supervision.

9 Q And why would you go to the Israeli Council to find
10 a supervisor for a simple custody matter?

11 A Because I don't -- I don't have a -- a network of --
12 of people at the time and I didn't have my -- my synagogue.
13 If I had my synagogue today, I probably would have went to
14 them. I don't have a network of friends or a network of
15 associates that I can go and ask for a recommendation. I know
16 Israeli -- Israel Council as part of Israel and Israel's a
17 family first type of country. It was important for me to find
18 somebody that is trustworthy, that believes in family, that
19 have experience in -- in taking care of kids as well.

20 Q Okay.

21 A So that's I meet.

22 Q Thank you. Does the Israeli Council as far as you
23 know, do they actively recruit Jewish people in the United
24 States to move to Israel?

1 A No, that's not part of their plan. That's the
2 Jewish Foundation. That's a different group.

3 Q Did you serve in the military in Israel?

4 A No, sir.

5 Q And is that because you were in the United States
6 when you became of legal age?

7 A That was my choice. My sisters went to serve. I
8 didn't.

9 Q Okay. And you've lived in Las Vegas since 2012?

10 A Middle of 2012.

11 Q Middle of 2012. So we'll just call it six years.
12 You just testified that you have no network of support, no
13 contacts, no -- no friends?

14 A I have the synagogue now. That's my network of
15 support now.

16 Q Just the synagogue? Did you have friends that you
17 would go to dinner with or anything like that?

18 A My wife had friends. I had associates, not friends.
19 I -- I didn't have any direct friends with me here in Nevada.

20 Q What -- so you would say that Brian Lorenz was not
21 your friend?

22 A That is correct.

23 Q That he was not --

24 A He was --

1 Q -- your friend.
2 A -- not my friend. Correct.
3 Q Okay. Okay.
4 MR. BLACKMON: The Court's indulgence.
5 (COUNSEL CONFER BRIEFLY)
6 MR. GHIBAUDO: And Your Honor, just for the record,
7 we're 41 minutes I think into this cross examination, is that
8 right?
9 THE COURT: My clock shows 38 minutes.
10 MR. GHIBAUDO: But I -- I would like to reserve some
11 time to -- brief rehabilitation if necessary
12 THE COURT: That's fine.
13 BY MR. BLACKMON:
14 Q Is there any way for a child to be Jewish if their
15 mother is not Jewish?
16 A Yes.
17 Q Other than conversion later in life?
18 A Other than conversion? I don't understand the
19 question.
20 Q So can somebody just proclaim that they are Jewish?
21 A The -- you can proclaim whatever you like. It
22 depends on who -- what --
23 Q But I mean --
24 A -- what you state --

1 Q -- would the rest of the Jewish community recognize
2 that person as -- as a true --

3 A Reformed Jews will probably -- will -- that will be
4 accepted. And -- and we have different types of Jews.

5 Q What type of Judaism do you practice?

6 A Conservative.

7 Q Is conservative the same as Orthodox?

8 A No. No. Orthodox keeps 623 laws that God gave us.
9 I keep the traditions but not necessarily the 623 laws.

10 Q Okay.

11 A I don't have a keep --

12 Q Now if -- if it's -- if it's the mother from whom a
13 child obtains their Jewishness, wouldn't it make sense that a
14 child stay with their mother --

15 A No.

16 Q -- because they're the ones that made them Jewish?

17 A I don't understand your question. I'm not a rabbi,
18 but in -- in Israel law, the -- the -- if you have a divorce,
19 the kids do not -- it's best interest of the child just like
20 here.

21 Q Sure.

22 A It does not go to the -- to the mother because she
23 provided Juda -- Judaism.

24 Q Oh, I'm sorry. I'm not asking for what a court

1 might consider to be the best arrangement according to the
2 religion. I'm just asking that culturally speaking wouldn't
3 it follow that if a child obtains their Jewish heritage from
4 their mother that their mother remain in their life as much as
5 possible?

6 A In -- if -- in a best case scenario, a kid will have
7 a mom and a dad. In a best case scenario, both mom and dad
8 will provide everything for the child from safety to comfort
9 to love and attention. In the best case scenario, that will
10 be the case --

11 Q Okay.

12 A -- in any religion. I don't think it's Judaism.

13 Q So in -- so today as we sit here --

14 A Yes.

15 Q -- can you name the characteristics of Patricia that
16 don't meet that requirement?

17 A I'm not here to judge Patricia at her current state.
18 I believe that Patricia needs to get some help and once she
19 gets some help I can reevaluate her as a mother.

20 Q Why do you think that she needs help right now?

21 A She has -- I -- I can't name the -- the number of
22 issues that -- that she has and I don't want to -- I don't to
23 judge her or insult her. I don't want to seem like -- I don't
24 want to make her cry, but she obviously have psychological

1 issues to deal with. She had dependency issues to deal with.

2 Q You're saying right now. Right now.

3 A Right now.

4 Q And that's --

5 A Right now.

6 Q -- based on what?

7 A Based on observation. Even though --

8 Q Hang on a second. That -- that's fine. You

9 answered my question. Earlier today you reported -- or you

10 testified that you drive Vicki --

11 A Yes.

12 Q -- and Ben --

13 A Yes.

14 Q -- to Patricia's residence.

15 A Yes.

16 Q They get out of their car and go --

17 A Yes.

18 Q -- and you leave.

19 A Yes.

20 Q So when was the last time that you observed Patricia

21 using drugs, acting crazy, whatever -- whatever you want to

22 call it?

23 A Well, drugs is the -- is the test results that we

24 got from -- from Options and also the fact that she missed her

1 last drug results. Observation is based on the videos that
2 you supplied as evidence last night. When I watched that, I
3 cried.

4 Q And why did you cry?

5 A Why? Because you can see how distressed Ben is and
6 you can see how she instigate (sic) him.

7 Q Oh, you can?

8 A Yes. You can see how she instigate (sic) him and
9 she tell -- he -- he cries about not brushing his teeth and
10 she tells him I know you don't want to go home. I know you
11 don't want to go home. The kid is like, no, no, I don't --

12 Q The video --

13 A It's not that I don't want to go --

14 Q The video will be shown.

15 A Yeah. Okay.

16 Q And we don't need your --

17 A So you ask me how --

18 Q -- play-by-play.

19 A -- how I make my observation. I'm making -- I'm
20 telling you.

21 Q And so -- okay. So based on your view of those
22 videos --

23 A Yes.

24 Q -- that tells you that she's a drug addict right

1 now?

2 A No, drug addict is because of her test results.

3 Q What test results?

4 MR. GHIBAUDO: Objection, Your Honor. We're relying
5 on videos that aren't even in evidence right now.

6 MR. BLACKMON: He's -- I'm --

7 THE COURT: I --

8 MR. BLACKMON: -- I'm going to introduce it later.

9 THE COURT: I -- I think we've moved on to the --

10 MR. GHIBAUDO: That --

11 THE COURT: -- drug test results.

12 MR. BLACKMON: Yeah.

13 BY MR. BLACKMON:

14 Q I want to know what drug test results you're
15 referring to.

16 A I'm referring to the Options test results that she
17 last done last year.

18 Q When was that?

19 A She didn't show up after I believe May of last year.

20 Q And why hasn't she?

21 A And she has not restarted since.

22 Q And why didn't she show up in May?

23 A Well, I'm -- she went to jail and she never
24 restarted it. She never finished the -- the required 12 -- 12

1 week period.

2 Q Why did she go to jail?

3 A Because she made -- she violated the domestic
4 violence protective order on two different occasions.

5 Q How did she do so?

6 A That -- on 11/26 of 2016 she came to the house with
7 a friend wearing a hoodie and trying to break into the back of
8 the house. That was the first offense. The second offense
9 that she was charged with -- I mean, she made a lot of
10 offenses, but the two charges that she received back of -- in
11 May 2017, the second offense was when in March 5th of 2017 she
12 forcibly tried to remove Ben away from -- from grandfather car
13 after visitation period was over. And at -- at first the cops
14 did not -- she lied to the cops saying that there's no TPO
15 currently to protect Ben. They took her word for it because
16 we cannot provide otherwise. When we later provided the
17 evidence to -- to the police, they reviewed the evidence and
18 they arrested her shortly thereafter for that second offense
19 for -- for interfering with custody of a child and also
20 violating the TPO.

21 Q Okay. So you mentioned the two alleged offenses
22 that she pled no contest --

23 A She plead guilty.

24 Q -- to.

1 A No, she -- she plead guilty to.
2 MR. GHIBAUDO: Your Honor, I'm going to object --
3 Q Whatever it is --
4 MR. GHIBAUDO: -- to this line of questioning.
5 Q Whatever it is --
6 MR. GHIBAUDO: We're --
7 Q So are -- so are you saying that that is --
8 MR. GHIBAUDO: There's an objection.
9 Q -- why she went to jail?
10 MR. GHIBAUDO: There's an objection.
11 THE COURT: What's the objection?
12 MR. GHIBAUDO: We're way outside the scope of -- of
13 direct at this point. And I don't know the -- the relevance
14 of these issues with regards to relocation. I just don't see
15 it.
16 MR. BLACKMON: I'm following the doors --
17 MR. GHIBAUDO: This is --
18 MR. BLACKMON: -- as they open.
19 MR. GHIBAUDO: This is prior to the September 20th
20 order.
21 THE COURT: What --
22 MR. GHIBAUDO: What's the relevance?
23 THE COURT: What's -- what's the offer in terms of
24 relevance? What's the --

1 MR. BLACKMON: The rele -- well, the offer in terms
2 of relevance is that he's saying that he knows that she has
3 problems that she needs to fix right now, but he's talking
4 about things that happened a very, very long time ago. That's
5 what --

6 THE COURT: The objection's --

7 MR. BLACKMON: -- I'm getting to.

8 THE COURT: The objection's overruled.

9 MR. BLACKMON: Okay.

10 BY MR. BLACKMON:

11 Q So you believe that she was incarcerated for four
12 months or five months because she was wearing the hoodie,
13 trying to break into the house, and interfere with the
14 custodial situation?

15 A That's what she was found guilty of.

16 Q Okay. Was she jailed for that?

17 A Well, she was jailed until she made up -- posted
18 bail originally, bond, \$50,000. And then she -- during her --
19 her trial the judge gave her two suspended sentences for six
20 months each totaling one year. As part of that order, there
21 was a stay out trouble clause. There was not communicate with
22 Defendant at all. And there was also not communicate with Ben
23 outside of visitation schedule by Family Court.

24 Q Okay. So did Patricia send you a love letter

1 through OurFamilyWizard after the -- the Criminal Court Judge
2 gave her that restriction?

3 A She sent many letters.

4 Q She sent many letters, but one in particular, did
5 you take to the District Attorney's Office?

6 A I took all of them to the --

7 Q Okay.

8 A -- District Attorney's Office.

9 Q So she wrote love letters to you? Do you admit
10 that?

11 A She -- she made -- yes, she wrote love letters.

12 Q Okay. Those were presented to the judge. Would you
13 agree that she was incarcerated --

14 A No.

15 Q -- because she wrote those letters?

16 A No. She also made threatening letters in -- in her
17 -- through FamilyWizard.

18 Q Okay. Do you have any documents to establish that
19 today?

20 A Yes, it's part of the record.

21 Q Okay. It's part of --

22 A We have that --

23 Q It's in your exhibits?

24 A We have that in evidence.

1 Q Okay.

2 MR. GHIBAUDO: And the police reports.

3 MR. BLACKMON: Well, the police report's fine.

4 MR. GHIBAUDO: The judgments.

5 Q So --

6 MR. GHIBAUDO: Judgment and conviction.

7 Q So my question is you said earlier that you think

8 that it's very important for a mother to stay in a child's

9 life, be a part of their child's life. At the time, she was

10 on the patch, right?

11 A Which --

12 Q At the time she was incarcerated, she was on the

13 patch program.

14 A No, she quit before she went to -- to jail.

15 Q You can -- you can testify to that?

16 A According to the report, she never went back when

17 she was in jail.

18 Q I don't know what report you're talking about.

19 A You didn't see the Options report? It's part of

20 evidence.

21 Q No. No. No. I'm saying it's just the vague way

22 that you're referring to a report. There's lots of reports.

23 I'm saying --

24 A There's only one Options report.

1 Q So -- okay. Either way, do you think it's important
2 for a mother to be in her child's life?

3 A A healthy relationship is important if she can have
4 a healthy relationship, yeah.

5 Q Do you think that submitting documents to the
6 District Attorney so that the District Attorney can present
7 them to her Criminal Court judge so that she would be
8 incarcerated was the best solution for her relationship with
9 your child?

10 A Yes.

11 Q There was no less restrictive means you can think
12 of?

13 A We tried that for two years.

14 Q What did you try?

15 A Well, other than -- other than trying to give her
16 chances after chances after chances, which I feel guilty about
17 because I -- it exposed Ben to -- to a lot of -- a lot of --
18 of violence that -- that she did against me and him. But in
19 any case, other than trying to work this out, there was
20 initial TPO for 30 days that she could not comply with. There
21 was -- the TPO had to keep being extended and extended because
22 she will not comply. She kept violating the TPO. She kept
23 trying to hurt me. She --

24 Q Okay.

1 A -- in different ways.

2 Q Okay. And when was that?

3 A When was what?

4 Q When did that occur? Was that last week? Was

5 that --

6 A Which part?

7 Q -- last year?

8 A Which part?

9 Q You can pick your poison. Anything that you just

10 said that she did wrong, when did that happen?

11 A Between -- between -- well, after -- the TPO was

12 given back in August of 2016 and now at the present we are in

13 end of August of 2018. So pick your poison. It's --

14 Q And so --

15 A -- throughout that time.

16 Q So for the last year?

17 A In the last year what happened?

18 Q In the last year you're saying she's done all those

19 things? Are you saying?

20 A Which things? Name -- there are different things.

21 Q Well, that's what I'm trying to clarify. You said

22 that she would exhibit violent behavior in front of Ben. You

23 said that she would act erratically. I don't know if that's

24 your exact words, but it's a paraphrase. Did that occur more

1 than a year ago?

2 A She continued to act erratically. She continued to
3 have violence around Ben even as of the video two days ago. I
4 don't know when the video was taken, but I'm assuming it was
5 recent.

6 MR. BLACKMON: Okay. So we'll just note for the
7 record that he's considering the video that hasn't been shown
8 yet to be violent behavior. It will be shown and Your Honor
9 can make a decision about that.

10 Q Now what is your address, your exact address?

11 A 5546 Camino Norte, Apartment 276, North Las Vegas,
12 Nevada 89031.

13 (COUNSEL CONFER BRIEFLY)

14 Q You -- you testified earlier that -- that the nanny
15 that you -- that you let go, I think you -- was your -- was it
16 laid off, let go, was living in your guesthouse.

17 A My dad's guesthouse, yes.

18 Q But at the time you did not say that it was only
19 your dad's house.

20 A Well, it -- it's our house. I live there.

21 Q Oh, so you live there too?

22 A Yes.

23 Q Okay. So what's the address of the home with the
24 guesthouse that the nanny is living in?

1 A That I -- I'm -- I'm not going to be able to testify
2 to that.

3 Q That -- that's already been --

4 A Okay.

5 Q -- overruled. You have to answer.

6 A I'm going to answer.

7 MR. BLACKMON: Move for contempt.

8 THE COURT: You need to answer the question.

9 THE WITNESS: Don't you think it puts us in danger,
10 me and my son? She already came to our house. She tried to
11 break in. I -- I mean, I -- the only reason I want -- want my
12 privacy is for the safety of my kid and -- and for me. I
13 mean, she already acted on -- on her urges.

14 MR. GHIBAUDO: Your Honor, I'll --

15 THE COURT: There's no -- been no --

16 MR. GHIBAUDO: Before we --

17 THE COURT: -- valid objection to --

18 MR. GHIBAUDO: Right. Let me -- let me object.

19 THE COURT: What's the evidentiary basis for the
20 objection?

21 MR. GHIBAUDO: Well, in the first place, what's the
22 relevance? The second place, he has sole legal custody. I
23 don't know that he is required to provide her any information
24 at this point based on the fact that he does have sole legal

1 custody. So he's not required to give her directly any -- any
2 information in that regard. Are more to the point, what is
3 the relevance? There is --

4 THE COURT: What --

5 MR. GHIBAUDO: -- no relevance.

6 THE COURT: What is the relevance?

7 MR. BLACKMON: There -- well, okay, I'll tell you
8 the relevance, but I want to respond to that. There is
9 absolutely no law that says somebody with sole legal custody
10 has no obligation to keep the other parent aware of the
11 child's whereabouts, where they're living, where --

12 THE COURT: Un -- understood.

13 MR. BLACKMON: -- they're sleeping, all those
14 things.

15 THE COURT: What's -- what's the relevance to these
16 proceedings?

17 MR. BLACKMON: The relevance to this especially is
18 the fact that the Defendant has not participated once single
19 bit in discovery. And to the extent that he has, it's been
20 evasive beyond all measure.

21 MR. GHIBAUDO: That has not --

22 MR. BLACKMON: So we --

23 MR. GHIBAUDO: -- been established.

24 MR. BLACKMON: -- need to know addresses, we need to

1 know banks, because if we're going to be able to put on a case
2 -- he's already been compelled to comply with discovery
3 multiple times and has not done so. So we need the addresses.
4 That's a way for us to connect the dots as to what's going on.

5 MR. GHIBAUDO: So basically Counsel's asking to go
6 fishing to help his financial --

7 MR. BLACKMON: This -- this is --

8 MR. GHIBAUDO: -- claim.

9 MR. BLACKMON: This is normal discovery.

10 MR. GHIBAUDO: He's also -- but there's --

11 THE COURT: Well, no. No.

12 MR. GHIBAUDO: And he's assuming --

13 THE COURT: This is not -- but this is not a
14 discovery hearing. And I -- and I guess my point is as it
15 relates to the location, I'm not seeing the relevance. I'm
16 not saying it's not --

17 MR. BLACKMON: Okay.

18 THE COURT: -- irrelevant for other purposes --

19 MR. BLACKMON: Yeah.

20 THE COURT: -- for --

21 MR. BLACKMON: Then --

22 THE COURT: -- discovery --

23 MR. BLACKMON: Exactly.

24 THE COURT: -- for --

1 MR. BLACKMON: Then for this reason.

2 THE COURT: -- for financial purposes, so --

3 MR. BLACKMON: Then for this reason, it is. It is
4 for financial reason and it's also how are we supposed to
5 assess his current living situation with the living situation
6 that he's going -- or he wants to be a part of when -- and I
7 can't -- because it just came up today. There's news of
8 severe conflict in the area that he's planning to move.

9 THE COURT: Well, but -- but to that point, first of
10 all, as it relates to finances, this is not a financial trial.
11 I know there's some financial overtones given the fact that
12 that's -- that's part of the -- the basis for the relocation.
13 But I -- I don't -- I don't need his current address for that
14 purpose. As it pertains --

15 MR. BLACKMON: Well, I mean --

16 THE COURT: -- to --

17 MR. BLACKMON: -- Your Honor --

18 THE COURT: -- living circumstances --

19 MR. BLACKMON: -- Your Honor --

20 THE COURT: -- that's --

21 MR. BLACKMON: -- he gave me the address and --

22 THE COURT: I -- I get that.

23 MR. OLIVER: Your Honor, one of the other important
24 factors in the relocation analysis is whether the -- the

1 Defendant will comply with various court orders. You orderd
2 him just now to disclose the information and he refused.

3 MR. GHIBAUDO: Until I objected and now there's an
4 objection pending.

5 THE COURT: Well, listen. I -- I mean, all of this
6 comes into play in my analysis of the case. I take no -- I --
7 I have to fundamentally develop a belief or understanding that
8 there is that compliance, that I can trust that the
9 Defendant's going to be a gatekeeper for Benjamin's
10 relationship with his mother. So that's all understood.

11 MR. BLACKMON: Okay.

12 THE COURT: And that becomes part of what I have to
13 consider in going down that path. So I directed the Witness
14 to answer. He's refused.

15 MR. BLACKMON: Well, he --

16 THE COURT: I indicated --

17 MR. BLACKMON: No, he -- he answered.

18 THE COURT: Well, he -- and he gave the prior
19 address.

20 MR. BLACKMON: Yeah, and then I was trying to
21 impeach him with his --

22 THE WITNESS: That's my legal --

23 MR. BLACKMON: -- inconsistent statement.

24 THE WITNESS: That's my legal address.

1 THE COURT: Well, I -- listen, I -- I get that, but
2 that --

3 MR. BLACKMON: I won't push it.

4 THE COURT: -- that's his -- that's his choice and
5 decision, so --

6 MR. BLACKMON: I won't push it, Your Honor.

7 THE COURT: -- I would move on.

8 MR. BLACKMON: Yes.

9 THE WITNESS: Just to clarify, I'm not --

10 MR. BLACKMON: No.

11 THE WITNESS: If you ask me to --

12 MR. BLACKMON: There's no question pending. No
13 question pending. Move to strike.

14 THE WITNESS: If you ask me to answer it, I will
15 answer it, sir.

16 THE COURT: Well, it's up to Counsel at this point.

17 MR. BLACKMON: I -- I don't even -- if I'm going to
18 premise this, I have to premise this, I have to premise it in
19 this way. If he's going to give me an explanation of anything
20 other than the address, I don't want to hear it.

21 THE COURT: Well, what -- just ask your question.

22 BY MR. BLACKMON:

23 Q What's the address of your father's home where the
24 nanny lives?

1 A Sir, I explained to you my -- my reluctance.

2 MR. BLACKMON: Move to strike, non-responsive. I'm
3 moving on.

4 THE COURT: Okay.

5 MR. BLACKMON: Can we strike? Okay.

6 THE COURT: Sustained.

7 MR. BLACKMON: I'm good, Your Honor. Thank you. I
8 thank the Witness.

9 THE WITNESS: Thank you, sir.

10 THE COURT: Redirect?

11 MR. GHIBAUDO: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. GHIBAUDO:

14 Q Why are you reluctant to provide the address?

15 A I moved away from our previous address because
16 Patricia tried to break in when she came in November of 2016.
17 She threatened to kill me multiple times. She threatened to
18 kill herself and my son. I worked very hard to maintain
19 safety for my son. I'm less concerned about myself safety,
20 but I'm more concerned about my son's safety. She -- she went
21 to the -- my -- my father's car and she tried to remove him
22 forcefully from the car after supervision was done. What if
23 she comes to -- to my house and try to grab Ben because she's
24 not happy with the results of what she gets today?

1 MR. BLACKMON: Objection, speculation.

2 THE COURT: Sustained.

3 BY MR. GHIBAUDO:

4 Q That being said, are you willing to provide the Court
5 the address at this time?

6 A After understanding the -- my reluctance, if my --
7 if the Judge think that's mandatory and important, I -- I will
8 always comply with the Judge orders.

9 Q The Judge thinks it's important. Will you provide
10 it?

11 A Yes, sir. I -- I don't know if he know that after
12 -- after my objection. I don't know if --

13 THE COURT: Well --

14 MR. BLACKMON: I -- I don't -- I just don't want to
15 hear a bunch of rambling about it. I mean, it's a simple
16 question. If he's not going to answer, he's not --

17 THE COURT: No, I'm --

18 MR. BLACKMON: -- going to answer.

19 THE COURT: -- I'm not -- listen, I'm kind of -- I'm
20 not asking any questions. It's --

21 BY MR. GHIBAUDO:

22 Q Can you --

23 THE COURT: -- up to the Counsel.

24 Q -- provide the address, please?

1 A Again, if I have to, if the Judge asks -- says that
2 I have to, I will.

3 MR. BLACKMON: Move to strike, non-responsive.

4 THE WITNESS: Okay.

5 BY MR. GHIBAUDO:

6 Q And you mentioned the Options report.

7 A Yes, sir.

8 MR. GHIBAUDO: May I approach, Your Honor?

9 THE COURT: Yes, you may.

10 MR. GHIBAUDO: This is --

11 MR. BLACKMON: Do you even know what your exhibits
12 are?

13 (COUNSEL CONFER BRIEFLY)

14 MR. GHIBAUDO: May I approach?

15 MR. BLACKMON: Yes, you may.

16 MR. GHIBAUDO: Exhibit E.

17 Q Is that the Options report you're referring to?

18 A Yes, sir.

19 Q Whose -- whose report is that?

20 A Patricia's.

21 Q And what's the date on it?

22 A September 7th, 2017.

23 Q And what does it say was her initial reading?

24 A Okay. It says here she -- she started monitoring on

1 5/19/17 which was two days after the court order. She came in
2 positive for alcohol and then she was also on the patch. This
3 was a urinalysis on the patch.

4 MR. BLACKMON: Your Honor --

5 A It was positive for methamphetamine.

6 MR. BLACKMON: Your Honor, I'm sorry. I'm -- I'm
7 going to object to the authenticity. I also don't see a
8 certificate of custodian of records, anybody that can
9 interpret these results --

10 MR. GHIBAUDO: It's the --

11 MR. BLACKMON: -- and --

12 MR. GHIBAUDO: -- court record. You already have
13 it.

14 MR. BLACKMON: -- nobody was --

15 THE WITNESS: Options reported it to a court.

16 MR. BLACKMON: There's nobody here that can testify
17 to what this report actually means.

18 MR. GHIBAUDO: Just take judicial notice of the fact
19 that she was required to do an Options program. She went
20 initially, she failed it initially, and then she didn't go
21 back. That's what we're --

22 THE WITNESS: The Court --

23 MR. GHIBAUDO: -- trying to establish.

24 THE WITNESS: -- provided this to me.

1 MR. GHIBAUDO: And here is --

2 THE COURT: I -- I don't have my confidential file
3 with me.

4 MR. BLACKMON: Well --

5 THE COURT: To the extent it's in my confidential
6 file, it is something that I would -- would have received from
7 prior hearings. But it -- and -- and so I'm not going to look
8 at that particular document because I don't have my file here
9 at the moment. I do have it in chambers. And so certainly I
10 can pull that and whatever is reflected in that --

11 MR. BLACKMON: But I'm just saying, for evidentiary
12 purposes being admitted as evidence, offered as evidence, we
13 need an expert on these drug testing results to have signed
14 either a certificate of custodian or records or they need to
15 be here to testify as to --

16 THE COURT: I --

17 MR. BLACKMON: -- what these results --

18 THE COURT: I understand that.

19 MR. BLACKMON: -- mean. So --

20 THE COURT: All I'm --

21 MR. BLACKMON: -- that's my objection.

22 THE COURT: All I'm saying is the Court previously
23 has reviewed -- if there are Options report in the
24 confidential file, and I believe there are, that the Witness

1 has indicated that -- that it was the Court that --
2 MR. BLACKMON: Yes.
3 THE COURT: -- that produced that information --
4 MR. BLACKMON: I understand that.
5 THE COURT: So --
6 MR. BLACKMON: I understand that. It's -- it's just
7 -- it could be -- it's --
8 MR. GHIBAUDO: I'm sorry about that.
9 MR. BLACKMON: I just -- I just --
10 THE COURT: I'm -- I'm not going --
11 MR. BLACKMON: -- think that it would --
12 THE COURT: -- to have anything --
13 MR. BLACKMON: -- be taken in a different --
14 THE COURT: Yeah.
15 MR. BLACKMON: -- context.
16 THE COURT: I'm not going to have anything ad --
17 admitted, but certainly --
18 MR. BLACKMON: Okay.
19 THE COURT: -- Counsel --
20 MR. BLACKMON: All right.
21 THE COURT: -- Counsel can probe about that. That's
22 a legiti -- a legitimate inquiry.
23 MR. BLACKMON: Okay.
24 BY MR. GHIBAUDO:

1 Q And to your knowledge, did -- based on what you saw,
2 did the provide -- did the Court provide you the report?

3 A Yes, sir. And actually, the -- the -- we pre -- we
4 got that in the beginning of trial. He called our Counsel and
5 I was outside and you gave it to -- I'm sorry, Your Honor gave
6 it to my lawyer at the time and he brought it outside. We --
7 we -- the first time we saw it within a day of -- of trial.

8 Q And what is your recollection of the results?

9 A Patricia was positive for alcohol in a urinalysis.
10 She was positive for methamphetamine on her patch and she
11 never completed the -- the patch program.

12 Q Okay. To your knowledge, did she undergo -- or did
13 she appear for the patch program that was ordered this year?

14 A She has not.

15 Q And do you know -- were you both ordered to take a
16 drug test this year?

17 A Yes, we have.

18 Q What time were you ordered to appear?

19 A I believe it was before 2:00 p.m.

20 Q And do you know what time she appeared?

21 A After that time.

22 Q Do you recall if that was at 2:10?

23 A Some -- yes, sir.

24 Q Okay. Now you indicated that there was a report

1 done by Dr. Bergquist?

2 A Yes, sir.

3 Q And did you review the report?

4 A Yes, sir.

5 MR. BLACKMON: I'm sorry, what report?

6 MR. GHIBAUDO: Dr. Bergquist, the report that you

7 referenced before

8 MR. BLACKMON: Yeah, move -- move to strike that

9 completely. It should not come in. She's --

10 THE COURT: But it hasn't --

11 MR. BLACKMON: -- conflicted out.

12 THE COURT: But it hasn't been offered, but --

13 MR. BLACKMON: He just offered it.

14 MR. GHIBAUDO: I'm asking him --

15 MR. BLACKMON: Didn't he?

16 MR. GHIBAUDO: -- about it.

17 THE COURT: No, he just --

18 MR. BLACKMON: Oh, he's --

19 THE COURT: -- asked him.

20 MR. BLACKMON: -- just asking about it. I'm sorry.

21 THE COURT: He's just asking.

22 MR. GHIBAUDO: Yeah, and it was just -- he asked

23 about it as well, so --

24 THE COURT: Right.

1 MR. BLACKMON: I said I understood.

2 BY MR. GHIBAUDO:

3 Q What opinion did Dr. Bergquist render, do you
4 recall?

5 A Ms. Bergquist rendered that Patricia has not done
6 enough to deal with her psychological issues.

7 MR. OLIVER: Objection, Your Honor. He's offering
8 the testimony that Dr. Bergquist would testify. He can't do
9 it second handed to hearsay.

10 THE COURT: Sustained.

11 (COUNSEL CONFER BRIEFLY)

12 MR. GHIBAUDO: I'm sorry, what was the objection,
13 Your Honor? What was the --

14 THE COURT: Hearsay.

15 MR. GHIBAUDO: Hearsay. Okay.

16 THE COURT: Sustained.

17 MR. GHIBAUDO: All right.

18 BY MR. GHIBAUDO:

19 Q And it discussed your child's health. And you
20 indicated that you didn't want to have him circumcised?

21 A We didn't want to at the time. We were both parents
22 at the time, full-time parents.

23 Q Was it the idea that at some later point you would
24 address it?

1 A After five years, that's what the study said and
2 that's what the pediatrician recommended.

3 Q And is that what you intend to do?

4 A Yes, sir.

5 MR. GHIBAUDO: All right. I have nothing else, Your
6 Honor.

7 MR. BLACKMON: Okay. I -- Your Honor, recross --

8 THE COURT: Recross?

9 MR. BLACKMON: -- real quick.

10 THE COURT: Okay.

11 MR. BLACKMON: And then I know it is 11:05.

12 THE COURT: Right.

13 MR. BLACKMON: When would the Court like to take
14 lunch? Because we have witnesses that are showing up around
15 noon. They were going to meet us across the street.

16 THE COURT: Well, let's -- let's finish this --

17 MR. BLACKMON: Okay.

18 THE COURT: -- first and -- and then we can --

19 MR. BLACKMON: Okay.

20 THE COURT: -- coordinate that.

21 REXCROSS EXAMINATION

22 BY MR. BLACKMON:

23 Q You said that you were reluctant to provide the
24 address because you said Patricia tried to break in to the

1 house.

2 A Yes, sir.

3 Q Was that the house that she lived in when you guys

4 were married -- or you are married. Is that house that you

5 lived in together?

6 A Yes, sir.

7 Q Did she have personal belongings in there?

8 A At the time when she broke in, no, that was

9 November.

10 Q Do you have personal belongings of hers now?

11 A Not that to my -- not that I know.

12 Q Now do you know why she stopped doing the Options

13 program?

14 A She went to jail.

15 Q So are you alleging that she could have continued to

16 do the patch program while she was incarcerated?

17 A I'm alleging that she could have --

18 MR. GHIBAUDO: Objection --

19 A -- completed the --

20 MR. GHIBAUDO: -- Your Honor.

21 A -- Option program --

22 MR. GHIBAUDO: It is speculation.

23 A -- once she got out of jail.

24 THE COURT: Overruled.

1 BY MR. BLACKMON:

2 Q So the answer was again?

3 A I'm -- I'm saying that she should have continued her
4 Option program when she got out of jail which was plenty of
5 time for her to complete her 12 week program.

6 Q And -- and is that the Options program for this year
7 that you were referring to when your Counsel was asking you
8 questions? So --

9 A Say it again.

10 Q -- you said that she also didn't do the Options
11 program this year.

12 A Okay. When you sign up for Options, you -- you --

13 Q I'm sorry. Sir, I don't need an explanation like
14 that.

15 A Okay.

16 Q I just need you to answer. Were you talking about
17 her restarting the Options program that she stopped because
18 she was incarcerated or are you talking about a completely
19 different order for her to do the patch program?

20 A I'm -- I'm not a lawyer, but I believe at the last
21 hearing the Judge says that she'll have to start the -- the
22 Option program, yes.

23 Q Okay.

24 A She restart because she hasn't. So she hasn't

1 complied with the original order that was given back on --

2 Q Okay.

3 A -- May --

4 MR. BLACKMON: Move to strike.

5 A -- May --

6 MR. BLACKMON: That's not -- not --

7 A -- 17th.

8 MR. BLACKMON: -- responsive.

9 BY MR. BLACKMON:

10 Q All I was asking was if you think it was the same
11 one. She had an interruption to her patch program because she
12 was incarcerated.

13 A Yes.

14 Q But you're not referring to when she got out of
15 incarceration, you're talking about more recently that she
16 didn't do it.

17 A I'm -- I'm not -- I don't follow your line of
18 questioning, sir.

19 Q There's been multiple orders for her to participate
20 in the patch program.

21 A I think the order said she have to continue. She
22 did not --

23 Q Sir.

24 A -- comply, so she --

1 Q Sir, I'm trying --
2 MR. GHIBAUDO: Your Honor, I object to this --
3 MR. BLACKMON: I'm --
4 MR. GHIBAUDO: -- whole line of reasoning. I don't
5 understand the relevance of trying to get him to explain when
6 these orders --
7 MR. BLACKMON: I think --
8 MR. GHIBAUDO: -- were issued and when the Court --
9 the Court can make its own determination of whether or not --
10 MR. BLACKMON: I need to know --
11 MR. GHIBAUDO: -- the orders --
12 MR. BLACKMON: -- what his --
13 MR. GHIBAUDO: -- were complied with.
14 MR. BLACKMON: -- understanding is.
15 THE COURT: But -- but are you simply trying to find
16 out whether --
17 MR. BLACKMON: He keep --
18 THE COURT: -- there was a new order for her to
19 participate in patch?
20 MR. BLACKMON: No, I'm trying to get an
21 understanding of the Defendant's understanding of what she was
22 obligated to do upon her release from incarceration.
23 MR. GHIBAUDO: Why does that matter?
24 THE COURT: Well, yeah. And -- and I don't want to

1 waste a lot of time on this.

2 MR. BLACKMON: It --

3 THE COURT: I don't know that --

4 MR. BLACKMON: It -- it's important.

5 THE COURT: Okay. Then -- then I'll over -- I'll

6 give you that latitude --

7 MR. BLACKMON: Okay.

8 THE COURT: -- but your -- you're over an hour into

9 your time.

10 MR. BLACKMON: Okay. I -- this is the last question

11 then.

12 BY MR. BLACKMON:

13 Q You understand that she was on the patch program,

14 then she was incarcerated, and she never went on the patch

15 program again.

16 A That's -- that is correct.

17 Q Okay.

18 MR. BLACKMON: That's all, Your Honor.

19 A She did not continue the Option.

20 THE COURT: Okay.

21 MR. BLACKMON: Move to strike. Nothing was pending.

22 THE COURT: All right. You may step down.

23 THE WITNESS: Thank you, Your Honor.

24 (WITNESS EXCUSED)

1 THE COURT: All right. So how do you want to --

2 MR. GHIBAUDO: I'm okay --

3 THE COURT: I -- I mentioned to you I've -- I've --
4 we have to finish by 3:00.

5 MR. GHIBAUDO: Yes.

6 THE COURT: So I'm -- I'm open to however you want
7 to coordinate the time between now and then. I'm --
8 Plaintiff's used 58 minutes, but acknowledged at the beginning
9 20 minutes should be added to Plaintiff's time.

10 MR. BLACKMON: 19, to be specific, if that's okay.

11 THE COURT: Okay. So you're at about a little over
12 an hour and 15 minutes.

13 MR. BLACKMON: Okay.

14 THE COURT: Defendant's used approximately 50
15 minutes. So the time's going to be equal, but it's going to
16 be -- we're at -- here at 11:10 until 3:00. I'm -- I'm happy
17 to take whatever breaks and when you want to take those
18 breaks, but I -- I leave that up to you.

19 MR. GHIBAUDO: Well, I mean, to the extent that Mr.
20 Blackmon has requested a break and he was going to yield 20
21 minutes for the break, I don't care when we take the break.
22 We can take it now if we want.

23 MR. BLACKMON: I just mentioned we have witnesses
24 arriving to meet us across the street at noon for a quick

1 lunch. So I'm okay taking a short break now and then going
2 until noon, if that's okay.

3 THE COURT: Well, I'm fine with that. Do you need a
4 -- do you need a break right now?

5 MR. GHIBAUDO: Just a quick break.

6 MR. BLACKMON: I would -- yeah. Yeah. Yes.

7 THE COURT: Do you want to take a break? Okay. So
8 let's take a 10 --

9 MR. GHIBAUDO: Your Honor --

10 THE COURT: -- minute break.

11 MR. GHIBAUDO: -- I'm going to run through the
12 remainder of my witnesses and it's not nearly all the ones
13 that are listed.

14 THE COURT: Okay.

15 MR. GHIBAUDO: I'll -- I'll pretty quick.

16 THE COURT: Is this the one we are going to need
17 BlueJeans?

18 MR. GHIBAUDO: I have one or two that are waiting
19 outside. I'll --

20 THE COURT: Okay.

21 MR. GHIBAUDO: -- run through those really quick and
22 then we'll --

23 THE COURT: Okay.

24 MR. GHIBAUDO: -- move to BlueJeans.

1 THE COURT: All right. So 10 minute -- 10 minute
2 break.

3 (COURT RECESSED AT 11:10 AND RESUMED AT 11:25)

4 THE CLERK: We're back on the record.

5 THE COURT: We are back on the record in the Egosi
6 matter. Your next witness.

7 MR. GHIBAUDO: I'm going to call the supervisor,
8 Your Honor.

9 MR. EGOSI: Vicki Newman.

10 MR. GHIBAUDO: Viktorin Newman. Vicki Newman.

11 THE COURT: Vicki Newman.

12 (WITNESS SUMMONED)

13 MR. GHIBAUDO: And then we can break for lunch.

14 THE COURT: That'll be a good time to break.

15 MR. BLACKMON: Depending on how long his direct is,
16 I'm fine direct lunch --

17 MR. GHIBAUDO: It'll be short.

18 MR. BLACKMON: -- cross and then continue on. Oh,
19 he said it'll be short. Nevermind.

20 THE COURT: Yeah.

21 MR. BLACKMON: Okay. And Your Honor, I'm sorry
22 about my eyes. If I look --

23 THE COURT: No, I haven't noticed --

24 MR. BLACKMON: -- weird --

1 THE COURT: -- anything.
2 MR. BLACKMON: Because I got -- I got lasik and
3 things are very difficult to see --
4 THE COURT: Oh, no.
5 MR. BLACKMON: -- at times.
6 MR. GHIBAUDO: Yeah, you look like you're hung over.
7 I thought you had a rough night.
8 MR. BLACKMON: I got some crazy like red marks in my
9 eyes.
10 THE COURT: I haven't noticed anything.
11 MR. BLACKMON: You didn't notice I wasn't wearing my
12 spectacles?
13 THE COURT: You know what, you're right.
14 MR. BLACKMON: Yeah.
15 MR. GHIBAUDO: You should wear a monocle.
16 THE COURT: Have you've always worn --
17 MR. BLACKMON: I've always worn --
18 THE COURT: -- glasses?
19 MR. BLACKMON: -- glasses since I was little.
20 THE MARSHAL: The witness went to the restroom.
21 She'll be right back.
22 THE COURT: Okay.
23 MR. BLACKMON: And I've got -- yeah, I got it
24 done --

1 THE COURT: And --
2 MR. BLACKMON: -- on Saturday.
3 THE COURT: -- for some reason, I just -- anyways --
4 MR. BLACKMON: Handsome is as --
5 THE COURT: -- because I --
6 MR. BLACKMON: -- handsome does.
7 THE COURT: -- I -- sometimes I do wear and
8 sometimes I don't.
9 MR. BLACKMON: I know.
10 THE COURT: So --
11 MR. BLACKMON: I'll need them. I'll need them for
12 up close precincts.
13 MR. GHIBAUDO: You should wear them. You look older
14 with glasses and when you don't you look like you're 12.
15 MR. BLACKMON: You're bald.
16 MR. GHIBAUDO: Which makes me look distinguished. I
17 dig it.
18 THE COURT: You guys trying to compliment each
19 other?
20 MR. GHIBAUDO: (Indiscernible - simultaneous
21 speech).
22 MR. BLACKMON: The -- like the most backhand way --
23 MR. GHIBAUDO: (Indiscernible - simultaneous
24 speech).

1 MR. BLACKMON: -- ever. Alex and I are actually --
2 we're going to partner up and make a --

3 MR. GHIBAUDO: I --

4 MR. BLACKMON: -- firm together.

5 MR. GHIBAUDO: I adore Jack. He's a great guy.

6 MR. BLACKMON: No, we get along very well, Your
7 Honor.

8 (COUNSEL CONFER BRIEFLY)

9 THE MARSHAL: Stay standing and raise your right
10 hand for me.

11 MS. NEWMAN: Stand?

12 THE MARSHAL: Stay standing.

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

16 MS. NEWMAN: Yes, I do.

17 THE COURT: You may be seated. Counsel, you may
18 proceed.

19 VIKTORIN NEWMAN
20 called as a witness on behalf of the Defendant, having been
21 first duly sworn, testified upon her oath as follows on:

22 DIRECT EXAMINATION

23 BY MR. GHIBAUDO:

24 Q Can you state your name for the record, please,

1 ma'am?

2 A Viktorin Newman.

3 Q Can you spell that?

4 A I'm sorry?

5 Q Can you spell that?

6 A V-i-k-t-o-r-i-n, Newman, N-e-w-m-a-n.

7 Q And how do you know Joe?

8 A I know him through my daughter-in-law, that she

9 works for the Jewish Organization and his mother approach to

10 my daughter-in-law and that's how I know.

11 Q Okay. What do you do -- what do you currently do

12 for Joe?

13 A I --

14 Q Are you a supervisor?

15 A -- supervise for his son.

16 Q How long have you been doing that for?

17 A About a year and a half.

18 Q And how often is the supervision take place?

19 A Three times a week.

20 Q And what time to what time?

21 A From 4:00 o'clock to 8:00 o'clock.

22 Q And in that time, have you had a chance to

23 personally observe Ms. Egosi with Ben?

24 A I'm sorry? I didn't understand.

1 Q In that period of time, have you had a chance to
2 personally observe Ben and his mother together?

3 A Oh, yes. I did.

4 Q All right. Do you have -- does -- in your opinion,
5 is Ben have a good relationship with his mother?

6 A No, I don't think so.

7 Q Well, why do you say that?

8 A Because sometime when -- when Joe -- I -- I go with
9 Joe in the car to the visitation. And sometime Ben doesn't
10 want to go to his mother and Joe has to convince him in a nice
11 way that we're going to go and see her. Then when we are
12 there, sometimes she fights with him and he gets upset.

13 Q What does she fight with him about?

14 A Something that she wants him to do and he doesn't
15 want to do.

16 Q And how does she react to those situations?

17 A The -- they fighting and I can see Ben gets very
18 upset and he pushes her sometime and he doesn't talk nice to
19 her.

20 Q And you said that during those car rides, is it your
21 -- is it your personal observation that Joe tries to encourage
22 his son?

23 A To encourage him to do that?

24 Q Yeah -- no, to --

1 A No.

2 Q -- encourage him to go see his mother --

3 A Yes, he does.

4 Q -- even though he doesn't want to.

5 A Yes, he does.

6 Q How often does that happen?

7 A How often? I would say maybe every two weeks it can
8 happen that he would say no.

9 Q And what is -- what does he -- what does he get
10 upset about specifically if you --

11 A And her mother -- the way she talk to him he gets
12 upset.

13 Q How does she talk to him?

14 A I think she talks to him a not a grown up child.
15 The way I see Ben, Ben knows so many things and he's a very
16 intelligent boy. And the way she talks to him, she talks to
17 him like he's not that much intelligent the way he's -- I
18 don't know how to explain that to you. I -- I hope I make it
19 clear.

20 Q Well, let's try to narrow it down. Are you saying
21 that she -- she speaks down to him?

22 A Yes, she does.

23 Q Does she belittle him?

24 A What do you mean by that, sir?

1 Q Does she insult him?
2 A I think she does insult him.
3 Q Does she berate him? Does she scream at him?
4 A No, not really. No.
5 Q Are there any physical altercations?
6 A No. It -- I can see from him. He would push her,
7 yes.
8 Q And why does he do that?
9 A He gets upset with her.
10 Q All right. Let's -- let's take as an example. When
11 was the last time that occurred?
12 A When was the last time -- I think -- maybe about two
13 weeks ago.
14 Q Can you describe what happened?
15 A They were fighting about something and then he was
16 pushing her and he was saying to her that the -- you -- you've
17 been -- you -- you did this and this in the past to me, like
18 you hitted me, you told me this. He would continue to talk
19 about the past what she did to him.
20 Q And do you have any idea of where that may come
21 from? Is that from his own recollection?
22 A Where does it come from?
23 MR. BLACKMON: Objection, speculation.
24 THE COURT: Sustained.

1 BY MR. GHIBAUDO:

2 Q Does -- in your personal observation on the ride
3 back, does Ben relay those problems he has with his mother to
4 his dad?

5 MR. BLACKMON: Objection, hearsay.

6 MR. GHIBAUDO: I'm not asking for a specific --

7 THE COURT: For the statement. Overruled. He's not
8 asking for a hearsay statement yet.

9 BY MR. GHIBAUDO:

10 Q Is he -- does he talk --

11 A I'm sorry, can you ask me again in a different way?
12 Because I'm --

13 Q Yeah.

14 A -- not --

15 Q So --

16 A -- sure I understood.

17 Q When Joe goes to pick you and Ben up --

18 A Right.

19 Q -- to take you back.

20 A Right.

21 Q Does Ben ever tell his father about the fights he
22 has with his mom?

23 A Yes.

24 Q Like does he complain for --

1 A Yes.

2 Q -- him?

3 A He does complain.

4 Q And what is Joe's response?

5 A He's trying to calm him down. You know, he tells --

6 he tells him --

7 MR. BLACKMON: And now I would say --

8 A Well --

9 MR. BLACKMON: -- objection, this is hearsay.

10 MR. GHIBAUDO: It's not hear --

11 THE COURT: Sustained.

12 MR. GHIBAUDO: Well, that's not hear -- my client's

13 here.

14 MR. BLACKMON: And he could have testified to it --

15 THE COURT: He -- he's --

16 MR. BLACKMON: -- but you didn't ask him.

17 THE COURT: Yeah, he --

18 MR. GHIBAUDO: All right.

19 THE COURT: It's --

20 MR. GHIBAUDO: Let me ask --

21 THE COURT: -- still an out of court statement,

22 so --

23 MR. GHIBAUDO: Understood.

24 THE COURT: -- it's hearsay.

1 MR. GHIBAUDO: Let me -- let me rephrase it.

2 BY MR. GHIBAUDO:

3 Q Does he -- does Ben ever -- or I'm sorry. Does Joe
4 ever insult or belittle Patricia in those instances?

5 A No, I never heard that.

6 Q Okay. And -- and you've had an opportunity to
7 observe Ben play during the times that you supervised,
8 correct?

9 A Play with his mother, you mean?

10 Q Play at all --

11 A Oh.

12 Q -- with his --

13 A Yes, I -- yes.

14 Q Is -- what is your opinion of -- of Ben's -- is he
15 -- is he a happy boy? Is he a boy that's very curious?

16 A You -- you mean generally?

17 Q Yeah.

18 A Yes, generally he's very, very curious because he's
19 always asking his father all different kind of question and
20 his father explained to him all different kind -- much more
21 than an average child that I know.

22 Q Did you --

23 MR. BLACKMON: And Your Honor --

24 Q -- ever observe --