

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

IN THE MATTER OF THE GUARDIANSHIP
OF B.A.A.R., PROTECTED MINOR.

LUCIA AGUILAR AGUILAR,
Appellant,
vs.

MARTA MARIA RIVAS; AND JESUS VIDAL
AGUILAR,
RESPONDENTS.

No. 78626

Electronically Filed
May 17 2019 11:59 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District Eighth Department M
County Clark Judge Potter
District Ct. Case No. G-19-051011-M

2. Attorney filing this docketing statement:

Attorney Alissa A. Cooley Telephone (702) 380-4278
Firm Law Offices of Martin Hart, LLC
Address 526 South 7th Street
Las Vegas, NV 89101

Client(s) Lucia Aguilar Aguilar

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

3. Attorney(s) representing respondents(s):

Attorney n/a Telephone _____
Firm _____
Address _____

Client(s) _____

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

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

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

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

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

N/A

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

None

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

This appeal arises from an Order with Default Findings issued by the District Court on August 10, 2017. Appellant filed and served a custody complaint regarding one subject-minor on Respondent, and Respondent defaulted. Appellant then filed a Motion for Special Findings on the Issue of Special Immigrant Juvenile Status and served Respondent. In support of her Motion, Appellant also submitted two declarations detailing the subject minor's father's physical abuse, neglect, and abandonment, as well as the circumstances that prompted Appellant and the subject minor to flee their home country of El Salvador. Respondent failed to respond to the Motion and did not appear at the hearing on the Complaint and the Motion. The District Court entered a default order at the hearing.

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

Appellant and her nephew were prepared to offer testimony at the hearing, however, the district court did not permit them. The district court ignored Appellant's arguments regarding negligent treatment, instead stating that there was insufficient evidence for abuse or abandonment. The district court further opined it did not believe that it had the jurisdiction to find make the findings considering the incidents did not occur in Nevada. In a written order filed the following day, the district court denied the motion for SIJS findings on the ground Appellant did not provide sufficient evidence of abuse "as the sole purveyor of said abuse no longer resides in the household." The Appellant argued the abuse of his sister by his mother's live-in boyfriend and subsequent threats to kill the protected minor constituted negligent treatment by his mother because she knew about the abuse and threats yet did nothing to protect her children. The district court also dismissed the claim of neglect based on the protected minor's frequent hunger, his dropping out of school, and growing corn to have enough to eat as mere poverty that does not rise to the level of neglect.

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

Appellant is not aware of any other proceedings.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: This case pertains to a request for special findings pursuant to NRS 3.0223(3). Appellant argues the Eighth Judicial Court had authority and jurisdiction over Special Immigrant Juvenile-related cases and had substantial evidence before it to make the requested findings. The Court questioned the amount of evidence in the record yet failed to take testimony at the hearing on the Motion. This case presents an issue of public policy because of some of the lower courts reluctance to afford litigants the relief provided in Nev. Rev. Stat. 3.2203 has resulted in the inconsistency of judgments and deprivation of relief to those who qualify.

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

This case is presumptively assigned to the Court of Appeals under Nev. R. App. P. 17(b)(5).

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

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

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 03/28/2019

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

17. Date written notice of entry of judgment or order was served 04/03/2019

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

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

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

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed 04/17/2019

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

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |
-

(b) Explain how each authority provides a basis for appeal from the judgment or order:
On March 28, 2019, the District Court entered a Findings of Fact and Conclusions of Law which denied the Motion for Findings on the Issue of Special Immigrant Juvenile Status Pursuant to Nev. Rev. Stat. 3.2203. The District Court granted the Petition for the Appointment of Guardian on March 27, 2019. The District Court's Findings of Fact and Conclusions of Law was entered after the final judgment. Appellant is appealing that the District Court's March 28, 2019 order.

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

(a) Parties:

Lucia Aguilar Aguilar, Appellant

Bryan Ariel Aguilar Rivas, Protected Minor

Marta Maria Rivas, Respondent, who did not participate in the proceedings below

Jesus Vidal Aguilar, Respondent, who did not participate in the proceedings below

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

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

Respondents failed to file a response to any of the filings and did not appear at any hearing in the proceedings below.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☒ No

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

☐ Yes

☒ No

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

The Findings of Fact and Conclusions of Law is independently appealable under Nev. R. App. P 3A(b)(1).

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

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

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Lucia Aguila Aguilar
Name of appellant

Alissa A. Cooley
Name of counsel of record

05/17/2019
Date

/s/ Alissa A. Cooley
Signature of counsel of record

Nevada, County of Clark
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 17th day of May, 2019, I served a copy of this completed docketing statement upon all counsel of record:

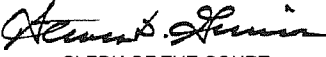
- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Jesus Vidal Aguilar
3311 Fico Avenue
Las Vegas, NV 89141

Maria Marta Rivas
Caserio Los Rivas
Canton Llano Largo
Jutiapa, Cabañas
El Salvador

Dated this 17th day of May, 2019

/s/ Alissa A. Cooley
Signature


CLERK OF THE COURT

PAG

ALISSA A. COOLEY, ESQ.

Nevada Bar No. 13467

LAW OFFICES OF MARTIN HART, LLC

526 South 7th Street

Las Vegas, NV 89101

Telephone: (702) 380-4278

Facsimile: (702) 384-6006

associate@martinhartlaw.com

Attorney for Lucia Aguilar Aguilar

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the matter of the Guardianship of,
the person:

Bryan Ariel Aguilar Rivas
DOB: 07/31/2001
A protected minor.

Case No:

Dept. No:

G-19-051011-M

Dept: M

**PETITION FOR APPOINTMENT OF GUARDIAN
(Special Immigrant Juvenile Findings to be Requested)**

COMES NOW, Petitioner and Proposed Guardian, LUCIA AGUILAR AGUILAR, by and through her attorney, ALISSA A. COOLEY, ESQ., of the LAW OFFICES OF MARTIN HART, LLC, and respectfully petitions this Court to appoint LUCIA AGUILAR AGUILAR ("Lucia") as Guardian of the person of proposed protected minor BRYAN ARIEL AGUILAR RIVAS ("Bryan"), in accordance with Chapter 159 of the Nevada Revised Statutes. In support of said Petition, Lucia states:

1. That Bryan's full legal name is Bryan Ariel Aguilar Rivas. Bryan currently resides at 8157 Chambersberg Street, Las Vegas, NV 89147. Bryan's date of birth is July 31, 2001, and he will attain the age of eighteen on July 31, 2019 and age twenty-one on July 31,

1 **PAG**

2 **ALISSA A. COOLEY, ESQ.**

3 Nevada Bar No. 13467

4 **LAW OFFICES OF MARTIN HART, LLC**

5 526 South 7th Street

6 Las Vegas, NV 89101

7 Telephone: (702) 380-4278

8 Facsimile: (702) 384-6006

9 associate@martinhartlaw.com

10 *Attorney for Lucia Aguilar Aguilar*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 In the matter of the Guardianship of,
14 the person:

15 Bryan Ariel Aguilar Rivas

16 DOB: 07/31/2001

17 A protected minor.

Case No:

Dept. No:

G-19-051011-M

Dept: M

18 **PETITION FOR APPOINTMENT OF GUARDIAN**
19 **(Special Immigrant Juvenile Findings to be Requested)**

20 COMES NOW, Petitioner and Proposed Guardian, LUCIA AGUILAR AGUILAR, by
21 and through her attorney, ALISSA A. COOLEY, ESQ., of the LAW OFFICES OF MARTIN
22 HART, LLC, and respectfully petitions this Court to appoint LUCIA AGUILAR AGUILAR
23 ("Lucia") as Guardian of the person of proposed protected minor BRYAN ARIEL AGUILAR
24 RIVAS ("Bryan"), in accordance with Chapter 159 of the Nevada Revised Statutes. In support
25 of said Petition, Lucia states:

26 1. That Bryan's full legal name is Bryan Ariel Aguilar Rivas. Bryan currently
27 resides at 8157 Chambersberg Street, Las Vegas, NV 89147. Bryan's date of birth is July 31,
28 2001, and he will attain the age of eighteen on July 31, 2019 and age twenty-one on July 31,

1 2022. A true and correct copy of his school identification card is attached to the Confidential
2 Information Sheet.

3 2. That Bryan has resided in Las Vegas, Nevada since August 9, 2018.

4 3. That the names and last known addresses of the relatives of the proposed ward
5 within the second degree of consanguinity are attached hereto as Exhibit 1.
6

7 4. That Lucia's full legal name is Lucia Marleny Aguilar Aguilar. Lucia currently
8 resides at 8157 Chambersberg Street, Las Vegas, NV 89147; her mailing address is the same.
9 Lucia's date of birth is June 30, 1969. A true and correct copy of her identification is attached to
10 the Confidential Information Sheet lodged with the Court concurrently herewith.
11

12 5. That Bryan's father, Jesus Vidal Aguilar, resides at 3311 Fico Avenue, Las Vegas,
13 NV 89141.

14 6. That Bryan's mother, Maria Marta Rivas Mendez, resides in Cabañas, El
15 Salvador.
16

17 7. That the proposed guardian, Lucia Aguilar Aguilar, is Bryan's paternal aunt.

18 8. That the reasons for the proposed guardianship are as follows: Bryan fled El
19 Salvador by himself on June 9, 2018. While his father resides in Las Vegas, immigration
20 officials released Bryan into the custody and care of his paternal aunt, Lucia. Lucia is a U.S.
21 citizen while his father is undocumented. Lucia signed a sponsor agreement with the Office of
22 Refugee Resettlement, wherein she agreed to care for Bryan and ensure he attends all court
23 proceedings. Further, his father does not have space for Bryan to live; he would have to sleep in
24 the living room instead of in a bedroom. Lucia has assumed responsibility for and care of Bryan
25 since his arrival to Las Vegas in August 2018. Bryan is in the tenth grade at Global Community
26 High School, does not have employment, and relies on his family for food, clothing, shelter, and
27
28

1 other necessities. Lucia needs a legal guardianship to ensure Bryan's needs, especially those
2 related to education and healthcare, are met until he is able to provide for and take care of
3 himself.

4 9. That there is no custody order pertaining to Bryan.

5 10. That Lucia is the paternal aunt of the proposed protected minor and is competent
6 and capable of acting as the guardian of the person of the proposed ward. Lucia hereby consents
7 to act in this capacity.
8

9 11. Lucia expects Bryan will need the guardianship to continue until he turns twenty-
10 one-years-old. Bryan is new to the country, is in high school, and does not have a job or other
11 means to support himself. Accordingly, Lucia requests the guardianship continue until Bryan's
12 twenty-first birthday on July 31, 2022, pursuant to Nev. Rev. Stat. §§ 159.191 and 159.1905(2).
13

14 12. That Lucia is not a private professional guardian and is not currently receiving
15 compensation for services as a guardian.

16 13. That Lucia has never been convicted of a felony; nor has she been judicially
17 determined to have committed abuse, neglect, or exploitation of a child, spouse, parent, or other
18 person.
19

20 14. That Lucia has not been suspended for misconduct or disbarred from the practice
21 of law, the practice of accounting or any other profession which involves the management or sale
22 of money, investments, securities or real property and requires licensure in Nevada or any other
23 state.
24

25 15. That Bryan has no property and/or income to be considered by this Court.

26 16. That Lucia does not request any specific powers pertaining to the property of
27 Bryan, as Bryan has no property.
28

17. That Bryan is not subject to any pending criminal or civil litigation, however, Bryan does have an open removal case before the Las Vegas Immigration Court. The guardianship is not sought for the purpose of initiating litigation. Bryan has not executed a durable power of attorney for health care, a durable power of attorney for financial matters, or a written nomination for guardian.

18. That a guardianship pursuant to NRS Chapter 159 is in the best interest of Bryan because he has no other family member who is able to support him until he is able to care for himself. Lucia is a U.S. citizen and has taken responsibility of and care for Bryan since his release from a foster care facility in August 2018. His father, while in Las Vegas, is not able to care for him as thoroughly and stably as Lucia. Bryan requires this Court to appoint Lucia as his legal guardian so that she can continue to ensure his educational, medical, and legal needs met without interruption until he is able to care for himself.

19. Petitioner respectfully requests that bond in this matter be waived.

WHEREFORE, Petitioner prays that this general guardianship be granted without issuance of a citation and for such other and further relief as the court may deem just and proper.

DATED this 30th day of January, 2019

~~LAW OFFICES OF MARTIN HART, LLC~~



ALISSA A. COOLEY, ESQ.
Nevada Bar No. 13467
526 South 7th Street
Las Vegas, NV 89101

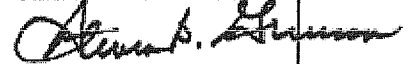
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I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Lucia Aguilar
LUCIA AGUILARAGUILAR, Petitioner

EXHIBIT 1

Relative's Name	Relationship to Bryan Ariel Aguilar Rivas	Address of Relative
Jesus Vidal Aguilar	Father	3311 Fico Avenue Las Vegas, NV 89141
Maria Marta Rivas	Mother	Caserio Los Rivas Canton Llano Largo Jutiapa, Cabañas El Salvador
Roberto S Aguilar	Paternal Grandfather	Caserio Los Rivas Canton Llano Largo Jutiapa, Cabañas El Salvador
Rosaria Aguilar	Paternal Grandmother	Caserio Los Rivas Canton Llano Largo Jutiapa, Cabañas El Salvador
Rogelio Rivas	Maternal Grandfather	Caserio Los Rivas Canton Llano Largo Jutiapa, Cabañas El Salvador
Santos Luz Mendez de Rivas	Maternal Grandmother	Deceased
Abigail Aguilar Rivas	Sibling	Caserio Los Rivas Canton Llano Largo Jutiapa, Cabañas El Salvador
Mayrin L Aguilar Rivas	Sibling	Caserio Los Rivas Canton Llano Largo Jutiapa, Cabañas El Salvador



1 NEOJ

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

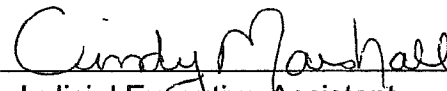
5 In the Matter of the Guardianship of:
6 Bryan A Aguilar Rivas, Protected
Minor(s)

Case No.: G-19-051011-M
Department M

7 **NOTICE OF ENTRY OF ORDER**

8 Please take notice that the Findings of Facts, Conclusions of Law was entered in
9 the foregoing action on the 28th day of March, 2019 and the following is a true
10 and correct copy thereof.

11 Dated: This 28th day of March, 2019.

12
13 
14 Cindy Marshall
15 Judicial Executive Assistant
Department M

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on or about the above file stamp date, a copy of the
foregoing Notice of Entry of Order was:

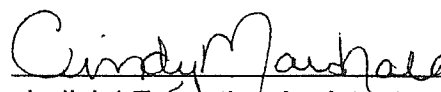
18 ☒ E-served pursuant to NEFCR 9 or placed in the folder of counsel maintained in
the Office of the Clerk of Court.

19 **Alissa A Cooley, ESQ**

20 ☒ E-served pursuant to NEFCR 9, or mailed, via first-class mail, postage fully
prepaid, to:

21 **Jesus Vidal Aguilar**
22 **3311 Fico Ave.**
Las Vegas, NV 89141

23 **Maria Marta Rivas**
24 **Jutiapa, Cabanas**
25 **El Salvador**

26 
27 Cindy Marshall
28 Judicial Executive Assistant
Department M



DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Guardians of:)	Case No. G-19-051011-M
)	Dept. No. M
BRYAN A. AGUILAR RIVAS,)	
)	Hearing Date: 3/27/19
Protected Minor.)	Hearing Time: 9:00 a.m.

FINDINGS OF FACTS, CONCLUSIONS OF LAW

The Petitioner herein has requested the Court to make specific findings to support a Petition for Special Immigrant Juvenile status. The petition alleges the minor cannot be reunified with his mother due to abuse. Said abuse came through the mother's boyfriend, Jose. The allegations are that Jose continuously fought with the mother, including some pushing that was observed by the subject minor; and that there was physical abuse (pushing and throwing around) of the subject minor's younger sister; and there were threats of violence made against the subject minor. The declaration of the subject minor states that the abuser, Jose, separated from the mother in November 2017, which appears to be well before the time when the subject minor left his mother's home about June 2018.

NRS 3.2203(3) allows the court to make a determination that:

(b) The reunification of the child with one or both of his or her parents was determined not to be viable because of abandonment, abuse or neglect or a similar basis under the laws of this State; and

(c) It is not in the best interests of the child to be returned to the previous country of nationality or last habitual residence of the child or his or her parents.

VILLIAM S. POTTER
DISTRICT JUDGE

FAMILY DIVISION, DEPT. M
LAS VEGAS NV 89101-2408

1 The Allegations set forth in the Motion and the declarations seem to emphasize the
2 abuse of Jose and the mother's inadequate response. However, it is clear that Jose was out
3 of the home by the time the subject minor left. There are other allegations made in the
4 Motion that are not very well developed or articulated in the Declarations in support thereof,
5 mostly related to poverty; along with the obligatory threats from a local gang.
6

7 The Court finds insufficient factual support for a finding that reunification is not
8 viable due to abuse, as the sole purveyor of said abuse no longer resides in the household.
9

10 The Court finds that there has been no abandonment by either parent.

11 The Court finds that the allegations of poverty are insufficient, without greater
12 detail¹, to support a finding of neglect.

13 IT IS THEREFORE ORDERED that the petition for Special Immigrant Juvenile
14 Status Findings (titled as a motion) is hereby denied without prejudice.

15 DATED this 28th day of March, 2019.

16 
17 _____
18 DISTRICT COURT JUDGE
19
20
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25

26 ¹ This Court would require very specific and detailed history of neglect if the sole basis for such neglect is a
27 parent's poverty. While lack of financial resources may be sufficient to temporarily remove a child from a
28 parent it is never a sufficient basis to terminate the relationship; or in other words, to find that reunification
is not viable.