

Kwame Anir Saafir, Appellant )  
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V. )  
)  
State of Nevada et al, )  
Respondents )  
)  
)  
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Electronically Filed  
Case No: 81946 Jul 29 2021 06:59 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
District Court Case No:  
J-18-342106-P2  
Dept. No: D

from the  
Eighth Judicial District Court, FAMILY DIVISION  
Clark County, Nevada  
Department D  
THE HONORABLE MARK TUETON, District Judge

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Docket 81946 Document 2021-21955

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1 MS. KIM: Yes, Your Honor. I will go to see if...

2 THE COURT: I will grant a continuance...

3 MS. KIM: Uh-huh.

4 THE COURT: ...in order to determine whether or not the  
5 2018 conduct...

6 MS. KIM: Uh-huh.

7 THE COURT: ...is not admissible because it is on  
8 appeal.

9 MS. KIM: Uh-huh.

10 THE COURT: And, Mr. Saafir, if it's not on appeal and  
11 it is in fact a final judgment, then Ms. Kim is going to be  
12 renewing her motion to introduce those records.

13 MR. SAAFIR: Okay.

14 MS. KIM: Your Honor, can I..

15 THE COURT: Do you understand that?

16 MS. KIM: ...cl- could I get clarification from Ms.  
17 Saafir -- Mr. Saafir?

18 Did you already -- like, I don't want it to be that  
19 -- am I giving a brief re- recess right now or days?

20 THE COURT: I'm gonna give you another day...

21 MS. KIM: Okay. 'Cause I...

22 THE COURT: ...to come back.

23 MS. KIM: ...I want clarification that if in fact it's  
24 filed after this court date, it would -- would it or would it  
25 not be applicable because I think it would be...

1 THE COURT: No, the appeal...

2 MS. KIM: ...(indiscernible).

3 THE COURT: ...has to be pending -- pending...

4 MR. SAAFIR: I -- I don't...

5 THE COURT: ...right now.

6 MR. SAAFIR: ...if it's...

7 MS. KIM: Okay.

8 MR. SAAFIR: I -- I -- I asked the attorney to file an

9 appeal. I don't know...

10 MS. KIM: Mm-hm.

11 MR. SAAFIR: ...how. I don't know when he files the

12 appeal. I don't know if he...

13 THE COURT: See the problem is you can't tell me -- you

14 can't tell me when you were convicted. Were you still in

15 jail when you pled no contest?

16 MR. SAAFIR: Yeah.

17 THE COURT: Yeah? So and if you were arrested, when

18 were you arrested, in September of last year and you were

19 still in jail, more likely than not you pled no contest no

20 later than, let's just say, Octo- the middle of October. And

21 so if you pled then...

22 MS. KIM: He wasn't in jail?

23 THE COURT: ...then you were...

24 MS. KIM: Okay.

25 THE COURT: ...and -- and were convicted, you had to



1 have appealed before today's date or...

2 MR. SAAFIR: Okay. Like -- like I said, I -- I --  
3 it'd...

4 THE COURT: All right.

5 MR. SAAFIR: ...be the attorney that appeals. What I --  
6 what I have is...

7 THE COURT: Yeah, I understand.

8 MR. SAAFIR: ...I e-mailed the attorney. And I asked  
9 the attorney to appeal it. I don't know -- I -- I know that  
10 he has other clients. I don't know how long it takes him...

11 THE COURT: Yeah, so what I'm gonna...

12 MR. SAAFIR: ...to file an appeal.

13 THE COURT: So what I'm (indiscernible)...

14 MR. SAAFIR: I don't know what the time of it is...

15 THE COURT: All right.

16 MR. SAAFIR: ...on filing a...

17 THE COURT: Right.

18 MR. SAAFIR: ...a appeal. I don't know it.

19 THE COURT: Okay. Hold on.

20 Give me -- when's -- when's another date that I can  
21 give?

22 THE CLERK: You have the first available in the  
23 afternoon, Friday the 1st in the afternoon.

24 THE COURT: Friday, February 1st?

25 THE MARSHAL: We also have the 7th.

1 ((Crosstalk))

2 THE COURT: Well, I'm not gonna -- I'm not gonna be  
3 here...

4 THE MARSHAL: No.

5 THE COURT: ...February 1st.

6 THE MARSHAL: ...that's Judge Ames.

7 THE COURT: Yeah.

8 THE MARSHAL: So maybe the 7th.

9 THE COURT: Yeah.

10 THE MARSHAL: Thursday, November 7th.

11 THE CLERK: That's open.

12 THE COURT: That's open?

13 MS. KIM: Court's indulgence.

14 THE COURT: (Indiscernible) November 7th.

15 MS. KIM: Court's indulgence, Your Honor.

16 THE COURT: We have February 7th.

17 UNIDENTIFIED SPEAKER: February 7th.

18 THE MARSHAL: February 7th.

19 THE COURT: February 7th.

20 THE MARSHAL: What'd I say?

21 UNIDENTIFIED SPEAKER: November.

22 THE COURT: November.

23 THE MARSHAL: November? Yeah, that's a long time...

24 THE COURT: You're thinking about...

25 THE MARSHAL: ...to wait.

1 THE COURT: ...the election instead of the congressional  
2 hearings.

3 MR. SAAFIR: But -- but can I -- can -- can I argue that  
4 if -- if they -- if they did reintroduce that for any reason,  
5 I have evidence that I -- I wouldn't have been the primary  
6 aggressor there. We're here because of that. We are...

7 THE COURT: Okay. Well, let me -- I'll...

8 MR. SAAFIR: ...here because of that.

9 THE COURT: ...deal with that if I have to.

10 MR. SAAFIR: Okay.

11 THE COURT: The first question is whether or not -- if  
12 it's on appeal...

13 MR. SAAFIR: Okay.

14 THE COURT: ...then we're pretty much done with that...

15 THE MARSHAL: 9:45.

16 MS. KIM: Mm-hm.

17 MR. SAAFIR: Okay.

18 THE COURT: ...allegation. However, if it's not on  
19 appeal and it's presented, then I'll listen to your...

20 MS. KIM: Thank you, Your Honor.

21 THE COURT: ...arguments.

22 MR. SAAFIR: Okay.

23 THE MARSHAL: So Judge...

24 THE COURT: All right.

25 THE MARSHAL: ...Mary McCarthy says it would need to be

1 in the morning on the 7th.

2 THE COURT: Yeah, that's fine.

3 THE MARSHAL: 9:45.

4 THE COURT: Okay.

5 THE CLERK: We have two trials -- oh no, we don't.

6 THE MARSHAL: No, we have nothing...

7 THE CLERK: (Indiscernible).

8 THE MARSHAL: ...on the 7th.

9 THE COURT: Yeah. We thought we had a congressional

10 hearing we would listen to, but the witness backed out.

11 THE MARSHAL: No, we don't.

12 Okay, sir, you can step down. We're gonna give you

13 a new date.

14 THE COURT: All right. We're gonna -- you're gonna come

15 back on November -- on February...

16 MS. KIM: Isn't there any way, like, I could try to call

17 Mr. Nobles' office or try to see if there's a...

18 MR. SAAFIR: Can...

19 MS. KIM: ...filing in Odyssey?

20 MR. SAAFIR: Can -- can...

21 MS. KIM: And if that...

22 MR. SAAFIR: Can we...

23 MS. KIM: I might be able to do that in ten minutes.

24 MR. SAAFIR: Can we have -- have the hearing be sooner

25 than that? And I'm asking because this -- this is -- this is

1 happening...

2 THE COURT: All right. You know, what I'm gonna do?

3 MR. SAAFIR: And Ki-...

4 THE COURT: O- O- Okay. This is what I'm gonna do.

5 MR. SAAFIR: ...Ki- Ki- Ki-...

6 THE COURT: Okay. Hold on. Hold on.

7 MR. SAAFIR: This -- this...

8 THE COURT: I'm gonna wait 15 minutes.

9 MS. KIM: Thank you. Let's see if I...

10 THE COURT: We're gonna take a

11 MS. KIM: ...can confirm it...

12 MR. SAAFIR: Ki- Ki-...

13 THE COURT: ...15 minute...

14 MS. KIM: ...in 15 minutes.

15 MR. SAAFIR: Ki- Ki-...

16 THE COURT: ...recess.

17 MR. SAAFIR: Kimora -- Kimora has -- has...

18 THE MARSHAL: Here's Mr. Noble's phone number.

19 MS. KIM: Thank you.

20 MR. SAAFIR: Kimora has been there in the foster home...

21 THE MARSHAL: (Indiscernible).

22 MR. SAAFIR: ...since this has happened. They've

23 been...

24 THE COURT: Yeah, I know.

25 MR. SAAFIR: They've been keeping this case going.

1 THE COURT: I know.  
2 MR. SAAFIR: And she's...  
3 THE COURT: That's why we're gonna come back...  
4 MR. SAAFIR: ...been in a foster home.  
5 THE COURT: ...in 15 minutes...  
6 THE MARSHAL: Yeah.  
7 THE COURT: ...and see if we can...  
8 THE MARSHAL: We're gonna take a 15-minute break.  
9 THE COURT: ...wrap it up today.  
10 THE MARSHAL: So you can step down.  
11 MR. SAAFIR: All right.  
12 THE MARSHAL: The district attorney is gonna contact Mr.  
13 Nobles and see if there's an appeal been filed.  
14 MR. SAAFIR: Okay.  
15 (Whereupon the matter was trailed at  
16 02:32:59 and recalled at 02:53:05.)  
17 THE COURT: Yeah, all right. We are back on the record  
18 in J342106.  
19 Ms. Kim.  
20 MS. KIM: Yes, Your Honor, during the break, I called Mr.  
21 Nobles' office. I spoke, I believe, to the receptionist.  
22 And when I asked if there was -- Mr. Saafir had been retained  
23 -- retained them and if there was an ac- an appeal filed  
24 pending, the most she could tell me is that doesn't sound  
25 right. I'll have him call you back.

1           So then I went on to the municipal court site to  
2 see if there were any activity consistent with appeal, which  
3 would be a notice of entry of -- to appeal and to request  
4 transcripts; and I would submit to the Court, I could not  
5 find that either.

6           I'm going to approach the Court regarding those  
7 minutes, which shows a lack of activity regarding appeal  
8 issues, no transcript, no notice. I also did a search on  
9 Odyssey on Mr. -- under Mr. Saafir's name. And I don't see  
10 any district court filings or notice of appeal that would be  
11 consistent.

12           I would submit to the Court that the judgment of  
13 conviction on this matter, for the purposes of this argument,  
14 would've been filed September 18th, which was the conviction  
15 date. However, almost now three months later, I would submit  
16 that if there's no appeal yet filed, it's past the -- Court's  
17 indulgence. It's past the statute of limitations to file the  
18 appeal.

19       THE COURT: Right.

20       MR. SAAFIR: I -- I don't know how the process works.  
21 But I do have an e-mail that I e-mailed the attorney and  
22 asked for appeal. And he -- and the attorney called me and  
23 said that he was filing an appeal. So I don't know how --  
24 how he does it.

25           But if he didn't do something, I'm sure that

1 there's a waiver or something for -- to -- for -- for when  
2 something like that happens, if he didn't do what he was  
3 supposed to do.

4 But he told me -- I requested it. He told me that  
5 he was going to do it. And it was supposed to be done, so.

6 THE COURT: All right. Well, let me just say this. I'm  
7 looking at the printout of the court records in case number  
8 C1198763A, battery domestic violence, second offense.

9 And it shows that a nolo -- no contest plea was  
10 entered September 18th, a suspended sentence of one year was  
11 entered September 18th. That sentence was imposed to staying  
12 out of trouble, suspended 179 days in jail, suspended  
13 domestic violence assessment, special court program, et  
14 cetera, et cetera.

15 The next -- next date is -- was continued from the  
16 18th to the October 16th. And on October 16th, it was, looks  
17 like if I'm reading this -- oh. I don't know what I'm  
18 reading. But the next court date is April 17th of this year,  
19 which would be six months from October 16th.

20 Okay. Well, I hate to be the bearer of bad news,  
21 Mr. Saafir; but if there is no appeal pending and it looks  
22 like a diligent search was made to determine if one was, then  
23 it's a final judgment.

24 MR. SAAFIR: No, I -- I -- I'm -- I'm sure there's  
25 waivers of something like that. But I asked for appeal. I -



1 - I can prove that I asked for appeal. I asked the attorney  
2 to...

3 THE COURT: Well...

4 MR. SAAFIR: ...to do it.

5 THE COURT: It -- it's not a...

6 MR. SAAFIR: And if -- and if -- I don't know how he did  
7 it. I don't know if it isn't showing. Or I'd -- I'd have to  
8 ask him. But if -- if -- if he did and it isn't showing then  
9 there's appeal. And if he didn't do it, then I'd have to get  
10 new counsel that -- that -- that'll do it. And I'm sure that  
11 they have a waiver if I can prove that I asked for something  
12 that wasn't done. And then I'm sure that they'll waive the -  
13 - the time that I have to file an appeal if I can prove that  
14 I asked for it and it wasn't done because that...

15 THE COURT: Well, I don't know that the time...

16 MR. SAAFIR: ...wasn't my fault.

17 THE COURT: I don't know...

18 MR. SAAFIR: That was the...

19 THE COURT: ...that the time limit to file an appeal can  
20 be waived.

21 MR. SAAFIR: Yeah.

22 THE COURT: You could -- you -- you might be able to  
23 file a motion to set aside the conviction based upon your  
24 cou- retained counsel not having done what he was supposed to  
25 do. On the other hand, your counsel may not have felt after

1 review that there was a sufficient basis to appeal. And the  
2 -- kind of the bottom line is, the onerous is on you to  
3 pursue the appeal.

4 MR. SAAFIR: Okay.

5 THE COURT: You, individually.

6 MR. SAAFIR: So...

7 THE COURT: And it don't satisfy that by saying, I  
8 wanted to appeal. And you don't satisfy that by...

9 MR. SAAFIR: If -- if...

10 THE COURT: ...hiring an attorney to appeal.

11 MR. SAAFIR: If -- if...

12 THE COURT: You satisfy that by...

13 MR. SAAFIR: No.

14 THE COURT: ...an appeal actually being filed.

15 MR. SAAFIR: And if the court assigned me an attorney  
16 and the attorney is supposed to represent me and I asked for  
17 something to be done, and the -- and the -- and the appointed  
18 attorney doesn't do what I ask, this is a criminal case, so I  
19 have the right to representation from an attorney. So if  
20 the...

21 THE COURT: Well, you just told me that you hire -- that  
22 you hired Mr. Nobles.

23 MR. SAAFIR: No, I never said that I hired him.

24 MS. KIM: Actually, that was the representation, as I  
25 recall.

1 MR. SAAFIR: Well, I -- I didn't.  
2 THE COURT: My recollection is...  
3 MR. SAAFIR: You can...  
4 THE COURT: ...that you retained him.  
5 MR. SAAFIR: Well, I don't recall saying retained. Re-  
6 ...  
7 THE COURT: Well, if you...  
8 MR. SAAFIR: That -- that was (indiscernible)...  
9 THE COURT: Let me put it this way.  
10 MR. SAAFIR: Well...  
11 THE COURT: If you didn't retain him...  
12 MR. SAAFIR: All right.  
13 THE COURT: ...if you didn't hire him, why would he file  
14 an appeal?  
15 MR. SAAFIR: Because he was assigned to me, and I asked  
16 him to file an appeal for me.  
17 THE COURT: He was assigned to you by who?  
18 MR. SAAFIR: The court.  
19 THE COURT: Is he a public defender?  
20 MR. SAAFIR: I don't -- that's who was assigned to me  
21 from the court.  
22 THE COURT: Ms. Kim, when you called the office...  
23 MS. KIM: I knew...  
24 THE COURT: ...did they indicate what Mr. Noble's status  
25 was?

1 MS. KIM: He said that he -- it was Nobles and Yanez, is  
2 the firm, and that she couldn't answer that at this moment.  
3 But she was gonna confer with the other attorney or see try  
4 to see if they can get a hold of Mr. Noble.

5 But I'd submit to Your Honor this, as the Court  
6 noted, just by the sheer date of the judgment of conviction,  
7 whether or not he was appointed or -- there's not even  
8 transcripts requested, given the length of time, what his  
9 intent was and what the actual actions were, Judge, is now at  
10 question.

11 THE COURT: All right.

12 MS. KIM: His representation...

13 THE COURT: Okay. So, Mister...

14 MS. KIM: ...was, it was filed...

15 THE COURT: Mr. Saaafir...

16 MS. KIM: ...or will be.

17 THE COURT: This is what I'm gonna do. I -- I'm going  
18 to allow the -- the records to come in, the records of the  
19 conviction to come in.

20 MR. SAAFIR: Okay.

21 THE COURT: If you can present evidence, not your  
22 statements, but if you can present evidence to me at a later  
23 date that this is on appeal and therefore I shouldn't  
24 consider these records, I will strike them from the record.

25 MR. SAAFIR: You -- you -- you -- you can -- I'm not

1 saying that you can't consider them. But what I -- because  
2 what I tried to tell you before was that if -- if you did  
3 consider, even if you -- if you did consider that, what we're  
4 -- we're -- we're -- we're still -- it -- it -- it doesn't  
5 change that there was a conviction because of the pressure  
6 that was -- that was on me to plead no contest because I  
7 didn't know where my daughter was. That's my grounds for  
8 appeal. So...

9 THE COURT: I understand.

10 MR. SAAFIR: So it doesn't -- it doesn't change that.  
11 It doesn't say that I'm -- I can still prove that I'm not  
12 guilty and that I wasn't the primary aggressor. Okay. I can  
13 prove that.

14 THE COURT: All right. So...

15 MR. SAAFIR: I can prove that I was being...

16 THE COURT: ...State's...

17 MR. SAAFIR: ...drugged.

18 THE COURT: ...Proposed Exhibit's 1-A, B and C will be  
19 admitted into evidence subject to be- being stricken if in  
20 fact an appeal is pending.

21 (Whereupon State's Exhibits 1-A, B, C were admitted.)

22 MS. KIM: Okay. Thank you, Your Honor.

23 THE COURT: All right. Now you had some evidence that  
24 you wanted to present, Mr. Saafir?

25 MR. SAAFIR: Evidence to -- to what? So they're u- are

1 they using that now?

2 THE COURT: Yes.

3 MR. SAAFIR: Okay. So -- so the -- the evidence, the  
4 first thing that I have is -- is evidence that -- is this  
5 police report of when I was attacked from -- by Alyssa. And  
6 she wasn't arrested. The Department knew of it. And when --  
7 when -- and it was, like, around when they were -- when they  
8 placed Kimora with me, the Department knew of it.

9 They didn't do a investigation into it. The police  
10 didn't arrest her. The police didn't do investigation. The  
11 CPS investigation wasn't -- wasn't open because of it. And  
12 so -- and she was the aggressor. I had injuries. And I have  
13 re- a recording of Alyssa saying that she's hitting me  
14 without me hitting her. I have recordings of her hitting me.  
15 And me -- me telling her to stop hitting me. I have -- I  
16 have evidence that she's -- that she's hit me...

17 THE COURT: Okay. So the first...

18 MR. SAAFIR: ...and that I wasn't the...

19 THE COURT: ...rule is...

20 MR. SAAFIR: Okay.

21 THE COURT: ...have you heard of something called the  
22 hearsay rule?

23 MR. SAAFIR: Hearsay?

24 THE COURT: Hearsay.

25 MR. SAAFIR: Is -- is you -- you can't believe what

1 comes from me about another person unless it's coming from  
2 that person.

3 THE COURT: Well, I can't even believe what they say  
4 even if it's recorded.

5 MR. SAAFIR: Okay.

6 THE COURT: They have to be on the stand. They have to  
7 take an oath to tell the truth.

8 MR. SAAFIR: Okay.

9 THE COURT: And then they can say whatever they want to  
10 say. But a statement that is made outside of the courtroom  
11 that's not made under oath is not admissible.

12 MR. SAAFIR: Okay. But what -- what -- what that is --  
13 what -- what that is -- but that's -- that's their witness.  
14 That's what this is about. This is about them saying that I  
15 was -- I was a primary aggressor in a domestic violence.

16 THE COURT: No, what they're saying is that you were  
17 convicted of domestic violence on Alyssa. And you're tel-  
18 and you're telling me that I shouldn't consider the  
19 conviction because you were coerced in making your plea. And  
20 you're telling me that you got a tape of Alyssa saying it was  
21 -- she made it all up.

22 MR. SAAFIR: I didn't say that I have a tape of her  
23 saying that she made it all up. I said that I have a tape of  
24 her actually attacking me. And I said that -- said that  
25 there's -- there's...

1 THE COURT: All right. Okay.

2 MS. KIM: Objection.

3 MR. SAAFIR: ...there's been...

4 MS. KIM: Foundation.

5 THE COURT: What- what- whatever -- whatever it is...

6 MR. SAAFIR: It -- okay.

7 THE COURT: ...the -- the fact is that that tape is an  
8 out-of-court statement.

9 MR. SAAFIR: But it's of...

10 THE COURT: Okay.

11 MR. SAAFIR: It's of...

12 THE COURT: Let me put it this way.

13 MR. SAAFIR: ...what happened, though.

14 THE COURT: Let me put it this way. I tape -- I take a  
15 -- I tape record you after something is already happened.

16 MR. SAAFIR: No.

17 THE COURT: How do I know that?

18 MR. SAAFIR: If -- if -- if...

19 THE COURT: Alyssa's not here.

20 MR. SAAFIR: If -- if you record something when it's  
21 happening, and if I have -- okay. Because...

22 THE COURT: How do I know it's been recorded when it  
23 happened?

24 MR. SAAFIR: Be- be- be- be- because -- be- okay. You  
25 know it's being -- being recorded when it's happening because



1 of -- of it's -- it -- it -- of the date that it's happening.  
2 I don't know how you'd know that. But what I'm saying is  
3 that if -- is -- is that it says in that NRS code that you  
4 have to determine who the primary aggressor was. If there  
5 was a domestic violence that -- that happened and I was  
6 arrested for whatever reason that the police had, it -- it  
7 doesn't mean that I was the primary aggressor.

8 THE COURT: Well, but all of that has -- okay. So the  
9 -- the code contem- it assumes that there's never any  
10 conviction.

11 MS. KIM: Yes.

12 MR. SAAFIR: No.

13 THE COURT: The fact that you were convicted wipes out  
14 all those possibilities that maybe he wasn't the primary  
15 aggressor, maybe he was acting in self-defense. All that  
16 goes by the wayside as soon as you pled no contest and you  
17 were found guilty. All those issues become moot. Doesn't  
18 make any difference anymore.

19 MR. SAAFIR: Okay. But I'm telling you that's why I'm  
20 appealing...

21 THE COURT: We're not...

22 MR. SAAFIR: ...the conviction.

23 THE COURT: ...(indiscernible) -- we're not gonna go --  
24 we're gonna go round and round in circles. I've already  
25 explained why there's no evidence that that conviction has

1 been appealed. I'm giving you an opportunity to present me  
2 with that evidence. And if you can within the next couple of  
3 weeks, then I'll strike those records and we'll be back here  
4 talking about whether or not the petition is sufficient. All  
5 right. If you can't, then the records stand. Understood?

6 Ms. Kim, do you have any other evidence?

7 MS. KIM: Your Honor, at this moment, I would save  
8 rebuttal in case he has appeal. I don't need to refute. I  
9 would save -- save rebuttal for his portion. I'd submit it  
10 to the Court.

11 THE COURT: All right. Okay. Is there any other  
12 evidence or statements you want to make?

13 MR. SAAFIR: What I do want to talk about now is the --  
14 is the visiting, how the visiting set up for -- for...

15 THE COURT: Okay. We'll...

16 MR. SAAFIR: ...for Kimora.

17 THE COURT: ...talk about that, but not right now.

18 MR. SAAFIR: All right.

19 THE COURT: I -- I've gotta make my findings  
20 (indiscernible) this case. And then we'll talk about...

21 MS. KIM: Mm-hm.

22 THE COURT: ...visitation and custody and all those  
23 things.

24 MR. SAAFIR: Well, if -- I wouldn't want you to make the  
25 findings to the case until I've had an opportunity to defend

1 myself. I can't defend myself if I can't use the -- the  
2 recordings that I have.

3 MS. KIM: As the Court's...

4 MR. SAAFIR: But...

5 MS. KIM: ...aware, at the last court hearing when he no  
6 longer wanted Ms. Connolly...

7 MR. SAAFIR: I -- I never said...

8 MS. KIM: ...to represent him...

9 MR. SAAFIR: ...that I don't want Ms. Connolly...

10 MS. KIM: Or Ms. Connolly...

11 MR. SAAFIR: ...to represent me.

12 MS. KIM: ...withdrew. At that juncture the Court  
13 informed Mr. Saaafir that today would be the date of trial.

14 MR. SAAFIR: Okay.

15 MS. KIM: He keeps talking about evidence that he's  
16 never provided me, shown me and about lacking foundation as  
17 to date or who would be testifying. The once exception with  
18 that, Ms. Mosley allegedly said that this didn't happen,  
19 which again is hearsay, which can't be considered. And of  
20 course, that would be inconsistent with our prior knowledge.

21 Your Honor, I think at this juncture I think the  
22 cleanest and best course of conduct if the Court's willing to  
23 entertain closing argument, I'm ready to go forward with that  
24 and I'd submit it to the Court.

25 THE COURT: All right.

1           So, Mr. -- Mr. Saafir, at this point, I'm not  
2 finding that you have any legally admissible evidence for me  
3 to consider.

4           MR. SAAFIR: Why isn't it legally admissible?

5           THE COURT: I already -- I already told you. The  
6 recordings are hearsay. Your statement that the conviction  
7 is on appeal is not supported by any documents or records or  
8 anything else. I'm closing the case. I'm closing taking  
9 testimony. I'd like you to resume your seat at the table.

10           I'll entertain argument as to whether or not this  
11 petition should be sustained in whole or in part. And then  
12 once I do that, if I make a decision that it's sustained,  
13 then we can talk about custody and visitation. All right.

14           MR. SAAFIR: So can -- can I ask why there wasn't a  
15 petition when -- when the police came and -- and I was -- and  
16 there was a police report taken. She wasn't arrested...

17           MS. KIM: Objection.

18           MR. SAAFIR: ...appropriately.

19           MS. KIM: Foundation, when...

20           MR. SAAFIR: The -- the foundation...

21           MS. KIM: ...relevance.

22           MR. SAAFIR: ...is the police report that I have.

23           MS. KIM: The...

24           MR. SAAFIR: And...

25           MS. KIM: But again, evidence...

1 MR. SAAFIR: And -- and the...

2 MS. KIM: ...that's a piece of paper without anybody  
3 here to testify about that. Again, I would...

4 MR. SAAFIR: It -- it's your...

5 MS. KIM: ...move to strike.

6 MR. SAAFIR: ...department, so it should be in your  
7 records.

8 MS. KIM: I don't have a police report.

9 THE COURT: Then...

10 MS. KIM: I don't file police reports.

11 THE COURT: Mr. Saafir...

12 MR. SAAFIR: Oh.

13 THE COURT: I do have a couple of questions I want to  
14 ask you before you go back down.

15 MR. SAAFIR: It's -- you -- you have the police report.  
16 You have...

17 THE COURT: Mr. Saafir.

18 MR. SAAFIR: I showed you the police report.

19 THE COURT: The first question is, are you still -- are  
20 you still in a relationship with Alyssa?

21 MR. SAAFIR: No.

22 THE COURT: And the child that you have with Alyssa,  
23 where is the child?

24 MR. SAAFIR: With Alyssa.

25 THE COURT: With Alyssa?

1 MR. SAAFIR: Yeah. I have him when -- when -- when,  
2 like, I've -- I had him for a week last -- last week. And I  
3 had him for -- for...

4 THE COURT: It's just an informal arrangement between...

5 MR. SAAFIR: Yeah.

6 THE COURT: ...you and Alyssa?

7 MR. SAAFIR: Well, the -- no, there -- there was a --  
8 there was a -- a court order that -- that I had him on  
9 weekends. That's -- that's what I told you about in the --  
10 in the other hearing where they had her -- they had the  
11 investigator. They called her and had her on speaker phone.

12 MS. KIM: Objection, I have the TPO minutes which show  
13 that primary was given to Alyssa. And he has supervised  
14 visits.

15 THE COURT: You did -- you did reference...

16 MR. SAAFIR: No.

17 THE COURT: ...another...

18 MR. SAAFIR: There wasn't supervised visits.

19 MS. KIM: Okay.

20 MR. SAAFIR: I have the minute.

21 MS. KIM: Okay. Visits.

22 MR. SAAFIR: They're -- they're not visits. I -- he  
23 comes home with me.

24 MS. KIM: Okay.

25 MR. SAAFIR: So they're -- they're unsuper- like, okay.

1 So and that -- that's what the minute should say. So -- so  
2 they -- but they called the investigator on speaker and they  
3 asked her what they should do and because they said that her  
4 -- that the Department's recommendation trumps their  
5 recommendation, TPO court. And she said that I wasn't a  
6 danger to -- to kids. So -- so she -- so that she  
7 recommended unsupervised -- unsupervised exchanges. That's  
8 what we do. So that's what they gave us is unsupervised  
9 exchanges.

10 THE COURT: Okay.

11 MR. SAAFIR: And...

12 THE COURT: (Indiscernible).

13 MR. SAAFIR: So we had that -- we had that for weekends.  
14 But Alyssa, we -- said that that -- that it wasn't -- it was  
15 too hard for her to do it that way. And she requested from -  
16 - she requested from the court that they -- that it -- that  
17 it stop being through Donna's House and that we do it with  
18 each other whenever we want to, not only on the weekends. So  
19 we do it whenever we want to. So we went from weekends to me  
20 having him for a week or me having him for -- for two days,  
21 like, a Tuesday, Wednesday, then have him again for the  
22 weekend or whenever it -- it fit both of our schedules.

23 THE COURT: Okay. Okay. Why don't you have a seat.  
24 And then I'll entertain argument.

25 Ms. -- Ms. Kim.

1 CLOSING ARGUMENT

2 BY MS. KIM:

3 Thank you, Your Honor. Mr. Saafir was very  
4 determined and elegant in his pers- his view of what the law  
5 should be versus what the facts currently are.

6 I would submit to the Court that allegation D has  
7 been proven, not with just preponderance, which is the only  
8 standard, beyond a reasonable the doubt given the judgment of  
9 convictions.

10 However, even if we were to strike D, and we're not  
11 talking about the presumption of placement, I would submit to  
12 the Court that allegation E alone, itself, that his own  
13 admission he was arrested and no Kimora cannot be placed with  
14 him while he's in custody, would be a basis alone enough.

15 Whether or not allegation D is under appeal as to  
16 the new arrest and therefor conviction, the fact that he has  
17 a prior conviction against Showanda, yes, that didn't over-  
18 there was no 157 hearing to date known.

19 But another court found him to be dad appropriate  
20 doesn't change the fact that subsequent to that ruling he was  
21 again arrested on similar allegation and therefore unable to  
22 provide care.

23 Even if we were to take the 157 placement argument  
24 out of it, which prohibits a placement, I would argue the  
25 continuing course of conduct, 2014 conviction against the



1 mother right before the child's birth.

2           We're fast forwarding four years later when he is  
3 now again arrested, although he asserts it's a wrongful  
4 arrest, there is this pattern of abusive behavior by Mr.  
5 Kwame, one, that's convicted beyond a reasonable doubt and,  
6 two, a new arrest, which has subsequently been resulted to a  
7 conviction as to the -- with whom the child was residing and  
8 another one of his mother of his children.

9           His argument seems to be that, well, I can be  
10 arrested for any time or any given reason. That is true.  
11 However, this is a very specific. Now the Court can infer a  
12 course of conduct. That's not a mistake. He's not saying, I  
13 was arrested for walking and jaywalking or robbery on an  
14 unrelated incident.

15           The two pattern that's consistent here, which is  
16 concerning for the Court, there was an inrefutable and it's  
17 not refuted that he was convicted as to Showanda in 2014,  
18 this child's mom. And somebody else who is now the mother of  
19 his child is the victim of a new domestic violence  
20 allegation, subsequent conviction and arrest.

21           I would submit that given this assertion, I would  
22 strike the language as to Kimora reports that Kwame hits  
23 Alyssa. This child is too young to be called as a witness.  
24 I would not want to put her through that.

25           The prior conviction for battery Kimora's mother,

1 Showanda, is a given. And not only is he arrested and  
2 incarcerated and therefore unable to provide for Kimora, he  
3 is now subsequently convicted as the Court can see.

4 Even if the conviction was to be discounted  
5 regarding the newest arrest of 2018, I would submit to the  
6 Court that allegation D has been met. And it doesn't go to  
7 placement, Judge, it's one -- it -- it -- 157 arises if the  
8 conviction exists and this Court needs to have a hearing.

9 But the 432B.140 020, shows that in fact when  
10 somebody's not providing proper care for the child based on  
11 their course of conduct, here as to the abuse of the mother  
12 and then again abuses to the other mother with whom the child  
13 was residing, that itself, even without a conviction, even  
14 without a criminal conviction, would be a pattern course of  
15 conduct.

16 I submit to the Court, E alone is sufficient for  
17 the Court.

18 THE COURT: Ms. McCarthy, did you want to make any  
19 argument?

20 MS. MCCARTHY: No, Your Honor.

21 THE COURT: Mr. Saafer, is there anything that you  
22 haven't already told me in the scope of this afternoon's  
23 proceedings that...

24 MR. SAAFIR: I -- I want...

25 THE COURT: ...you want to argue?

1 MR. SAAFIR: I want to say something that you asked me  
2 something under oath and I said yeah to it. And I can't say  
3 -- I can't say for sure. You asked me if I was biological  
4 dad of -- of -- of both of the kids. And I can say -- I can  
5 say that I -- I was told that I am.

6 THE COURT: Wait. Wait. Wait.

7 MR. SAAFIR: (Indiscernible).

8 THE COURT: When did I ask you that?

9 MR. SAAFIR: They -- when -- they asked me that when I  
10 was under -- under oath. And I -- I said yeah. But I --  
11 what I'm saying is I -- you -- you -- there isn't a way for  
12 you to know that unless there's a DNA test. Do you  
13 understand that?

14 THE COURT: Right.

15 MR. SAAFIR: So -- so I can't say yeah under oath. I  
16 wanted to correct that without there being -- but what I can  
17 say is that -- is that I was put on the birth certificates.  
18 I've been their dad. And that's the way that it is.

19 THE COURT: Okay.

20 MR. SAAFIR: But as far as biological, you don't know.  
21 They look like me.

22 THE COURT: Well, if your name -- the name is on the  
23 birth certificate...

24 MR. SAAFIR: They're my -- they're my kids no matter  
25 what. I love them. They're my kids. But what I'm saying

1 is...

2 THE COURT: Okay.

3 MR. SAAFIR: ...I don't want it to be...

4 THE COURT: Well, under the law, if your name is on the  
5 birth certificate.

6 MR. SAAFIR: Yeah. I -- I'm their dad.

7 THE COURT: You're their dad.

8 MR. SAAFIR: But what I'm -- I just don't want to be...

9 THE COURT: And it -- you don't need biological evidence  
10 to prove that..

11 MR. SAAFIR: ...arrested for if something came up later.

12 THE COURT: No, no, no, no, you're not gonna get  
13 arrested.

14 MR. SAAFIR: Okay.

15 THE COURT: All right. Okay. I -- I have heard the  
16 testimony, considered the arguments and find that the child  
17 is in need of protection. I do find that the allegations in  
18 subsection D and E have been established by a preponderance  
19 of evidence.

20 I'm making a finding that the probative value of  
21 the 14M1956 conviction for domestic violence is severely  
22 lacking, given the fact that there's been an interim finding  
23 by a court of competent jurisdiction unappealed, that Mr.  
24 Saaafir was a fit and proper person to take custody in 2017 of  
25 Kimora. However, based upon the conduct in September of

1 2018, in which the Court finds to has been established by a  
2 preponderance of the evidence, Kimora is a child in need of  
3 protection.

4 We'll set the matter for disposition hearing in  
5 three weeks.

6 MR. SAAFIR: Can -- can I say -- say something?

7 THE COURT: No, no, no. No, I've made my decision.  
8 It's past the time.

9 THE CLERK: Three weeks will be February 12th.

10 THE COURT: February.

11 THE CLERK: At 1:30.

12 THE COURT: February 12th.

13 MR. SAAFIR: So -- so what happens with the visits for  
14 now?

15 THE COURT: Just a minute. Just a minute. Just a  
16 minute. Just a minute.

17 I'm setting this for a disposition hearing on  
18 February, Tuesday, February 12th.

19 At what time?

20 THE CLERK: 1:30.

21 THE MARSHAL: 1:30.

22 THE COURT: At 1:30. So you'll need to be back here on  
23 that date. All right. That's the date that you'll need to  
24 present me with competent evidence that the conviction for  
25 the September 15th, 2018, domestic violence is on appeal.

1 MR. SAAFIR: Okay.

2 THE COURT: All right. So that gives you three weeks to  
3 get the -- get your act together and find out.

4 MR. SAAFIR: So if -- if it is, can this be...

5 THE COURT: If it is, then I'll be...

6 MR. SAAFIR: ...decision be overturned.

7 THE COURT: ...striking those documents.

8 MR. SAAFIR: Okay.

9 THE COURT: Okay.

10 All right. Now in terms of visitation, what are --  
11 what is the current schedule?

12 MR. KIM: Mr. Saafer does have his visits. I believe  
13 it's on Sunday with...

14 THE COURT: Can you speak up just a little bit?

15 MR. KIM: Sure. Mr. Saafer does have...

16 UNIDENTIFIED SPEAKER: Stand up.

17 MR. KIM: I'm sorry. Yeah. Mr. Saafer does currently  
18 visit with Kimora once a week at the visitation center.

19 THE COURT: Okay. And the child is in a non-relative  
20 foster home?

21 MR. KIM: Correct.

22 MS. KIM: We're looking at an ICPC with his mother, I  
23 believe. He's requested that. She...

24 MR. KIM: Well, actually his mother has requested  
25 placement. I am going to meet with her tomorrow afternoon.

1 THE COURT: Where does she live?

2 MR. KIM: She'd -- she'd indicated previously that she  
3 was interested in taking placement; however, she was not in a  
4 position because of lack of housing stability; however, she  
5 has indicated that -- that housing stability is stable and  
6 that we can go and take a look at it tomorrow afternoon.

7 THE COURT: All right. And she lives here?

8 MR. KIM: Yes.

9 THE COURT: Oh okay.

10 MS. KIM: Oh I apologize.

11 THE COURT: Okay. Well, I'd imagine -- are you on good  
12 terms with your mother?

13 MR. SAAFIR: Can -- can -- can I ask something about E?  
14 You said that allegation E that I wasn't -- I couldn't take  
15 care of her when I was in jail.

16 THE COURT: Because you were in jail.

17 MR. SAAFIR: Okay. If -- so why wouldn't the Department  
18 contact me so that I could set that up when I was in jail so  
19 I can have her with family when I was in jail?

20 MS. KIM: It's not with family. It's with you.

21 MR. SAAFIR: But if -- if -- if I was away on vacation  
22 or away out of town for -- for -- for work, for -- for a job  
23 or anything like that...

24 THE COURT: Uh-huh.

25 MR. SAAFIR: ...I'd have to do the same thing. I

1 wouldn't be there. She wouldn't be with me.

2 MS. KIM: Okay. So he...

3 MR. SAAFIR: But she...

4 MS. KIM: Miss...

5 MR. SAAFIR: I'd still be taking...

6 MS. KIM: Ms. Davis...

7 MR. SAAFIR: ...care of her.

8 MS. KIM: ...can speak to that.

9 THE COURT: All right.

10 MS. DAVIS: Your Honor, I attempted to contact. I  
11 received his family's information from Alyssa Ruddle while he  
12 was still in jail. I attempted to contact his mother and  
13 another relative, and I was never -- I never received a  
14 return call back. We did not receive communication with his  
15 mother until after the case was transferred to Department  
16 (indiscernible).

17 MR. SAAFIR: But why wasn't I contacted because I -- she  
18 was placed with me so that I can provide that. So I can have  
19 somewhere for her to be so that it -- it wouldn't be that I  
20 couldn't provide for her when I was in jail? If -- if --  
21 if...

22 MS. DAVIS: If I recall, you were released.

23 I'm sorry, Your Honor. If I recall, he was  
24 released I believe it was the day before the protective  
25 custody hearing. And I asked him about information regarding



1 that and he...

2 MR. SAAFIR: No, I'm -- I'm not saying that...

3 MS. KIM: He's saying while...

4 MR. SAAFIR: I'm...

5 MS. KIM: ...he was in custody.

6 THE COURT: Let her...

7 MR. SAAFIR: While -- when I was...

8 THE COURT: Let her finish.

9 MR. SAAFIR: ...in custody.

10 MS. DAVIS: No, when...

11 THE COURT: Let her finish.

12 MR. SAAFIR: Because that's when I couldn't provide when

13 I was in custody.

14 MS. DAVIS: By the time...

15 MR. SAAFIR: That's what they're saying.

16 MS. DAVIS: ...I received the case -- I can only speak

17 for myself.

18 THE COURT: Right.

19 MS. DAVIS: By the time I received the case, he had

20 already been released. I spoke with him I believe it was the

21 day before the p- the PPH hearing.

22 THE COURT: Uh-huh.

23 MS. DAVIS: And he did not provide me with information.

24 But I had already previously received that information from

25 Ms. Ruddle. And I informed him that we had attempted to

1 contact his mother. And there were -- there was conversation  
2 surrounding it. But he kind of refused to give certain  
3 information.

4 MR. SAAFIR: I -- I was released -- I was released at  
5 4:00, the morning of the hearing, didn't know anything about  
6 the hearing. I -- they didn't -- they didn't contact me,  
7 tell me about the hearing. I was released at 4:00, the  
8 morning of the hearing. And the hearing was at, what, 8:30?

9 THE COURT: 9:00.

10 UNIDENTIFIED SPEAKER: 9:00.

11 MR. SAAFIR: Oh 9:00. So I -- I didn't -- I -- there  
12 wasn't a way for me to know about the hearing. They released  
13 me at 4:00. And the Department never contacted me when I was  
14 in jail to tell me anything about Kimora. So they didn't --  
15 I didn't have the opportunity to provide her with somewhere  
16 to be to do anything to take care of her or anything like  
17 that. They wouldn't tell me anything...

18 THE COURT: Okay. Well...

19 MR. SAAFIR: ...about her.

20 THE COURT: ...we're not talking about what -- what  
21 could have been or what might have been. We're talking about  
22 what actually happened.

23 MR. SAAFIR: But that's what actually happened. What  
24 actually...

25 THE COURT: Okay. Well, that's fine.

1 MR. SAAFIR: ...happened is they -- they...

2 THE COURT: What actually happened is...

3 MR. SAAFIR: ...never tried -- they never tried to  
4 contact me so that -- so that she could be provided with --  
5 with placement because I -- I could have done that. I could  
6 have had her with family. She didn't have to be in a foster  
7 home.

8 THE COURT: Okay. So the Department is gonna contact...

9 MS. KIM: Mm-hm.

10 THE COURT: ...is gonna interview your mother and -- and  
11 check out the home.

12 MS. KIM: Tomorrow.

13 THE COURT: If you're on good relationships with your  
14 mother, there shouldn't be any issue as to visitation...

15 MR. SAAFIR: My -- my -- my...

16 THE COURT: ...with your child.

17 MR. SAAFIR: My relationship with my mom doesn't have  
18 anything to do with...

19 THE COURT: You'd be sur-...

20 MR. SAAFIR: ...with my kids and my mom.

21 THE COURT: You -- you'd be...

22 MR. SAAFIR: So even if -- if...

23 THE COURT: You'd be surprised.

24 MR. SAAFIR: Even if I didn't have a relationship with  
25 my mom, it wouldn't -- it wouldn't -- yeah.

1 THE COURT: I'm making an assumption that your mother  
2 would have no objection to you visiting as frequently and for  
3 as long as you would like.

4 MR. SAAFIR: No, she wouldn't.

5 THE COURT: Okay. Then everything is good...

6 MS. KIM: Thank you.

7 THE COURT: ...if the child was placed with your mother.

8 MR. SAAFIR: Yeah.

9 THE COURT: If the child is not placed with his mother,  
10 then we need to talk about -- I don't know that one -- one  
11 day a week is sufficient time for visitation.

12 MR. SAAFIR: I'm -- I'm -- I'm asking because there's  
13 just something like if I had Kaden and I wanted to take them  
14 both somewhere or -- or do anything, like, I have to -- I  
15 take him with me to visit Kimora. And like she...

16 MS. KIM: That's something we can talk with the  
17 Department, Your Honor. He -- right now, it's way beyond  
18 what if with Kaden.

19 THE COURT: Okay.

20 MR. SAAFIR: I just don't understand why I -- I have to  
21 take him and she's asking me why she can't leave, like, or --  
22 or I can't take her anywhere.

23 MS. KIM: I don't know who is her?

24 MR. SAAFIR: Kimora.

25 MR. KIM: Kimora.

1 THE COURT: Kimora.

2 MS. KIM: Oh okay. We can -- right now supervised  
3 visits at Child Haven. We will look to expand it with his  
4 mother if his mother is willing.

5 THE COURT: All right.

6 MS. KIM: Thank you.

7 THE COURT: Mr. Saaфир, just a question right quick.  
8 And don't want to elaborate or delay this proceeding much  
9 longer. But in the -- in the municipal court case, you were  
10 required to do a number of things, including engage in  
11 domestic violence counseling. Have you started any of those  
12 programs?

13 MR. SAAFIR: The -- the -- I told you that I'm -- I  
14 asked for that to be appealed.

15 THE COURT: Okay. So...

16 MR. SAAFIR: So if -- if...

17 THE COURT: ...you haven't done anything...

18 MR. SAAFIR: ...if -- if -- if...

19 THE COURT: ...because...

20 MR. SAAFIR: ...if -- if...

21 THE COURT: ...you think it's on appeal.

22 MR. SAAFIR: ...if he -- if he -- if he didn't appeal  
23 it, I'm going to find a way to appeal it.

24 THE COURT: All right.

25 MR. SAAFIR: Okay.

1 THE COURT: Okay. I'll see you in three weeks.

2 MR. SAAFIR: Okay. So -- so...

3 THE COURT: Make sure you stay in touch with Mr. Kim.

4 THE MARSHAL: This is your new date of when you're gonna  
5 come back, the Department's gonna be contacting you because  
6 there's a series of things that you guys need to sit down and  
7 talk before you come back on February 12th.

8 MR. SAAFIR: Okay.

9 THE MARSHAL: Okay. And they're gonna have a report.  
10 You'll get a copy. Judge will get a copy. And you'll  
11 discuss the report that day.

12 MR. SAAFIR: Okay.

13 THE MARSHAL: Okay.

14 MS. KIM: Uh-huh. This is predicated on him conversing  
15 with Mr. Kim.

16 THE COURT: Yeah.

17 MS. KIM: He has not been communicating.

18 MR. SAAFIR: Well, that -- because I was told that I --  
19 I didn't have a case because I was...

20 MS. KIM: Okay. But now...

21 MR. SAAFIR: ...it was set for trial...

22 MS. KIM: ...he knows.

23 MR. SAAFIR: ...and that he wasn't...

24 MS. KIM: Now he knows.

25 MR. SAAFIR: ...my caseworker.

1 MS. KIM: Now he knows.  
2 THE COURT: Okay. Well...  
3 MR. SAAFIR: That -- that's...  
4 THE COURT: ...whatever you...  
5 MR. SAAFIR: That's what they told me.  
6 THE COURT: ...were told before, I'm telling you now.  
7 MR. SAAFIR: Okay.  
8 THE COURT: Mr. Kim is here to try to assist you in  
9 doing what is necessary for Kimora to get back with you. So  
10 you need to converse with him. He's also gonna be the  
11 individual who's responsible for setting up visitation or  
12 expanding it or perhaps placing your child with her  
13 grandmother, your mother.  
14 MR. SAAFIR: I -- and how -- how long does that take for  
15 her to be placed?  
16 MS. KIM: Well, that's -- depends on your mother. So  
17 we're gonna talk about that with Hosea. That depends on your  
18 mother.  
19 THE COURT: I don't need to be a part of this.  
20 MS. KIM: Yes.  
21 THE MARSHAL: Right now you need to be talking to Mr.  
22 Kim.  
23 MR. SAAFIR: So who...  
24 THE MARSHAL: So that your report is ready to go...  
25 MR. SAAFIR: Okay. But...

1 THE MARSHAL: ...on the 12th.

2 MR. SAAFIR: But if -- but -- but I -- I want -- I'm

3 going to (indiscernible) here because if the...

4 THE MARSHAL: Well, then you're gonna have to...

5 MR. SAAFIR: If -- if -- if -- if...

6 THE MARSHAL: ...talk about it there...

7 MR. SAAFIR: The -- because if it...

8 THE MARSHAL: ...'cause...

9 MR. SAAFIR: ...if it doesn't happen for some reason, I

10 want it to be -- to know if there can be some change of the

11 order for how visits -- visits are. If even if I can meet

12 the -- the foster parents somewhere, it's, like it...

13 THE COURT: Mr. Kim can work all those things out.

14 UNIDENTIFIED SPEAKER: She's -- she's already cleared

15 for...

16 MR. SAAFIR: Okay.

17 THE COURT: And then if you can't do it, then -- then...

18 MS. DAVIS: She's already cleared for background. It's

19 just a matter of doing a home visit.

20 MR. KIM: Correct.

21 THE COURT: All right.

22 MS. KIM: Thank you.

23 THE COURT: He's already started the process.

24 MR. SAAFIR: Okay.

25 THE MARSHAL: And then we -- we'll talk about it on the



1 12th also.

2 MR. SAAFIR: Okay.

3 THE MARSHAL: Okay.

4 THE COURT: All right.

5 MS. KIM: Thank you.

6 MS. MCCARTHY: Thank you.

7 THE COURT: We'll see you then.

8 MS. DAVIS: Thank you. Have a good night.

9 THE MARSHAL: You too.

10 THE COURT: You too.

11 (THE PROCEEDING ENDED AT 03:26:12.)

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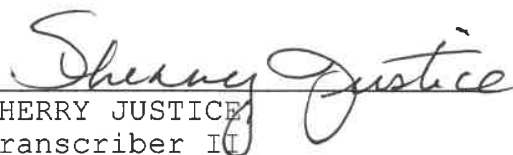
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15 ATTEST: I do hereby certify that I have truly and  
16 correctly transcribed the video proceedings in the above-  
17 entitled case to the best of my ability.

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SHERRY JUSTICE  
Transcriber II

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EXHIBIT E  
COURT TRANSCRIPT  
February 12, 2019

FILED

JUL 01 2021

*Alma L. Johnson*  
CLERK OF COURT

1 TRANS

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5 EIGHTH JUDICIAL DISTRICT COURT

6 JUVENILE DIVISION

7 CLARK COUNTY, NEVADA

8  
9 In the Matter of: ) CASE NO. J-18-342106-P2  
10 K.S., ) DEPT. D  
11 Protected Minor(s). ) APPEAL NO. 81946  
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SEALED

BEFORE THE HONORABLE ROBERT W. TEUTON

TRANSCRIPT RE: DISPOSITION HEARING

TUESDAY, FEBRUARY 12, 2019

1 APPEARANCES:

2       For the State of Nevada:     JIN KIM, ESQ.  
3                                     MICHELLE LAU, ESQ.  
4                                     601 North Pecos Road  
                                   Las Vegas, Nevada 89101  
5  
6       Protected Minor:             KIMORA SAAFIR  
      For the Protected Minor:     MARY-FRANCES MCCARTHY, ESQ.  
                                   725 E. Charleston Blvd.  
                                   Las Vegas, Nevada 89104  
7  
8       The Father:                 KWAME SAAFIR  
      For the Father:             Pro Per  
9

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11  
12 ALSO PRESENT:

13                             HOSEA KIM  
14                             Department of Family Services  
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1 LAS VEGAS, NEVADA

TUESDAY, FEBRUARY 12, 2019

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

3 (THE PROCEEDING BEGAN AT 01:40:25.)

4 THE COURT: All right. We're on the record in J342106.

5 Appearances, please.

6 MR. KIM: Hosea Kim, Department of Family Services.

7 MS. KIM: Jin Kim, on behalf of State.

8 MS. LAU: Michelle Lau, on behalf of the DA's office.

9 MS. MCCARTHY: Mary McCarthy, 1314, from Legal Aid  
10 Center of Southern Nevada, on behalf of Kimora, the minor.

11 THE COURT: All right. And you are Mr. Saafir, the  
12 child's father; correct?

13 MR. SAAFIR: Yeah.

14 THE COURT: All right. This is the time set for the  
15 disposition hearing.

16 Mr. Saafir, you said you had some -- something  
17 reference the appeal of your conviction?

18 MR. SAAFIR: Yeah, you asked at the trial, you said that  
19 you -- you'd throw it out if I'm gonna appeal of the  
20 conviction because what they were using was the judgment of  
21 conviction. And it's -- there was a motion filed to withdraw  
22 it.

23 THE COURT: All right. So you -- do you have that with  
24 you?

25 MR. SAAFIR: Yeah, I have -- I have the -- on the phone.

1 THE MARSHAL: Can you tell him the case number? And  
2 then he can look it up?

3 MR. SAAFIR: Yeah, the case number is thir- C-11-98763-  
4 A.

5 THE COURT: 11-98763-A?

6 MR. SAAFIR: Yeah.

7 MS. KIM: That would be the municipal city case number.

8 THE COURT: Okay.

9 So that's the case you were convicted in. And you  
10 -- you -- when you were here before, you said you had filed  
11 an appeal. That would be before the district court.

12 MR. SAAFIR: I said that I asked the attorney...

13 THE COURT: The attorney to do it.

14 MR. SAAFIR: ...to file...

15 THE COURT: Yeah.

16 MR. SAAFIR: ...an appeal. And they couldn't find any  
17 record of that. So I had to...

18 THE COURT: Do -- So did you...

19 MR. SAAFIR: ...do it myself.

20 THE COURT: ... talk to the attorney?

21 MR. SAAFIR: I -- I have -- I have -- I have it here  
22 that it's -- to show that it's done, that I did it now  
23 because he didn't do what he was supposed to do.

24 MS. KIM: Ah.

25 THE COURT: So there is no appeal.

1 MR. SAAFIR: There is an appeal. I have it here. It's  
2 stamped by the city attorney the -- for the criminal division  
3 and filed with a stamp.

4 THE COURT: What -- what is that?

5 MR. SAAFIR: It's -- the date is February 5th. And it's  
6 -- it was -- it was -- it's a motion to withdraw a plea.

7 MS. KIM: February 5th of what year, Your Honor?

8 MR. SAAFIR: This year.

9 MS. KIM: Again, I think...

10 MR. SAAFIR: You have a year. You have a year to file  
11 that motion.

12 THE COURT: Yeah.

13 MR. SAAFIR: And I...

14 THE COURT: Well, our trial was -- our trial was January  
15 24th.

16 MR. SAAFIR: Yeah.

17 THE COURT: So you appealed after the trial?

18 MR. SAAFIR: No, but I -- I asked for appeal. I have an  
19 e-mail from the attorney showing that I asked for appeal. It  
20 was the attorney that was assigned by the court. The  
21 attorney didn't do it when he was supposed to do it. That's  
22 why she said that she called the attorney's office. And they  
23 said that they'd have to look into it. So the attorney  
24 didn't do it. I don't know if -- why he didn't do it. But  
25 he didn't do it. So I had to go and file the motion myself.

1 But that doesn't change that there's still a motion. I'm st-  
2 I still have a hearing. And it's still being appealed.

3 MS. KIM: As the Court's aware, you asked when it was  
4 filed because it was vivid and germane if it was pending at  
5 the time of the trial, not subsequent to the trial. The R  
6 and D is ripe. I'd ask to go forward.

7 MR. SAAFIR: It -- it -- it should've been pending.

8 THE COURT: Do you want -- do you want time to read the  
9 report? We're proceeding. What you presented me is not  
10 adequate.

11 MR. SAAFIR: Why -- why isn't it adequate when it's what  
12 you asked for? It's being appealed.

13 THE COURT: Well...

14 MR. SAAFIR: So...

15 THE COURT: ...among other things...

16 MR. SAAFIR: But they're using...

17 THE COURT: ...because...

18 MR. SAAFIR: They're using the judgment of conviction --  
19 a judgment of conviction for this, for the DV. And there  
20 isn't -- there isn't going to be a conviction because it's...

21 THE COURT: Well...

22 MR. SAAFIR: ...I have a...

23 THE COURT: You haven't...

24 MR. SAAFIR: ...I still have a...

25 THE COURT: ...demonstrated to me that there isn't gonna



1 be a conviction.

2 MR. SAAFIR: I -- I -- I -- I have...

3 THE COURT: So we're -- Mr. Saafir...

4 MR. SAAFIR: I have the appeal here to show you that  
5 there isn't going to be a conviction.

6 MS. KIM: Moreover, this Court...

7 THE COURT: So I'm going -- I'm going forward with the  
8 disposition. What you...

9 MR. SAAFIR: So how do I appeal this?

10 MS. LAU: When the Court is ready.

11 THE COURT: We'll get there in just a minute.

12 Actually, I'm not sure you can. But the bottom  
13 line is, what you presented me is not sufficient for me to no  
14 longer consider the fact that you were convicted. The  
15 question is, do you want an opportunity to read the report  
16 that's on the table in front of you before we proceed?

17 MR. SAAFIR: Why isn't this...

18 THE COURT: That's the question. Do you want to read  
19 the report before we proceed?

20 MR. SAAFIR: Why isn't this sufficient to show that...

21 THE COURT: Do you want to read the report before we  
22 proceed? That's the only question. Yes or no?

23 MR. SAAFIR: We shouldn't have been proceeding...

24 THE COURT: The only...

25 MR. SAAFIR: ...without me having the...

1 THE COURT: ...question, yes or no, Mr. Saafir?

2 MR. SAAFIR: Okay. I said we shouldn't have been  
3 proceeding without me having counsel...

4 THE COURT: All right.

5 MR. SAAFIR: ...because according to a Supreme Court  
6 ruling that I have here on my phone, too, it said that civil  
7 cases that involve the removal of a child from the home, I'm  
8 supposed to be provided with counsel, the same as in a  
9 criminal case. And I can give you the -- the -- the supreme  
10 court...

11 THE COURT: Well...

12 MR. SAAFIR: ...case.

13 THE COURT: Well, you don't have to because that's not  
14 the law.

15 MR. SAAFIR: It is. The -- it's -- it's the...

16 THE COURT: Mr. Saafir.

17 MR. SAAFIR: It was ruled by the supreme court that I  
18 should -- I should be provided counsel. And I...

19 MS. KIM: This Court...

20 MR. SAAFIR: ...I never said...

21 MS. KIM: ...for the record...

22 MR. SAAFIR: ...that I didn't...

23 THE COURT: We're...

24 MR. SAAFIR: ...want counsel.

25 THE COURT: We're proceeding with the hearing. Do you

1 want a chance to read the report first or you just want to  
2 go, go forward on the hearing?

3 MR. SAAFIR: Is the report going to change if I read it  
4 or if I don't?

5 THE COURT: Well, it gives you an opportunity to correct  
6 anything that may be wrong.

7 MR. SAAFIR: It's -- it's all wrong because there  
8 shouldn't be a conviction.

9 THE COURT: Anything further by the State?

10 MS. KIM: I'd submit it.

11 THE COURT: Ms. McCarthy, do you have anything?

12 MS. MCCARTHY: Not germane to that issue, Your Honor.

13 THE COURT: All right. Okay. So the question is, Mr.  
14 Saafir, the -- is there a proposed case plan?

15 MR. KIM: Yes, there is, Your Honor.

16 THE COURT: Has Mr. Saafir seen it?

17 MS. KIM: He refused.

18 MR. KIM: No, Your Honor.

19 THE MARSHAL: Is it attached to the report?

20 MS. MCCARTHY: It's right here.

21 THE MARSHAL: Okay. So he has a copy of it.

22 MR. KIM: He has a copy of it.

23 UNIDENTIFIED SPEAKER: Yeah.

24 THE MARSHAL: Okay.

25 MS. MCCARTHY: Do you want to see it?

1 MR. SAAFIR: Yeah.

2 MS. MCCARTHY: It saying enhanced parenting skills...

3 THE COURT: So, Mr. Saafir, the Department is  
4 recommending, the child has already been made a ward of the  
5 Court based upon the mother having been adjudicated a  
6 abuseful or neglectful mother.

7 MR. SAAFIR: But she...

8 THE COURT: The...

9 MR. SAAFIR: ...wasn't a ward of the Court because she  
10 was placed with me...

11 THE COURT: The...

12 MR. SAAFIR: ...by another judge.

13 THE COURT: Right. The Department is recommending that  
14 before you get the child back, you engage in a protective  
15 custody family assessment; a protective custody parent  
16 assessment; that you engage in mental health services and in  
17 domestic violence classes.

18 MR. SAAFIR: Well, that's -- that's why there's  
19 something wrong with the report because why would I engage in  
20 domestic violence classes if the plea is being withdrawn and  
21 I have -- I have proof that the plea is being withdrawn? Why  
22 would I engage in mental health services? Why would I engage  
23 in any of this when all of this is because of a -- of a  
24 alleged domestic violence that's going back to a hearing  
25 because I have evidence I was coerced into taking a plea?

1 THE COURT: All right. The -- the Court is going to  
2 adopt the case plan as submitted by the Department. You are  
3 to engage in a mental health assessment. Perhaps you should  
4 do that first, followed by domestic violence assessment and  
5 follow whatever recommendations are made, as well as the  
6 protective custody family and parent assessments so that the  
7 Department can determine if there are any other services that  
8 can be provided to you that would assist you in getting in  
9 the position where Kimora can be safely returned to your  
10 care.

11 MR. SAAFIR: Why -- can I -- can I ask why the other  
12 judge ruled that it was safe for her to be in my care?

13 THE COURT: I -- I don't know. You'd have to ask the  
14 other judge.

15 MR. SAAFIR: You -- you have -- you...

16 THE COURT: But the bottom line...

17 MR. SAAFIR: You -- you read a...

18 THE COURT: The...

19 MR. SAAFIR: ...copy of the report at the last hearing.

20 THE COURT: Yeah, I saw that they did.

21 MR. SAAFIR: From -- from 2017.

22 THE COURT: I saw that they were supposed to have made a  
23 finding that the child would be safely -- could be safely  
24 placed in your care to rebut a statutory presumption that she  
25 could not.

1 MR. SAAFIR: Okay. And -- and -- and why was he -- why  
2 was she removed?

3 THE COURT: Mister...

4 Ms. Kim.

5 MS. KIM: I think Mr. Saafir is forgetting that  
6 subsequent to that ruling he had the new DV with this baby's  
7 mother. So...

8 MR. SAAFIR: Wait. Wait. Wait. What do -- what do you  
9 mean?

10 MS. KIM: Again...

11 UNIDENTIFIED SPEAKER: The second DV.

12 MS. KIM: ... we are here on the new DV allegation, his  
13 arrest where the child could not be placed with him. I know  
14 he...

15 MR. SAAFIR: The -- this -- this...

16 MS. KIM: I know that...

17 MR. SAAFIR: This is -- this -- this...

18 MS. KIM: ...he is appealing that.

19 MR. SAAFIR: ...is what's being appealed. There --  
20 there...

21 MS. KIM: Anyway.

22 MR. SAAFIR: ...wasn't...

23 MS. KIM: Thank you.

24 MR. SAAFIR: There wasn't a -- a...

25 THE COURT: Mister...

1 MR. SAAFIR: ...first DV. This is the only DV. This is  
2 why I was arrested. This is why...

3 THE COURT: Yeah.

4 MR. SAAFIR: This is why she was...

5 THE COURT: So, Mr. Saaafir...

6 MR. SAAFIR: ...removed.

7 THE COURT: Mr. Saaafir, this is what could happen. If I  
8 follow your logic...

9 MR. SAAFIR: Okay.

10 THE COURT: ...we could be here. Your child could be 30  
11 years old. And you'd be saying, well, I filed a notice of  
12 appeal. So you can't consider the...

13 MR. SAAFIR: I...

14 THE COURT: ...conviction.

15 MR. SAAFIR: I already have appeal...

16 THE COURT: The law...

17 MR. SAAFIR: ...for the 20th...

18 THE COURT: ...doesn't...

19 MR. SAAFIR: ...of this month.

20 THE COURT: ...work that way.

21 MR. SAAFIR: I already have -- okay. But the...

22 THE COURT: The law says you have a specified period of  
23 time to appeal. And if you don't, you can't.

24 MR. SAAFIR: I -- I have a...

25 THE COURT: You haven't.

1 MR. SAAFIR: ...year. I have a year to file a motion.  
2 And I filed the motion. It's a motion to...  
3 THE COURT: I...  
4 MR. SAAFIR: ...withdraw a guilty plea.  
5 THE COURT: I don't -- I have no idea where you're  
6 coming up with a year.  
7 MR. SAAFIR: I -- you have a year to file a motion to  
8 withdraw. I have the law here on my phone if you want to  
9 read the -- the code. You have a year to file a...  
10 THE COURT: Mr. Saafir.  
11 MR. SAAFIR: ...motion to withdraw...  
12 THE COURT: You can...  
13 MR. SAAFIR: ...a guilty plea.  
14 THE COURT: You can...  
15 MR. SAAFIR: The city attorney accepted the motion.  
16 They -- they -- they sent me a hearing for the 20th of this  
17 month. I have a hearing for the 20th to hear the motion.  
18 THE COURT: All right.  
19 MS. KIM: Judge, statutorily he would be...  
20 THE COURT: We're coming...  
21 MS. KIM: ...after the...  
22 THE COURT: ...back here on March. We're coming back  
23 here March 12th. So you bring a copy of the ruling from your  
24 hearing...  
25 MR. SAAFIR: Okay.



1 THE COURT: ...on the 20th.

2 THE MARSHAL: What is the date we're coming back? March  
3 12th?

4 THE COURT: March 12th...

5 THE MARSHAL: Okay.

6 THE COURT: ...at...

7 MR. SAAFIR: Okay. I...

8 THE COURT: What time is that?

9 THE CLERK: 1:30.

10 THE COURT: March 12th at 1:30. That's the review  
11 hearing. You come back then with a copy of the -- of the  
12 document from the municipal court.

13 THE CLERK: Oh no. March 12th at 2:15.

14 THE COURT: At 2:15.

15 THE MARSHAL: 2:15.

16 THE CLERK: Yes.

17 THE COURT: And you show that to me. And if you show  
18 that to me, I'll vacate everything I've done.

19 MR. SAAFIR: Okay.

20 THE COURT: I am so convinced that I'm right and you're  
21 wrong, you're not gonna have that.

22 THE MARSHAL: Bring a copy...

23 THE COURT: And if you do...

24 THE MARSHAL: ...not your phone.

25 THE COURT: ...bring it with you.

1 THE MARSHAL: Get a copy from your attorney.  
2 THE COURT: All right.  
3 THE MARSHAL: Or from the court.  
4 MR. SAAFIR: Okay.  
5 THE MARSHAL: Okay.  
6 THE COURT: At the moment, I am adopting the  
7 recommendations from the Department on the case plan. And if  
8 you'll bear with me, Mr. Saafir.  
9 MR. SAAFIR: And can I -- can I request for counsel --  
10 counsel because of the Danford versus State Department  
11 (indiscernible) for a case that was ruled by the supreme  
12 court that...  
13 THE MARSHAL: Didn't you...  
14 MR. SAAFIR: ...a defendant and a child welfare case has  
15 a right...  
16 THE MARSHAL: Didn't he have counsel...  
17 MR. SAAFIR: ...has -- has -- has a...  
18 MS. KIM: He did, Your Honor.  
19 MR. SAAFIR: ...has a...  
20 THE MARSHAL: ...in the very beginning.  
21 MR. SAAFIR: ...constitutional right to counsel?  
22 THE MARSHAL: Who was his attorney?  
23 MS. KIM: Karen Connolly was appointed.  
24 THE COURT: Ms. Connolly.  
25 MS. KIM: She requested...

1 THE MARSHAL: Karen Connolly.  
2 MS. KIM: ...to withdraw. He had no opposition to that  
3 (indiscernible)...

4 MR. SAAFIR: No, I did have opposition. I said that...  
5 MS. KIM: Oh did you?  
6 MR. SAAFIR: ...I wanted...  
7 MS. KIM: Well...  
8 MR. SAAFIR: ...counsel. I -- I've always counsel.  
9 THE COURT: You had no opposition to Ms. Connolly  
10 withdrawing.

11 MR. SAAFIR: No, I -- I -- I had opposition to not  
12 having counsel. I had opposition. I tried to...

13 MS. KIM: He was appointed...  
14 MR. SAAFIR: ...plead the Fifth...  
15 MS. KIM: ...counsel...  
16 MR. SAAFIR: ...from my testimony.  
17 MS. KIM: ...Ms. Connolly.  
18 MR. SAAFIR: You -- you advised me that I couldn't plead  
19 the Fifth. I didn't have counsel to advise me that I could  
20 plead the Fifth because of this same ruling that was made by  
21 the supreme court in Danford versus the State Department of  
22 Health and Welfare. I had the right to plead the Fifth. The  
23 -- the district attorney and -- and -- and you advised me  
24 that I couldn't plead the Fifth, which was wrong advice. I  
25 should've been advised by counsel that I could. I shouldn't

1 have had to testify. I should have had counsel.

2 THE COURT: All right. Mr. Saafir, the -- whatever law  
3 you're citing me is...

4 MR. SAAFIR: But I'm -- I'm only -- I'm...

5 THE COURT: ...is incorrect.

6 MR. SAAFIR: ...only asking for counsel.

7 THE MARSHAL: Okay. This is a file copy of your case  
8 plan.

9 MR. SAAFIR: Okay.

10 THE MARSHAL: And we'll see you on March 12th. Bring  
11 your documents with you.

12 MR. SAAFIR: Okay.

13 THE MARSHAL: Okay. We're done.

14 MR. SAAFIR: Okay.

15 (THE PROCEEDING ENDED AT 01:53:30.)

16

17 \* \* \* \* \*

18

19 ATTEST: I do hereby certify that I have truly and  
20 correctly transcribed the video proceedings in the above-  
21 entitled case to the best of my ability.

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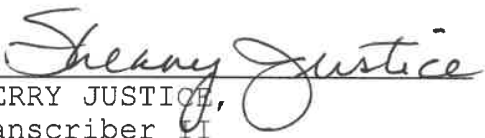
  
SHERRY JUSTICE,  
Transcriber II

EXHIBIT F  
COURT TRANSCRIPT  
March 12, 2019

FILED

JUL 01 2021

*Sharon L. Johnson*  
CLERK OF COURT

1 TRANS

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9 In the Matter of: ) CASE NO. J-18-342106-P2  
10 K.S., ) DEPT. D  
11 Protected Minor(s). ) APPEAL NO. 81946  
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BEFORE THE HONORABLE ROBERT W. TEUTON

TRANSCRIPT RE: REVIEW HEARING

TUESDAY, MARCH 12, 2019

1 APPEARANCES:

2       For the State of Nevada:     JIN KIM, ESQ.  
3                                     MICHELLE LAU, ESQ.  
4                                     601 North Pecos Road  
                                     Las Vegas, Nevada 89101  
  
5       Protected Minor:             KIMORA SAAFIR  
6       For the Protected Minor:     MARY-FRANCES MCCARTHY, ESQ.  
                                     725 E. Charleston Blvd.  
                                     Las Vegas, Nevada 89104  
  
7  
8       The Mother:                  SHOWANDA MOSLEY  
                                     (Not present)  
9       For the Mother:             STACY D. PEREZ, ESQ.  
                                     630 S. 10th St., #A  
10                                    Las Vegas, Nevada 89101  
  
11      The Father:                  KWAME SAAFIR  
12      For the Father:             Pro Per

13  
14 ALSO PRESENT:

15                                    HOSEA KIM  
16                                    Department of Family Services  
  
17                                    A CHILD at counsel table with Mr. Saafir

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1 LAS VEGAS, NEVADA

TUESDAY, MARCH 12, 2019

2

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

3

(THE PROCEEDING BEGAN AT 03:27:50.)

4

THE COURT: Okay. We are on the record in J342106.

5

Appearances, please.

6

MR. KIM: Hosea Kim, Department of Family Services.

7

MS. LAU: Michelle Lau, on behalf of the district

8

attorney's office.

9

MS. MCCARTHY: Mary McCarthy, 1314, on behalf of the

10

minor, Kimora.

11

MS. PEREZ: Good afternoon, Your Honor, Stacy Perez,

12

10206, court-appointed counsel to Ms. Mosley, who is not in

13

any way participating. Essentially we're (indiscernible)

14

with DFS. I request permission to withdraw and be excused

15

from (indiscernible).

16

THE COURT: All right. You're motion to withdraw is

17

granted.

18

You are Kwame...

19

MS. PEREZ: Thank you.

20

THE COURT: ...Saaf- Saafir?

21

MR. SAAFIR: Yeah.

22

THE COURT: All right. This is the six-month review

23

hearing.

24

THE CHILD: Mine.

25

THE COURT: Who you got with you?



1 UNIDENTIFIED SPEAKER: Kande.

2 MR. SAAFIR: You asked for -- you said that you'd throw  
3 this out if I brought...

4 THE COURT: No, I never said I'd throw it out.

5 MR. SAAFIR: I -- I have a recording of the hearing that  
6 you said that. But you said that you'd throw it out if -- if  
7 I brought you -- brought you an appeal and that it's  
8 accepted. So I have here...

9 THE COURT: Well, let me see what you got.

10 MR. SAAFIR: I have proof that it's appealed and  
11 accepted. I withdrew the plea. It was accepted...

12 THE CHILD: I want a drink.

13 MR. SAAFIR: ...by the court.

14 THE CHILD: I want a drink.

15 MR. KIM: I -- I think the Court's assertion was if it  
16 was filed and if it's gonna be granted, it wasn't filed, as  
17 Mr. Kwame noted, until after our trial. So I don't know  
18 what's happening.

19 MR. SAAFIR: No, it was -- I -- and I have an e-mail  
20 from...

21 THE COURT: Hold it. Hold it.

22 MR. SAAFIR: Okay.

23 THE COURT: That means don't say anything.

24 THE CHILD: No, let me do it. No, I do it. No.

25 MR. SAAFIR: Let me hold the cup.

1 THE CHILD: No. No. (Indiscernible).  
2 MR. SAAFIR: Let's do it together.  
3 THE CHILD: No. I want do it. I want do it.  
4 MR. SAAFIR: Okay. Do it.  
5 THE COURT: I've -- I've read the paperwork.  
6 THE CHILD: Mine's bigger.  
7 THE COURT: Mr. Saafir, and I -- I...  
8 THE CHILD: I want a bigger.  
9 THE COURT: I note that your motion...  
10 THE CHILD: I want bigger.  
11 THE COURT: ...to withdraw your guilty plea was filed  
12 February 5th. And there's a date on here, February 20th at  
13 9:15.  
14 MR. SAAFIR: That's when it was accepted.  
15 THE COURT: That's what?  
16 MR. SAAFIR: When it was accepted by the court because  
17 it was in -- it was within the time frame. It was still  
18 within the time frame.  
19 THE COURT: Uh-huh. Do you have a hearing date set?  
20 MR. SAAFIR: I do have a hearing date. That's -- that's  
21 there. And I...  
22 THE COURT: Is that this...  
23 MR. SAAFIR: I -- I -- I -- I have the e-mail where I --  
24 that I -- that I e-mailed where I -- that I -- that I e-  
25 mailed the attorney that was assigned by the court. And he

1 was supposed to appeal it. He didn't do what he was supposed  
2 to do. So I had to do it myself. That's why the -- the file  
3 date is after that last hearing.

4 THE COURT: Okay. I see it's set for hearing on April  
5 3rd. Is that right?

6 MR. SAAFIR: Yeah.

7 THE COURT: Maria, that's what this is.

8 THE CHILD: Red.

9 MR. SAAFIR: Yeah.

10 THE CHILD: I want it red.

11 MR. SAAFIR: But what -- what you said was that what  
12 this was...

13 THE CHILD: I wanna write.

14 MR. SAAFIR: ...what they were using was a -- was a...

15 THE CHILD: Red.

16 MR. SAAFIR: ...(indiscernible).

17 THE CHILD: I want red.

18 MR. SAAFIR: That was the only thing that they had to  
19 use was the order of...

20 THE CHILD: Red.

21 MR. SAAFIR:

22 THE CHILD: I want red.

23 MR. SAAFIR:

24 THE CHILD: (Indiscernible) coloring.

25 MR. SAAFIR: ...that. If that's the only thing that

1 they're using.  
2 THE CHILD: I said.  
3 MR. SAAFIR:  
4 THE CHILD: I (indiscernible) red.  
5 MR. SAAFIR: ...being appealed...  
6 THE CHILD:  
7 MR. SAAFIR:  
8 THE CHILD:  
9 MR. SAAFIR:  
10 THE MARSHAL: This is red.  
11 THE COURT: Well...  
12 MR. SAAFIR:  
13 THE COURT: Okay.  
14 THE CHILD:  
15 THE COURT: But it's not the...  
16 THE CHILD:  
17 THE MARSHAL: Okay. We have purple.  
18 MS. KIM: Okay. Can somebody...  
19 THE COURT: It's not the fact...  
20 MS. KIM: ...watch the child?  
21 THE COURT: ...that it was appealed.  
22 MS. KIM: Can you watch the child?  
23 THE COURT: The appeal has to be ruled on.  
24 MS. KIM: Okay.  
25 MR. SAAFIR: No, you -- you said that if it was under --

1 the appeal can take years because it -- it can be appealed to  
2 this Court and it can go to a -- to a -- to a -- a higher  
3 court. It can be (indiscernible)...

4 THE COURT: Yeah, I know.

5 MR. SAAFIR: ...appealed to a supreme court.

6 MS. KIM: Your Honor, if I may.

7 MR. SAAFIR: What -- what -- what they -- what they were  
8 using was a order of -- a order of conviction and there --  
9 and you said that if it was appealed that their order of  
10 conviction wouldn't -- couldn't be used. And not only that,  
11 my testimony shouldn't have -- shouldn't have been accepted  
12 because I requested attorney. I requested that I -- that I  
13 want an attorney. You told the attorney to step down. And  
14 like I said, there's a -- the supreme court rule in that  
15 ruling that I -- that I told you at the -- at the last  
16 hearing that in cases of family law, child custody, it's --  
17 it's rule that it's the right of the defendant to have -- to  
18 have -- to have a attorney, even in civil cases, if it's a --  
19 if it's a family law case...

20 THE COURT: All right.

21 MR. SAAFIR: ...if it has to do with child custody...

22 THE COURT: All right. I don't...

23 MR. SAAFIR: ...because child...

24 THE COURT: ...want to get into...

25 MR. SAAFIR: ...custody...

1 THE COURT: Okay.

2 MR. SAAFIR: ...can be viewed as a punishment more  
3 severe than jail.

4 THE COURT: Okay. All right. I don't want to have this  
5 debate.

6 MR. SAAFIR: So -- so I asked you...

7 THE COURT: Okay. I don't (indiscernible)...

8 MR. SAAFIR: ...for counsel.

9 THE COURT: Okay.

10 MR. SAAFIR: And I was denied counsel.

11 MS. KIM: Okay. So...

12 THE COURT: All right. Hold on.

13 MS. KIM: Thank you.

14 THE COURT: Ms. Kim.

15 MS. KIM: So as the Court recalls, you -- this Court did  
16 appoint counsel. There was no -- at that time we went to  
17 trial, there was no pending case because he'd already been  
18 adjudicated. When we went to trial, Ms. Saafir -- Mr.  
19 Saafir's assertion was, he was already appealing it, meaning  
20 there was something filed. At that time we determined there  
21 was nothing filed. And so at the -- you said at the R and D,  
22 if you have proof to me that you had already filed and that  
23 somehow we missed it, then obviously if it's under appeal, it  
24 would not be something that was entertained.

25 Mr. Saafir on -- at the R and D date brought proof

1 that he -- the motion to appeal or withdraw his plea was  
2 just, again, closely related, was not filed until after the  
3 trial date. So it did not predate the trial. At the time we  
4 went to trial, he was convicted. So now the assertion is,  
5 okay because I filed after the trial, in his mind, it's still  
6 appealed and therefore it negates the plea. No. As he  
7 stands before you, he's still convicted. The Court has not  
8 even ruled on that subsequent filing of appeal notice.  
9 There's been no adjudication. And to -- as to the tr-  
10 attorney, he was appointed counsel. He did not...

11 THE CHILD:

12 MS. KIM: ...Ms. Connolly had represented...

13 THE CHILD: Thank you.

14 MS. KIM: ...that he had made appointments. He  
15 didn't...

16 THE CHILD: What's that thing?

17 MS. KIM: ...bring evidence that he was supposed to. He  
18 was argumentative.

19 THE CHILD: I draw.

20 MS. KIM: She declined to confirm.

21 THE CHILD: I draw.

22 MS. KIM: That's why the trial proceeded.

23 THE CHILD: I draw one.

24 MS. KIM: He was given the opportunity...

25 THE CHILD: I draw one.

1 MS. KIM: ...to have counsel.  
2 THE CHILD: I draw one.  
3 MS. KIM: He didn't cooperate...  
4 THE CHILD: I draw one.  
5 MS. KIM: ...with his former attorney. He proceeded to  
6 trial.  
7 THE CHILD: I draw one.  
8 MR. SAAFIR: I -- I -- I -- I -- I did cooperate with  
9 her.  
10 THE CHILD: I draw one.  
11 THE MARSHAL: Do you want another piece of paper?  
12 MR. SAAFIR: She -- what she asked me to do...  
13 THE CHILD: Yeah.  
14 : MR. SAAFIR: ...was talk to her while -- when I was...  
15 THE CHILD:  
16 MR. SAAFIR: ...at my job. I didn't -- wasn't -- didn't  
17 have a break. I was at my job working. And that was the  
18 only time that I could talk to her. And she wanted me to  
19 tell her details of this case after I told her that I was  
20 around people that I work with. That was the problem. I  
21 said that I did want an attorney. I never said that I didn't  
22 want an attorney. I never wanted to represent myself. And I  
23 said that I didn't want to testify. And -- and...  
24 THE CHILD:  
25 MR. SAAFIR: ...you and the DA told me that I had to,



1 that I had to testify. And I -- and I saw that that isn't  
2 true because in cases -- because in cases of child custody, I  
3 have the right to an attorney. And I wanted that attorney.

4 THE COURT: Okay.

5 MR. SAAFIR: And -- and -- and...

6 THE COURT: Okay.

7 MR. SAAFIR: ...and as -- as -- as...

8 THE COURT: I'm sorry. But I've let you...

9 MR. SAAFIR: And -- and...

10 THE COURT: I've let you talk.

11 MR. SAAFIR: And -- and as far as the appeal is, I -- I  
12 show -- I have a e-mail showing that I requested for the  
13 appeal to be done. The -- the attorney that was assigned to  
14 me from the court didn't do what he was supposed to do. I  
15 made the request. I have -- I have -- I can show it as an e-  
16 mail. He didn't do it. That wasn't my fault. He was  
17 assigned by the court. So he was supposed to do his job and  
18 represent me. He didn't do his job.

19 THE COURT: All right, Mr. Saafir. I got it.

20 MR. SAAFIR: Okay.

21 THE COURT: Hold on. Hold on.

22 Rosa, will you make sure that you include the case  
23 number C-11-98763-A in the minutes...

24 THE CLERK: Yes.

25 THE COURT: ...with a hearing date, April 3rd of 2019.

1 THE CLERK: Okay.

2 THE COURT: Jill, you wanna give these pa- the paperwork  
3 back to Mr. Saafir?

4 Mr. Saafir, do you suffer from any injuries,  
5 physical injuries?

6 MR. SAAFIR: Why -- why do you ask if I suffer from  
7 physical injury?

8 THE COURT: Because I want to know.

9 MR. SAAFIR: I plead the Fifth about my health.

10 THE COURT: Have you -- have you ever suffered any head  
11 injuries?

12 MR. SAAFIR: I -- like I said, I -- like I said, I have  
13 the right to an attorney when it comes to -- to talking in  
14 this setting. I have the right to attorney. So I don't want  
15 to answer any questions about myself or this case without my  
16 attorney.

17 THE COURT: Even if your answers might benefit you?

18 MR. SAAFIR: It -- it -- it -- I -- I can't know if it  
19 benefit me. That's why the supreme court ruled, it was a  
20 unanimous decision that the supreme court rule, that we have  
21 a right to be represented by attorney in this setting because  
22 there isn't a way to know if this can be used against me  
23 later for anything.

24 THE COURT: All right. First -- first of all, no such  
25 case...

1 MR. SAAFIR: There -- there -- there...  
2 THE COURT: ...exists.  
3 MR. SAAFIR: There -- there is a case. There's -- there  
4 -- there -- there...  
5 Give it to me.  
6 ((Child outburst))  
7 MR. SAAFIR: There -- I'll -- I'll -- I'll -- I'll find  
8 it for you. There's a case.  
9 ((Child outburst))  
10 MR. SAAFIR: (Indiscernible) court.  
11 THE CHILD: Daddy (indiscernible)...  
12 MS. KIM: I've already had...  
13 THE CHILD: ...the phone.  
14 MS. KIM: ...a discussion with...  
15 THE MARSHAL: I know. He has to look something up...  
16 MS. KIM: ...Mr. Kim about...  
17 THE MARSHAL: ...that's very important to dad.  
18 MS. KIM: ...a subject minor in his...  
19 THE MARSHAL: So you need to...  
20 MS. KIM: ...care.  
21 THE MARSHAL: ...wait.  
22 MS. KIM: So he knows, too.  
23 THE MARSHAL: You can wait. Do you want another color  
24 to...  
25 THE CHILD: No.

1 THE MARSHAL: How about blue?  
2 THE CHILD: What's blue?  
3 THE MARSHAL: You want some blue?  
4 THE CHILD: That's (indiscernible) favorite color blue.  
5 THE MARSHAL: Yeah, do you want to color with blue?  
6 THE CHILD: No.  
7 THE MARSHAL: No. Okay. How about green?  
8 THE CHILD: No, (indiscernible).  
9 THE MARSHAL: Yellow?  
10 THE CHILD: Blue.  
11 THE MARSHAL: Blue?  
12 THE CHILD: (Indiscernible) favorite color's blue.  
13 THE MARSHAL: Do you want this one?  
14 THE CHILD: No.  
15 THE MARSHAL: No. Okay. This is blue. This is yellow.  
16 THE COURT: All right, Mr. Saafir.  
17 MR. SAAFIR: Okay. I'm -- I'm about to cite the case  
18 for you that it was -- that it was -- that it was ruled...  
19 THE CHILD: (Indiscernible) favorite color's blue.  
20 MR. SAAFIR: ...by the supreme court.  
21 THE MARSHAL: This is blue?  
22 THE CHILD: Yeah.  
23 THE MARSHAL: Do you want to color with this?  
24 THE CHILD: That's his favorite color's blue.  
25 THE MARSHAL: I like blue.

1 THE CHILD: (Indiscernible).  
2 MR. SAAFIR: And I -- I -- I cited it for you at the  
3 last hearing.  
4 THE CHILD: (Indiscernible).  
5 THE COURT: Yeah, I probably denied it then, too.  
6 MR. SAAFIR: Okay. But there is a -- it -- it's -- what  
7 it is is a right to counsel...  
8 THE MARSHAL: (Indiscernible).  
9 MR. SAAFIR: ...in civil cases.  
10 THE CHILD: Yeah.  
11 THE MARSHAL: Let me see.  
12 THE CHILD: Let me open it.  
13 THE MARSHAL: Okay. You're welcome. Pull. Okay.  
14 Pull.  
15 THE CHILD: Pull. Pull. (Indiscernible).  
16 MR. SAAFIR: There was a -- a (indiscernible) versus...  
17 THE CHILD: I did.  
18 MR. SAAFIR: ...Meyers is a (indiscernible) decision.  
19 But that isn't -- that isn't the entire custody case that --  
20 that I'm citing. But that's another case that it was ci-...  
21 THE CHILD: I want...  
22 MR. SAAFIR: ...cited that it was decided unani-...  
23 THE CHILD: ...red.  
24 MR. SAAFIR: ...unanimous decision...  
25 THE CHILD: (Indiscernible) red.

1 MR. SAAFIR: ...that we're allowed...

2 THE MARSHALL: Green.

3 MR. SAAFIR: ...that -- that we're -- that have the  
4 right to counsel in this setting.

5 THE CHILD: (Indiscernible).

6 MS. KIM: If he could provide the citation and the case  
7 name, please.

8 MR. SAAFIR: Mannes versus Myers. That's -- that's a  
9 citation.

10 THE COURT: M-A-N-I-S?

11 MS. KIM: Your Honor, can madam CAP take a look.

12 MS. MCCARTHY: Can I just...

13 THE CHILD: Red.

14 THE COURT: Well, he hasn't found it on his phone yet.

15 MR. SAAFIR: Okay.

16 MS. KIM: Okay.

17 THE CHILD: I want (indiscernible)...

18 MR. SAAFIR: Okay. This is the (indiscernible)...

19 THE CHILD: ...(indiscernible).

20 MR. SAAFIR: ...supreme court (indiscernible) Manis  
21 versus Meyers.

22 MS. MCCARTHY: Okay. (Indiscernible).

23 MR. SAAFIR: That is an -- there's -- there's another  
24 that -- that -- that's (indiscernible).

25 THE CHILD: (Indiscernible).

1 MS. MCCARTHY: Okay. M-A-N-N M-A-N...  
2 THE CHILD: And this one.  
3 MS. MCCARTHY: ...E-S-S...  
4 THE MARSHAL: Okay. Pull. There you go.  
5 MS. MCCARTHY: ...v. M-E-Y-E-R-S. And it is...  
6 THE MARSHAL: (Indiscernible) that...  
7 MS. MCCARTHY: ...the cite is...  
8 THE MARSHAL: Okay.  
9 MS. MCCARTHY: ...95...  
10 THE CHILD: I want green.  
11 MS. MCCARTHY: ...S...  
12 THE MARSHAL: There's green...  
13 MS. MCCARTHY: ...(indiscernible)...  
14 THE MARSHAL: ...right there. Color with it.  
15 MS. MCCARTHY: It's a 1975 case.  
16 THE CHILD: No. (Indiscernible) green...  
17 MS. MCCARTHY: 584.  
18 THE CHILD: ...red.  
19 MR. SAAFIR: I think there's a more recent...  
20 THE MARSHAL: This is red.  
21 MR. SAAFIR: ...recent case...  
22 THE CHILD: (Indiscernible)...  
23 MR. SAAFIR: ...that I'm about to...  
24 THE CHILD: ...green, red.  
25 MR. SAAFIR: ...(indiscernible).

1 THE MARSHAL: That's red.  
2 MS. KIM: Okay. Madam CAP...  
3 MR. SAAFIR: Oh Dan- Danford versus...  
4 ((THE CHILD and THE MARSHAL: (Indiscernible).))  
5 MS. KIM: ...95 supreme court.  
6 MR. SAAFIR: Danford versus State Department of Health  
7 and Welfare.  
8 THE CHILD: (Indiscernible) green.  
9 MR. SAAFIR: That's -- that's...  
10 THE CHILD: Red.  
11 THE MARSHAL: Yellow.  
12 MR. SAAFIR: What's more...  
13 THE CHILD: (Indiscernible) green red.  
14 MR. SAAFIR: ...LIKE THIS.  
15 THE CHILD: The X.  
16 MR. SAAFIR: Dan- Danford...  
17 THE CHILD: (Indiscernible).  
18 MS. MCCARTHY: Danford is (indiscernible).  
19 MR. SAAFIR: Okay. But the ruling still stands.  
20 MS. KIM: Danford's what?  
21 MS. MCCARTHY: You have the right to counsel if you can  
22 pay for it.  
23 MR. SAAFIR: No, you have the right...  
24 THE COURT: Danford...  
25 MR. SAAFIR: ...to (indiscernible)...



1 THE CHILD: (Indiscernible).  
2 THE COURT: ...versus The Department of Health and Human  
3 Services.  
4 MR. SAAFIR: The same as -- as you would in a criminal  
5 case, you have the right to be assigned counsel free of  
6 charge if you can't afford counsel because it -- it -- it was  
7 ruled -- the words by that the supreme court said was that  
8 if...  
9 THE CHILD: (Indiscernible).  
10 MR. SAAFIR: ...(indiscernible) that the threat...  
11 THE CHILD: (Indiscernible).  
12 MR. SAAFIR: ...of the loss of a child can -- can be --  
13 can be -- can be seen as something that's more severe...  
14 MS. KIM: Madam CAP, is there...  
15 MR. SAAFIR: ...than jail.  
16 MS. KIM: ... a citation number...  
17 THE CHILD: Blue.  
18 MS. KIM: ...versus -- Danford versus Department of  
19 Health and Human Services?  
20 THE COURT: Okay. No, no, no. I'm not gonna spend  
21 all...  
22 MS. KIM: Okay. Thank you.  
23 THE COURT: ...afternoon waiting for this to happen.  
24 THE CHILD: (Indiscernible) blue.  
25 THE COURT: Mr. Saafir, here's my ruling. Okay. There

1 is no, in Nevada, there is no right to counsel in general in  
2 child protective matters. The only exception to that is if  
3 the parent suffers from some language disability, they don't  
4 understand language, if the type of evidence that's gonna be  
5 presented is of a highly technical nature such as  
6 psychiatrist or psychologist or medical information that a  
7 common layperson wouldn't be prepared to understand or  
8 examine the witness about; if the person suffers from some  
9 sort of mental injury so that they're not capable of  
10 adequately representing their own interest.

11 MR. SAAFIR:

12 THE COURT: Okay.

13 MR. SAAFIR:

14 THE COURT: If one of those factors exist, then I have a  
15 duty to appoint counsel to represent you. Hence my question  
16 earlier, do you have any sort of mental injury that would  
17 affect your ability to comprehend and understand and  
18 represent you- represent yourself in these proceedings?

19 MR. SAAFIR: What affects...

20 THE COURT: You refused to answer.

21 MR. SAAFIR: No, what affects my ability, like it was  
22 stated, because Nevada, it is a state, but Nevada is a state  
23 in the United States of America. And it was in court --  
24 appeal -- it was -- it was ruled by the supreme court in  
25 Danford versus the State Department of Health and Welfare,

1 which -- which was in another state, the supreme court  
2 overruled that state's ruling and said that we're -- we are -  
3 - we are -- have the right to counseling this setting the  
4 same as if it were a criminal setting because-- because the  
5 full force of the state is being used in a child custody  
6 setting like this. You use the full -- you use the district  
7 attorney. The district attorney has their resources. Me a  
8 common person doesn't have the resources that the district  
9 attorney has. So is it fair for me? And I -- I -- I can't  
10 know if what I'm saying, what I plead, when I try to plead  
11 the Fifth, I can't know what I'm saying would be used in a --  
12 in some -- used for something later on to convict me of  
13 something later on. There is no way to know that. So that's  
14 why I have the right to counsel. That -- that's what the  
15 Fifth Amendment was -- was -- was amended for, to protect my  
16 rights so that something that I can say can't be used against  
17 me now or except for something later.

18 THE COURT: Ms. Kim, have you been able to find that  
19 case? Danford v....

20 MS. KIM: I tried to. I can get on Lexus when I get  
21 back. As the Court's aware, to my knowledge, there's not  
22 been a change in the supreme court case law as to the  
23 analysis that the Court just did regarding right to counsel  
24 in civil matters. As the Court noted, there are numerous  
25 factors that the Court can take into consideration, whether

1 or not there's a pending criminal case, the ment- any mental  
2 health concerns, language barriers or at complex matters of  
3 civil litigation.

4 THE CHILD: (Indiscernible).

5 MS. KIM: At the time Mr. Saaf- Sa- Saafir went to  
6 court, there were no pending criminal matters.

7 THE CHILD: (Indiscernible).

8 MS. KIM: He'd already resolved it. He -- he was  
9 initially appointed counsel who declined to confirm.

10 MR. SAAFIR: No, I wasn't.

11 MS. KIM: Again, if I could finish.

12 MR. SAAFIR: Okay.

13 MS. KIM: There was no language barrier. And as you can  
14 see that although Mr. Saafir is very circular and very  
15 pointed and only wants to focus on that which he wants to  
16 focus, he is articulate. The -- to my knowledge, the supreme  
17 court has not changed its ruling that in all civil matters  
18 regarding custody or child welfare that you are absolutely  
19 entitled to counsel, absent those due process constitutional  
20 mandates. You've already done the analysis, the analysis  
21 prior to going to trial. And at this juncture I don't see  
22 any outstanding due process factors that would've -- with him  
23 denying any mental health, I think at this time, we're all  
24 developing some sort of concern about his circular and  
25 focused reasoning. However he is very articulate about at

1 least championing his position, even if he cannot...  
2 THE MARSHAL: Yes.  
3 MS. KIM: ...understand...  
4 THE COURT: All right.  
5 MS. KIM: ...anybody else's position.  
6 MS. MCCARTHY: Your Honor, I believe Danford was a case  
7 involving the termination of parental rights.  
8 UNIDENTIFIED SPEAKER: Uh-huh.  
9 UNIDENTIFIED SPEAKER: Okay.  
10 MS. MCCARTHY: (Indiscernible) counsel in that  
11 (indiscernible)...  
12 THE COURT: Well, that makes absolute sense.  
13 MS. KIM: Yes.  
14 MR. SAAFIR: Yeah. And that's what this is.  
15 THE COURT: This is not a termination...  
16 MR. SAAFIR: No, no...  
17 THE COURT: ...of parental rights.  
18 MR. SAAFIR: It -- it -- it wasn't -- it was -- it was  
19 the -- it was a child custody case. The other case that I  
20 cited was a child -- was a child custody case...  
21 THE COURT: Okay.  
22 MR. SAAFIR: ...where they said that you have the right  
23 in cert- in certain...  
24 THE COURT: Okay. So...  
25 MR. SAAFIR: ...divorce cases...

1 THE COURT: ...Mr. Saafir.  
2 MR. SAAFIR: ...to counsel.  
3 THE COURT: Let me get this...  
4 MR. SAAFIR: If it -- if it...  
5 THE COURT: Let me get this straight so you understand.  
6 I'm not hearing it anymore. I've made my decision. Let's  
7 talk about the facts of the case.  
8 MR. SAAFIR: I -- I'm...  
9 THE COURT: If you don't want to engage, you don't have  
10 to. But I'm not gonna sit here and debate something that is  
11 well-settled law that you're not entitled as a matter of  
12 constitutional or state law to have an attorney represent  
13 you.  
14 MR. SAAFIR: So am -- am...  
15 THE COURT: I've cited the situation.  
16 MR. SAAFIR: I'm not entitled to...  
17 THE COURT: Are you...  
18 MR. SAAFIR: ...plead the Fifth?  
19 THE COURT: ...listening to me...  
20 MR. SAAFIR: You...  
21 THE COURT: ...or are you trying to talk back to me...  
22 MR. SAAFIR: I'm -- I'm talking.  
23 THE COURT: ...because I'm not gonna tolerate this.  
24 MR. SAAFIR: I don't have a...  
25 THE COURT: We're gonna get...

1 MR. SAAFIR: ...attorney...  
2 THE COURT: ...through this hearing.  
3 MR. SAAFIR: ...to represent me. So I have to talk for  
4 myself.  
5 THE COURT: All right. And I'm not gonna talk about  
6 what you want to talk about anymore. Let's talk about can  
7 this child be returned to your care? What do you need to do  
8 to get this child back in your care?  
9 MR. SAAFIR: Do I have the right...  
10 THE COURT: That's what I want to talk about.  
11 MR. SAAFIR: Do I have the right to plead the Fifth in a  
12 -- in a civil setting?  
13 MS. KIM: And you could...  
14 THE COURT: No -- well, yes, you do.  
15 MR. SAAFIR: Okay. I tried...  
16 THE COURT: And I have...  
17 MR. SAAFIR: ...to and you...  
18 THE COURT: ...the right to draw a conclusion based upon  
19 your invoking the Fifth Amendment that the answer would've  
20 been adverse to your interest.  
21 MR. SAAFIR: Okay.  
22 THE COURT: Mr. Saafir.  
23 MR. SAAFIR: Okay.  
24 THE COURT: For example, did you murder your wife? Your  
25 Honor, I take the Fifth. I have the right to make a decision

1 that you did because you invoked your Fifth Amendment.  
2 MR. SAAFIR: Okay. But I never had -- had to...  
3 THE COURT: We're done.  
4 MR. SAAFIR: ...sit -- sit on the stand.  
5 THE COURT: We're done.  
6 MR. SAAFIR: I -- I -- I -- if I...  
7 THE COURT: We're done.  
8 MR. SAAFIR: ...had an attorney to represent me...  
9 THE COURT: We're talking, at this point, we're talking  
10 about what needs to be done to get this child safely returned  
11 to your care. As you heard, the mother's attorney withdrew.  
12 The mother isn't engaged in any activities who would enable  
13 her to get the child back. So you are this child's best  
14 hope.  
15 MR. SAAFIR: Okay. But...  
16 THE COURT: And the question is, are you that person?  
17 Or are you gonna sit here and debate till hell freezes over  
18 whether or not your rights have been violated?  
19 MR. SAAFIR: I'm going to debate whether my rights have  
20 been violated so that I can appeal this because -- be-...  
21 THE COURT: You got a record...  
22 MR. SAAFIR: ...be- be- be- be-...  
23 THE COURT: ...that you can appeal right now.  
24 MR. SAAFIR: No, no, no, no, no...  
25 THE COURT: You don't need to keep going forward.



1 MR. SAAFIR: Be- be- be- because my rights have been  
2 violated.  
3 THE COURT: Sit down.  
4 MR. SAAFIR: And -- and why...  
5 THE COURT: Sit down.  
6 MR. SAAFIR: Why -- why was she -- why was she removed?  
7 THE COURT: Sit...  
8 THE MARSHAL: Sir.  
9 MR. SAAFIR: Because of a conviction...  
10 THE COURT: ...down.  
11 THE MARSHAL: Sir.  
12 MR. SAAFIR: ...of domestic violence.  
13 THE MARSHAL: Sir, sit down.  
14 THE COURT: Sit down.  
15 THE MARSHAL: Do you want some more water?  
16 THE COURT: Mr. Kim.  
17 MR. KIM: Yes, Your Honor.  
18 THE CHILD:  
19 THE COURT: What -- I -- I...  
20 THE CHILD:  
21 THE COURT: ...re- reviewed...  
22 THE CHILD:  
23 THE COURT: ...the report in terms of the mother's...  
24 THE CHILD:  
25 THE COURT: ...participation or lack thereof?

1 THE CHILD:

2 THE MARSHAL:

3 THE COURT: Has Mr. Saafir done anything that would  
4 enable this child to be safely placed in his care?

5 MR. KIM: To my knowledge, no. I've had limited  
6 contact...

7 THE CHILD:

8 MR. KIM: ...with Mr. Saafir. I am aware...

9 THE CHILD:

10 MR. KIM: ...that he does visit with...

11 THE CHILD:

12 MR. KIM: ...Kimora, as she was placed with the paternal  
13 grandmother. Kimora is reported to be doing well as  
14 transitions back into the home successfully. As far as the  
15 visits go, Mr. Saafir visits anywhere from zero to four times  
16 a week. It varies. And I was told that reason because it  
17 depends on his work. I'm not exactly sure what Mr. Saafir  
18 does. It was reported that he works in construction.  
19 However it's not -- I didn't receive any form of  
20 verification. Mr. Saafir refuses to interact with me. Most  
21 of the information I received was collaterals and from the  
22 paternal grandmother.

23 THE COURT: All right.

24 MS. MCCARTHY: Your Honor...

25 THE COURT: Ms. McCarthy.

1 MS. MCCARTHY: ...Kimora is very happy with her  
2 grandmother. She loves her preschool at Kids are Kids. I  
3 think that she has a dental appointment in April for possible  
4 caps on her teeth. And her father visiting frequently is all  
5 good with Kimora.

6 THE COURT: Mr. Saafir, are you aware of the dental  
7 issues?

8 MR. SAAFIR: Yeah, she had a dental appointment when she  
9 was with me before I was arrested for the domestic violence.

10 THE COURT: Right.

11 MR. SAAFIR: And I was arrested. So she didn't make it  
12 to the dental appointment. But I have the card showing that  
13 she had a dental appointment...

14 THE COURT: Okay.

15 MR. SAAFIR: ...before I was arrested.

16 THE COURT: And you're aware that she has a new  
17 appointment now?

18 MR. SAAFIR: Yeah.

19 THE COURT: Okay.

20 MR. SAAFIR: And -- and I don't -- and I don't have  
21 anything to say about her being happy. I know that she's  
22 happy where she is.

23 THE COURT: Okay.

24 MR. SAAFIR: And I'm not trying to jar anything or do  
25 anything like that. That isn't what this is about. What

1 this is about is that you -- you said that you'd throw it out  
2 because she was removed because of a domestic violence  
3 conviction. That's what they used is a conviction...

4 THE COURT: All right.

5 MR. SAAFIR: ...for -- of domestic violence. And there  
6 isn't.

7 UNIDENTIFIED SPEAKER: You still have one.

8 THE COURT: Okay. All right. We've been down that  
9 road.

10 MR. SAAFIR: It's -- it's being appealed.

11 THE COURT: The fact that you appealed is a step in that  
12 direction. Now this side's gonna get all upset that, yeah,  
13 I'll say this, if the municipal court hears your motion and  
14 grants your motion and sets aside your plea of no contest and  
15 sets it for trial, and you are not convicted, I will  
16 terminate wardship. You'll get your daughter back. Because  
17 there's no finding before me just by what's presented other  
18 than that. And...

19 MS. KIM: Judge, actually, you did sustain the petition.  
20 I believe as to Showanda Mosley the biological mother of this  
21 child, he's already convicted of the domestic violence. He's  
22 not convicted once. He's convicted twice of both women with  
23 whom he's had children, he has a conviction. Ashley, as well  
24 as, Showanda, who's the biological mother of this child.

25 THE CHILD: I want (indiscernible)...

1 MR. SAAFIR: Okay. You -- you -- but...  
2 MR. KIM: Alyssa.  
3 THE COURT: All right. All right.  
4 MS. KIM: Alyssa.  
5 THE COURT: Ms. Kim, that's all well and good.  
6 THE CHILD: (Indiscernible).  
7 THE COURT: But I think I've previously found that in  
8 spite of that fact...  
9 THE CHILD: I want...  
10 THE COURT: ...a finding had to have been made...  
11 THE CHILD: ...(indiscernible)...  
12 THE COURT: ...that the child would not be unsafe placed  
13 in his custody because another court did just that after  
14 those convictions occurred.  
15 MS. KIM: Oh. My apologies.  
16 MS. MARSHAL: Do we have a review?  
17 THE CLERK: Yes, we do. September 10th at 2:15.  
18 THE COURT: All right. So if that's it.  
19 MR. SAAFIR: Okay.  
20 THE COURT: Then that's it.  
21 MR. SAAFIR: Okay.  
22 THE COURT: When we come back, we'll know what happened  
23 on the municipal court case.  
24 MR. SAAFIR: Okay.  
25 MS. KIM: And to be...

1 THE MARSHAL: Here's your next review.

2 THE COURT: In the meantime you need to do those things

3 you need to do to get your child back, whether you were or

4 were not convicted of domestic violence, you need to do what

5 needs to be done...

6 MR. SAAFIR: Okay. So...

7 THE COURT: ...for you to get your child back.

8 MR. SAAFIR: So what's...

9 THE COURT: See, you're startin' to talk and I'm not

10 done.

11 MR. SAAFIR: Okay.

12 THE COURT: Okay. Now when you were here before, we

13 gave you a case plan, things that you need to do. This

14 gentleman here, Mr. Kim, is the person you need to talk to

15 that will help you get those things done. Okay?

16 MR. SAAFIR: Can -- can I ask the Court?

17 THE COURT: Yeah.

18 MR. SAAFIR: Okay. Now. That, what you're telling me,

19 is, like, is, like, sentencing me before I've been convicted.

20 If you're telling me that it's going to be...

21 THE COURT: You're free to do whatever you want.

22 MR. SAAFIR: If -- if -- if -- if you're telling me that

23 it's going to be terminated after the trial and -- and I --

24 and I go to trial and -- and I'm not convicted, that means

25 that this didn't happen and I wouldn't have had to do any of

1 these things...

2 MS. KIM: You're Honor...

3 MR. SAAFIR: ...you're asking me to do.

4 THE COURT: You're a rational man.

5 MR. SAAFIR: I know.

6 THE COURT: I can tell.

7 MR. SAAFIR: Good.

8 THE COURT: You put a lot of thought into everything

9 that you say.

10 MR. SAAFIR: Yeah.

11 THE COURT: But think about this.

12 MR. SAAFIR: Okay.

13 THE COURT: What you're saying now is, I'm not going to

14 do anything, until I have to do it. I'm not going to engage

15 in any services that would benefit me until the decision is

16 made that my conviction stands.

17 MR. SAAFIR: It's because...

18 THE COURT: And only then.

19 MR. SAAFIR: ...am I going to reimbursed...

20 THE COURT: So instead of getting...

21 MR. SAAFIR: ...for my time?

22 THE COURT: ...your child back in three months or four

23 months, you're gonna wait three or four months to determine

24 whether or not you are gonna engage in services.

25 MR. SAAFIR: What they're as-...

1 THE COURT: Which means, you're not gonna...  
2 MR. SAAFIR: Okay.  
3 THE COURT: ...get your child back for another three or  
4 four or five months after that. So you can get your child  
5 back in four months or five months if you did what you're  
6 supposed to do from today's date. But you would rather sit  
7 back and say, no. I'm gonna run a bet and say, I won't get  
8 my child back for 12 months because I've appealed that  
9 conviction.  
10 MR. SAAFIR: It -- it...  
11 THE COURT: You make the decision what you want to do.  
12 I'm done.  
13 MR. SAAFIR: Okay.  
14 THE COURT: What's the next date?  
15 THE CLERK: September 10 at 2:15.  
16 MR. SAAFIR: It...  
17 THE MARSHAL: We're not talking anymore.  
18 THE COURT: Sep- September 10.  
19 THE MARSHAL: He said he's done.  
20 THE CLERK: At 2:15, Your Honor.  
21 THE MARSHAL: No.  
22 THE COURT: At 2:15.  
23 THE MARSHAL: No. We'll see you in September.  
24 THE COURT: I'll see you back here in...  
25 MR. SAAFIR: I'm not...



1 THE COURT: ...September.  
2 MR. SAAFIR: ...saying that I won't cooperate.  
3 THE COURT: Okay.  
4 MR. SAAFIR: That isn't what I said.  
5 THE COURT: And I'm telling you talk with Mr. Kim.  
6 MR. SAAFIR: Okay.  
7 THE MARSHAL: There...  
8 MR. SAAFIR: (Indiscernible).  
9 THE COURT: September 10th at 2:15.  
10 THE MARSHAL: That's...  
11 (THE PROCEEDING ENDED AT 03:54:06.)

12  
13 \* \* \* \* \*  
14

15 ATTEST: I do hereby certify that I have truly and  
16 correctly transcribed the video proceedings in the above-  
17 entitled case to the best of my ability.

18  
19   
20 SHERRY JUSTICE,  
21 Transcriber II  
22  
23  
24  
25

## **CERTIFICATE OF SERVICE**

I hereby certify that I am Nicholas Shook, the named attorney for the Appellants and that on July 29, 2021, I electronically filed the foregoing Appellants' Motion to Withdrawal Appendix Volume 2 via this Court's electronic filing system. Parties that are registered with this Court's electronic filing system will be served electronically. There are no parties who are not currently registered under the electronic filing system of this Court.

Dated this 29th day of July 2021.



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Nicholas Shook, Esq.  
Nevada Bar No, 13400

## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this appendix complies with the requirements of NRAP 30. This Appellants' Appendix includes all of the documents required under NRAP 30(b)(3) which incorporates NRAP 30(b)(2). And that this Appendix is broken into three volumes where each is volume contains containing less than 250 pages and 28 megabytes as required by this Court's Electronic Filing System and each part requires less than 7 megabytes.

Dated this 29th day of July 2021.



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Nicholas Shook, Esq.  
Nevada Bar No. 13400