

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHERINE DEE FLETCHER

Appellant,

v.

STATE OF NEVADA

Respondent.

CASE NO. 82047

Appeal from a Judgment of Conviction After Jury Verdict
in Case CR17-0690A
Second Judicial District Court of the State of Nevada, Washoe County
Honorable Egan Walker, District Judge

APPELLANT'S APPENDIX VOLUME 1

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ATTORNEY FOR RESPONDENT

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DA #16-10879

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Clerk of the Court
Transaction # 6085733 : mcholino

CODE 1800
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Reno, NV 89520
(775) 328-3200

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR17-0690

v.

Dept. No.: D07

KATHERINE DEE FLETCHER,

Defendant.

_____ /

INFORMATION

CHRISTOPHER J. HICKS, District Attorney within and for the
County of Washoe, State of Nevada, in the name and by the authority
of the State of Nevada, informs the above entitled Court that
KATHERINE DEE FLETCHER, the defendant above named, has committed the
crime of:

COUNT I. MURDER WITH THE USE OF A DEADLY WEAPON, a
violation of NRS 200.010, NRS 200.030 and NRS 193.165 a felony
(50001), a category A felony, in the manner following, to wit:

That the said defendant on the 28th day of July, 2016, or
thereabout and before the filing of this Information, within the
County of Washoe, State of Nevada, did willfully, unlawfully, and

1 with malice aforethought, deliberation, and premeditation, kill and
2 murder Robert Jeffery Trask, a human being, by shooting victim in the
3 back, thereby inflicting mortal injuries upon Robert Jeffrey Trask
4 from which he died on or about the 28th day of July, 2016, all of
5 which occurred at or near Oxbow Park, 3100 Dickerson Road, Reno,
6 Nevada.

7 COUNT II. BURGLARY IN POSSESSION OF A FIREARM, a felony
8 violation of NRS 205.060(1)(4) (50426), a category B felony, in the
9 manner following, to wit:

10 That the said defendant on the 14th day of January, 2014, or
11 thereabout and before the filing of this Information, within the
12 County of Washoe, State of Nevada, did enter the bedroom of Jesse
13 Henslee at 8790 Winding Creek Drive, Reno, Washoe County, Nevada,
14 with the intent then and there to commit larceny therein, and did
15 gain possession of one or more firearms, as further described in
16 Count III, while in the bedroom.

17 COUNT III. GRAND LARCENY OF A FIREARM, a category B felony
18 violation of NRS 205.226 (50526), a category B felony, in the manner
19 following, to wit:

20 That the said defendant on the 14th day of January, 2014, or
21 thereabout and before the filing of this Information, within the
22 County of Washoe, State of Nevada, did steal, take and carry away a
23 firearm and/or firearms owned by Jesse Henslee to wit: a Ruger .357
24 revolver, a Ruger 9mm semi-automatic handgun and/or a Rossi .38
25 Special revolver, with the intent then and there to permanently
26

1 deprive the owner thereof, all of which occurred at or near 8790
2 Winding Creek Drive, Reno, Washoe County, Nevada.

3 All of which is contrary to the form of the Statute in such
4 case made and provided, and against the peace and dignity of the
5 State of Nevada.

6
7 CHRISTOPHER J. HICKS
8 District Attorney
9 Washoe County, Nevada
10

11 By: /s/ DEREK DREILING
12 DEREK C. DREILING
13 5935
14 CHIEF DEPUTY DISTRICT ATTORNEY
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1 The following are the names and addresses of such witnesses
2 as are known to me at the time of the filing of the within
3 Information:

4
5 RENO POLICE DEPARTMENT

6 DUSTIN ALLEN
7 STEPHEN BASSETT
8 KRISTEN BELLINGER
9 RON CHALMERS
10 SEAN DONNELLY
11 ROGELIO ESPINOZA
12 RYAN GOTT
13 MARK GRIFFIN
14 ALLISON JENKINS
15 SCOTT JOHNSON
16 ERNIE KAZMAR
17 MICHAEL LONG
18 SCOTT NELSON
19 DAVID L NEVILLS
20 LARMON SMITH
21 SCOTT R. SMITH
22 ALAN WEAVER

23 WASHOE COUNTY SHERIFFS OFFICE

24 JEFFREY MASTEN
25 JOHN GURRIERE

26 KEVIN WILLIAM NATZEL, 220 S 19TH ST #9 SPARKS, NV 89431
ROBERT DEAN JORGENSEN, 3435 WAR PAINT CR RENO, NV 89506
KAREN JORGENSEN, PO BOX 971 119 RENO, NV 89504
ROBERT JEFFERY TRASK, 220 S 19TH ST 9 SPARKS, NV 89431-5521
MAX KLOVER TRASK, 2406 PRATER WAY #125 SPARKS, NV
ELAINA HOOPER, 5195 SPECTRUM BLVD RENO, NV 89502
ERIC PRECIADO, 13021 EXINITE RENO, NV 89506
KEVIN OSBOURN, 2500 DICKERSON RD #140 RENO, NV 89503
ANDRE PRECIADO, 13021 EXINITE DR RENO, NV 89506
ELISABETH PRECIADO, 13021 EXINITE DR RENO, NV 89506
AMANDA ROBERTS, 2855 IDLEWILD DR #127 RENO, NV 89509
SAMANTHA BUXTON, 2855 IDLEWILD DR #127 RENO, NV 89509
PAMELA GREGORY, 2855 IDLEWILD DR #123 RENO, NV 89509
JESSEE HENSLEE, 7350 SILVER LAKE RD #24H RENO, NV 89506
EDWIN CABRERA, 901 W. 4TH ST RENO, NV 89503
SUE KLINO, 226 HILL ST RENO, NV 89501

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1 The party executing this document hereby affirms that this
2 document submitted for recording does not contain the social security
3 number of any person or persons pursuant to NRS 239B.230.

4 CHRISTOPHER J. HICKS
5 District Attorney
6 Washoe County, Nevada

7
8 By /s/ Derek Dreiling
9 DEREK C. DREILING
 5935
 CHIEF DEPUTY DISTRICT ATTORNEY

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE PATRICK FLANAGAN, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)	
)	
12 Plaintiffs,)	
)	
13 vs.)	Case No. CR17-0690
)	
14 KATHERINE FLETCHER,)	Department 7
)	
15 Defendant.)	
<hr/>)	

16
17
18 TRANSCRIPT OF PROCEEDINGS

19 ARRAIGNMENT

20 May 10, 2017

21 9:00 a.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207, RPR
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: DEREK DREILING, ESQ.
5 P.O. Box 30083
6 Reno, Nevada

7 For the Defendant:

8 OFFICE OF THE PUBLIC DEFENDER
9 By: LINDA NORDVIG, ESQ.
10 350 S. Center
11 Reno, Nevada
12
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1 RENO, NEVADA, May 10, 2017, 9:00 a.m.

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3 --oOo--

4 THE CLERK: Case number CR17-0690, State versus
5 Katherine Fletcher. Matter set for arraignment. Counsel and
6 the Division, please state your appearance.

7 MR. DREILING: Derek Dreiling on behalf of the
8 State.

9 MS. NORDVIG: Linda Nordvig on behalf of
10 Ms. Fletcher, who is present in custody.

11 THE COURT: Ms. Fletcher, the State of Nevada has
12 filed an information against you charging you with murder
13 with a deadly weapon, burglary, possession of a firearm and
14 grand larceny of a firearm. Your attorney has been provided
15 a copy of the information. Ma'am, I understand coming to
16 court always makes a people a little nervous, but how do you
17 feel here this morning? Good morning.

18 THE DEFENDANT: I feel all right.

19 THE COURT: Have you taken any medication in the
20 last 24 hours?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Does it interfere with
23 your ability to understand me?

24 THE DEFENDANT: No, sir.

1 THE COURT: Okay. Thank you. Ms. Nordvig.

2 MS. NORDVIG: Court's indulgence, your Honor. Can
3 you trail this so Ms. Fletcher can read through her entire
4 information?

5 THE COURT: Certainly.

6 MS. NORDVIG: Thank you.

7 --oOo--

8 THE CLERK: Recalling Case number CR17-0690, State
9 versus Katherine Fletcher. Matter set for arraignment.
10 Counsel and the Division, please state your appearance.

11 MR. DREILING: Derrick Dreiling on behalf of the
12 State.

13 MS. PEREZ: Adriana Perez on behalf of the
14 Division.

15 MS. NORDVIG: Linda Nordvig on behalf of Ms.
16 Fletcher, who is present in custody.

17 THE COURT: Thank you. Ms. Fletcher, the State of
18 Nevada has filed an information against you, charging you
19 with murder with a deadly weapon, burglary, possession of a
20 firearm, and grand larceny of a firearm. Your attorney has
21 been provided a copy of the information. Ma'am, I understand
22 coming to court always makes people a little nervous, but how
23 do you feel here this morning?

24 THE DEFENDANT: All right. How are you today?

1 THE COURT: Have you taken any medication in the
2 last 24 hours?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Does it interfere with your ability to
5 understand me?

6 THE DEFENDANT: Not at all.

7 THE COURT: Thank you. Ms. Nordvig.

8 MS. NORDVIG: Thank you, your Honor. We are in
9 receipt of the information filed stamped May 4th, 2017.
10 Ms. Fletcher indicates that her name is correctly spelled at
11 line 12. We are familiar with the contents of the
12 information and waive its formal reading at this time.

13 It's my understanding that Ms. Fletcher will be
14 entering pleas of not guilty to all charges. Court's
15 indulgence.

16 Evidently, Ms. Fletcher will not be entering a
17 plea today.

18 THE COURT: I'll enter a plea on her behalf. The
19 Court will enter a plea of not guilty to all these charges.
20 Ms. Fletcher, you have the right to have a trial within
21 60 days. It is your statutory right. You can waive that
22 right and have that set off. It's up to you. Have you given
23 any consideration as to whether or not you want to invoke
24 your right to a speedy trial or waive it and have this set

1 out?

2 MS. NORDVIG: Your Honor, for the record, we have
3 discussed, as well as I've sent Ms. Fletcher a letter
4 regarding her rights regarding that.

5 THE DEFENDANT: I have not received that.

6 THE COURT: Is it your desire to have a trial
7 within the 60 days or waive it and set it out a little bit?

8 THE DEFENDANT: Within the 60 days, your Honor.

9 THE COURT: All right. Let's see what we can do
10 here, Ms. Clerk. We have some scheduling issues here,
11 Ms. Fletcher, but let's see if we can't work this out.
12 Ms. Clerk, what is the earliest?

13 THE CLERK: Your Honor, I am looking at either --
14 it's my understanding, your Honor, that they need two weeks.

15 THE COURT: All right.

16 THE CLERK: So I'm looking at either June 26th or
17 July 3rd would be within the 60 days.

18 MS. NORDVIG: Your Honor, I have a two-week murder
19 trial starting in Department Four on July 10th.

20 THE COURT: Mr. Dreiling?

21 MR. DREILING: Your Honor, I have an expert
22 witness who is unavailable the first week of June and the
23 last week of June into the first week of July. And then
24 personal prepaid vacation July 14th through the 23rd.

1 THE COURT: Ms. Clerk, what about the end of July?

2 MS. NORDVIG: Your Honor, I'm unavailable from the
3 24th through August -- I'll be back to work on the 14th.

4 THE CLERK: Your Honor, we have a murder trial on
5 the 14th, which I know is going to go.

6 (Discussion off the record.)

7 THE COURT: What about September?

8 THE CLERK: Your Honor, we can do it
9 September 5th, which is a Tuesday.

10 MS. NORDVIG: Your Honor, I'm in murder trial in
11 Department Nine from August 28th, probably through
12 September 6th or 7th, depending on the outcome and
13 sentencing.

14 THE CLERK: Your Honor, it's my understanding that
15 counsel might be available the week of September 11th.

16 THE COURT: Let's go ahead and put it there for
17 the time being.

18 THE CLERK: Counsel, we will set trial --

19 MS. NORDVIG: Your Honor?

20 THE COURT: Yes.

21 MS. NORDVIG: I'm sorry. We do have a conflict on
22 the 11th.

23 THE COURT: How so?

24 MS. NORDVIG: Ms. Meyer will be unavailable. She

1 will be out of state.

2 THE COURT: For how long?

3 MS. MEYER: I'll be out of state simply until the
4 13th.

5 THE COURT: We can get started.

6 THE CLERK: You want to go the 18th, your Honor,
7 September 18th, which will be that Monday?

8 THE COURT: Yes.

9 MS. NORDVIG: Your Honor, I have a two-week murder
10 trial starting October 2nd, actually two and a half weeks, I
11 believe.

12 THE COURT: What about the 16th, Ms. Clerk?

13 THE CLERK: September 18th?

14 THE COURT: I'm talking about October 16th.

15 MS. NORDVIG: I might not be done with that yet.

16 THE COURT: Let's go ahead and set it here.

17 THE CLERK: So let's schedule trial for
18 October 16th at 9:30 for two weeks and let's schedule the
19 motion to confirm for October 4th at 9:00 a.m..

20 THE COURT: Do you think two weeks is enough?

21 MS. NORDVIG: No.

22 THE COURT: Let's set it for three weeks.

23 THE CLERK: Three weeks.

24 THE DEFENDANT: Your Honor?

1 THE COURT: Yes, Ms. Fletcher.

2 THE DEFENDANT: Why is so far out?

3 THE COURT: Apparently, this is kind of like
4 airplanes at John F. Kennedy Airport, some get off the ground
5 sooner and the other ones just have to wait in line and this
6 is just sort of waiting in line until we have a slot that is
7 available and then we drop you in.

8 If we can, Ms. Fletcher, if something breaks,
9 we'll do our best to get you in before then.

10 THE DEFENDANT: Thank you, your Honor. I have a
11 question.

12 THE COURT: All right.

13 THE DEFENDANT: Regarding my representation.

14 THE COURT: Okay.

15 THE DEFENDANT: I was told by them that if I were
16 to file a motions hearing to try to get new representation,
17 and if I succeeded in that, that would hang up my trial by
18 six to nine months is what Ms. Nordvig is telling me.

19 THE COURT: Probably about a year.

20 THE DEFENDANT: Even if I don't waive time.

21 THE COURT: That's correct. I would imagine at
22 least nine or 12 months.

23 THE DEFENDANT: Why is that?

24 THE COURT: The attorneys would probably need to

1 read all the files and they have their own schedule. It
2 would not be unusual to have an attorney come in and ask for
3 at least a year to prepare for a murder trial.

4 THE DEFENDANT: What if I don't want to waive
5 time, though?

6 THE COURT: I understand that, but I don't think
7 an attorney can walk in off the street and try this case
8 tomorrow. So I have to balance all of those, but I certainly
9 understand where you're coming from, and if we can get a
10 break, we'll certainly drop you in there. But as you can you
11 can hear, there's three calendars going, four calendars going
12 here, and we'll get you in just as soon as we can.

13 And as a matter of fact, in order to do this, we
14 are going to have to move several other trials that are
15 previously scheduled for these dates aside so that we can get
16 you in.

17 THE DEFENDANT: Is there any way to get an
18 official confirmation of these people's schedules or agendas?

19 THE COURT: You just got it.

20 THE DEFENDANT: I'm sorry?

21 THE COURT: It's right here. This is the official
22 agenda. Our court calendar is public record. So I don't
23 know about the DA's or the public defenders, but you can look
24 up our court calendar online, you'll see it.

1 All right. That will be the order. Okay. Thank
2 you very much.

3 THE CLERK: Motion to confirm is October 4th at
4 9:00 and trial is October 16th at 9:30 for three weeks.

5 MS. NORDVIG: Just for the record, your Honor,
6 Ms. Fletcher waived her right to a preliminary hearing
7 against counsel's advice. So we do not anticipate a writ
8 hearing. However, we do anticipate a motion hearing. Did
9 the Court want to set it now or later?

10 THE COURT: No. We'll set it later once we see
11 the motions.

12 MS. NORDVIG: Thank you, your Honor.

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1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on May 10, 2017, at the hour of 9:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the arraignment in the matter of THE STATE OF
10 NEVADA, Plaintiff, vs. KATHERINE FLETCHER, Defendant, Case
11 No. CR17-0690, and thereafter, by means of computer-aided
12 transcription, transcribed them into typewriting as herein
13 appears;

14 That the foregoing transcript, consisting of pages 1
15 through 12, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 5th day of July 2017.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

2960

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

Case No. CR17-0690
CR17-1127

vs.

Dept. No. 7

KATHERINE DEE FLETCHER,

Defendant.

ORDER FOR COMPETENCY EVALUATION

Upon Petition of counsel for Defendant herein and good cause appearing,

IT IS HEREBY ORDERED that the Defendant be examined by two psychiatrists, two psychologists, or one psychiatrist and one psychologist, employed by Lakes Crossing, to be accompanied by an interpreter if necessary, for the purpose of determining:

1. Whether or not the Defendant is of sufficient mentality to be able to understand the nature of the criminal charges against him; and
2. If the Defendant is able to understand the nature and purpose of the court proceedings; and
3. Whether or not, because of mental insufficiency, the Defendant is able to aid and assist counsel.

///

1 IT IS FURTHER ORDERED that the said examination be made at the earliest
2 practicable date, and that the results of said examination be made known to this Court, to the
3 District Attorney of Washoe County and to the Washoe County Public Defender, at least five
4 (5) days prior to the next hearing, which is scheduled for September 27, 2017 at 9:00 a.m.

5 DATED this 24 day of AUGUST, 2017.

6
7 Patrick Flanzen
8 DISTRICT JUDGE
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1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE PATRICK FLANAGAN, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)
12 Plaintiffs,)
13 vs.) Case No. CR17-0690 and
14 KATHERINE DEE FLETCHER,) CR17-1127
15 Defendant.) Department 7
16 _____)
17

18 TRANSCRIPT OF PROCEEDINGS

19 STATUS HEARING

20 August 28, 2017

21 11:00 a.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207, RPR
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: DEREK DREILING, ESQ.
5 P.O. Box 30083
6 Reno, Nevada

7 For the Defendant:

8 OFFICE OF THE PUBLIC DEFENDER
9 By: LINDA NORDVIG, ESQ.
10 350 S. Center
11 Reno, Nevada
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1 RENO, NEVADA, August 28, 2017, 11:00 a.m.

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3 --oOo--

4 THE COURT: We are on the record in State versus
5 Fletcher in chambers. Ms. Nordvig.

6 MS. NORDVIG: For the record, CR17-0690 and
7 CR17-1127.

8 THE COURT: Ms. Nordvig.

9 MS. NORDVIG: Thank you, your Honor. We had a
10 conversation in another case where I am counsel regarding
11 scheduling of Ms. Fletcher's case, which would either be
12 overlapped by another category A case or be back-to-back. We
13 set a status hearing for September 6th to continue
14 Ms. Fletcher's murder trial, which is CR17-0690.
15 Unfortunately, Ms. Fletcher is pending competency so both
16 matters have been stayed. I don't know if we can do that,
17 your Honor.

18 THE COURT: Do you want to --

19 MS. NORDVIG: I wanted to bring it to the Court's
20 attention.

21 THE COURT: Mr. Dreiling.

22 MR. DREILING: I would argue that --

23 THE COURT: Have a seat.

24 MR. DREILING: -- that continuing, having a

1 hearing to continue the murder would be non substantive
2 calendar management based on the reasoning that Ms. Nordvig
3 has given, her being either double set, overlapping or
4 literally back-to-back. Without that substantive type of
5 matter, I think it would fall within, I guess, your
6 discretion or the ability to do it as a counter management.

7 The only reason she would be involved would be to
8 object or not object and my recollection of the last hearing
9 is that her final question was regarding continuing it,
10 indicating that she very well may want to.

11 And, secondly, the large reason to have such a
12 hearing would be because she invoked her right to a speedy
13 trial. However, that statute does allow for court calendar
14 congestion, why it was originally set out past the 60 days
15 anyway. So if setting it out is -- it does push her original
16 invocation some, that's for sure, but, frankly, I don't see
17 why a continuance hearing couldn't be held if the basis of
18 continuance is counsel's calendar.

19 Ms. Fletcher we could assume for argument's sake,
20 even if she did object, that your Honor would make whatever
21 decision you would make in spite of that.

22 THE COURT: Let's assume that the finding from
23 Lakes Crossing comes back that she is competent.

24 MS. NORDVIG: Just for the Court's information,

1 I'm in the process of hiring a second expert regarding her
2 psychological and/or competence. Obviously, since we just
3 had a day to start working on all of that, nothing has been
4 finalized.

5 THE COURT: We have six doctors who say she is
6 competent.

7 MS. NORDVIG: No. We had three doctors that said
8 she was probably competent, we had a couple that said she
9 wasn't, and one that said she needed further evaluation.

10 THE COURT: We had six findings that she
11 understands the nature of the offense and the only problem
12 they had was of communication with her attorney, because of
13 her fixation with this family court case. So I have -- I am
14 operating under the assumption that the doctors will find her
15 competent and we will proceed.

16 That leaves us with the only reason to continue
17 Ms. Fletcher's trial to be the fact that defense counsel
18 would be back-to-back in two category A trials, which is an
19 extraordinary burden on any trial lawyer, whether prosecution
20 or defense, and I think it's a legitimate ground to continue
21 the case.

22 My problem is trying to find a time thereafter to
23 put it that doesn't run into another murder trial. We have
24 Russell starting in December. That's another two-week murder

1 trial. And we've got child abuse with substantial bodily
2 harm the first week of January. So let's keep this on
3 calendar for the next criminal calendar and --

4 MS. NORDVIG: The 6th?

5 THE COURT: The 6th. Because I'm in trial this
6 week and Judge Breslow is going to be handling my crims this
7 week. So next week, we'll get together and I'm likely to
8 continue the matter. See if you can get together, the two of
9 you, and find three weeks, and work with Ms. Oates, we'll try
10 to shoehorn you in as soon as we can. And I understand she's
11 invoked, but I think this constitutes good cause to continue.
12 That's I think all we can do today.

13 MS. NORDVIG: Just for calendaring, in discussing
14 the length of the Menendez Cordova matter, that starts on the
15 2nd, we will have multiple interpreters being used, which I
16 know always increases the length of trials. So I just wanted
17 to bring that to the Court's attention.

18 THE COURT: Thank you. I appreciate it. Okay.

19 MS. NORDVIG: If Ms. Fletcher's trial goes off,
20 that won't be a conflict for you.

21 THE COURT: Don't worry about the Court's
22 calendar. We have plenty of work to do, as you do. Get
23 together and see if you can work it out and deal with Ms.
24 Oates and we'll put something formal on the record given the

1 seriousness of this charge and I'll answer any questions
2 Ms. Fletcher may have at that time. All right. Counsel,
3 thank you very much.

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1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on August 28, 2017, at the hour of 11:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the status hearing in the matter of THE STATE OF
10 NEVADA, Plaintiff, vs. KATHERINE DEE FLETCHER, Defendant,
11 Case No. CR17-0690 and CR17-1127, and thereafter, by means of
12 computer-aided transcription, transcribed them into
13 typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 8, both inclusive, contains a full, true and complete
16 transcript of my said stenotype notes, and is a full, true
17 and correct record of the proceedings had at said time and
18 place.

19
20 DATED: At Reno, Nevada, this 26th day of September 2017.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE PATRICK FLANAGAN, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)
12 Plaintiffs,)
13 vs.) Case No. CR17-0690 and
14 KATHERINE DEE FLETCHER,) CR17-1127
15 Defendant.) Department 7
16 _____)

17
18 TRANSCRIPT OF PROCEEDINGS
19 REPORT ON PSYCHIATRIC EVALUATION

20 September 20, 2017

21 9:00 a.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207, RPR
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: DEREK DREILING, ESQ.
5 P.O. Box 30083
6 Reno, Nevada

7 For the Defendant:

8 OFFICE OF THE PUBLIC DEFENDER
9 By: LINDA NORDVIG, ESQ.
10 350 S. Center
11 Reno, Nevada
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1 RENO, NEVADA, September 20, 2017, 9:00 a.m.

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3 --oOo--

4 THE CLERK: CR17-0690, State versus Katherine Dee
5 Fletcher. Matter set for report for psychiatric evaluation.
6 And case number CR17-1127, State versus Katherine Dee
7 Fletcher. Matter set for psychiatric evaluation. Counsel
8 and the Division, please state your appearance.

9 MS. MEYER: Emilie Meyer and Ms. Nordvig on behalf
10 of Ms. Katherine Fletcher who is present in custody.

11 MR. DREILING: Derek Dreiling for the State.

12 MS. OGDEN: Teresa Ogden for the Division.

13 THE COURT: The Court is in receipt of a
14 psychological evaluation completed by Dr. Dillinger, and,
15 frankly, I'm a little baffled by the findings here. I know
16 that we have another report due on the 28th, I believe. And
17 what I'd like to do is I'd like to continue this hearing
18 until the 28th and then consider where we go from there.
19 What are your thoughts? Let me start with Mr. Dreiling.

20 MR. DREILING: That's fine, your Honor. I thought
21 we'd originally set it for the 27th, but whenever is good for
22 you.

23 THE COURT: The 27th is fine. I thought it was in
24 that ball park. Ms. Nordvig.

1 MS. NORDVIG: Your Honor, I believe that the
2 statute requires two reports anyway, so we would still have
3 to continue it.

4 THE COURT: Okay.

5 MS. NORDVIG: It only makes sense. If I could ask
6 a favor of the Court?

7 THE COURT: Sure.

8 MS. NORDVIG: If we could set it so we are towards
9 the end of the docket, maybe a 10:30 or 11:00 set.

10 THE COURT: I don't know what we're doing in the
11 afternoon, but I think we're going to need several hours.

12 MS. NORDVIG: For this?

13 THE COURT: Don't you think?

14 MR. DREILING: Only if --

15 MS. NORDVIG: Hard to tell without the other
16 report.

17 MR. DREILING: If it's being traversed, then
18 witnesses are required.

19 THE COURT: Let's set it at the end of the
20 calendar, Ms. Clerk.

21 MS. NORDVIG: Your Honor, if I could make a
22 suggestion? I know the Court is going to be in trial with at
23 least me for the following two weeks. If we meet next week
24 and find there's a discrepancy with the reports, I would

1 suggest we set it out three weeks after that, give everybody
2 time to subpoena their witnesses if we're going to traverse
3 the reports.

4 THE COURT: What do you think, Mr. Dreiling?

5 MR. DREILING: That's fine, your Honor.

6 THE COURT: Why don't we go ahead and continue
7 both out to the 18th, which is the week after the Cordero
8 trial.

9 MS. NORDVIG: That's fine with me. Ms. Meyer is
10 in trial in a different department.

11 THE COURT: Let's go ahead and set it there and
12 see. Sometimes these things resolve themselves, and if need
13 be, we might jockey around with this. But if Ms. Fletcher
14 needs treatment, I want her to get it as soon as possible.

15 MS. NORDVIG: Thank you, your Honor.

16 THE COURT: I think there's clearly a
17 deterioration going on, not the least of which caused by
18 continued confinement. That certainly doesn't help her
19 mental state. All right. Ms. Clerk.

20 THE CLERK: Yes, your Honor, October 18th.

21 MS. NORDVIG: Can we do a late set before or after
22 lunch?

23 THE COURT: Let's do it at 2:00.

24 MS. NORDVIG: Perfect. Thank you very much.

1 THE CLERK: October 18th at 2:00.

2 THE COURT: Thank you very much.

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1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on September 20, 2017, at the hour of
8 9:00 a.m., and took verbatim stenotype notes of the
9 proceedings had upon the report on psychiatric evaluation in
10 the matter of THE STATE OF NEVADA, Plaintiff, vs. KATHERINE
11 DEE FLETCHER, Defendant, Case No. CR17-0690 and CR17-1127,
12 and thereafter, by means of computer-aided transcription,
13 transcribed them into typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 7, both inclusive, contains a full, true and complete
16 transcript of my said stenotype notes, and is a full, true
17 and correct record of the proceedings had at said time and
18 place.

19
20 DATED: At Reno, Nevada, this 27th day of November 2017.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

1 **CODE 3370**

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5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**

7 **IN AND FOR THE COUNTY OF WASHOE**

8
9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

CASE NO. CR17-0690
CR17-1127

12 **KATHERINE DEE FLETCHER,**

DEPT NO. 15

13 **Defendant.**

14 _____/
15 **ORDER TO APPOINT AN ALTERNATE DOCTOR FOR PSYCHIATRIC EXAM**

16 This Court having reviewed the report prepared by Ronna J. Dillinger, Ph.D., ABPP
17 filed September 18, 2017, and the report prepared by Catherine Pearson, Ph.D. filed October
18 11, 2017, of Lake's Crossing who examined the Defendant, determined that a third report is
19 needed with the understanding that the Defendant is privately pursuing the preparation of
20 additional competency reports,

21 IT IS HEREBY ORDERED that the Sheriff convey the Defendant forthwith to Lakes
22 Crossing for inpatient treatment and examination by an alternate physician for the purpose of
23 determining:

- 24 1. Whether or not the Defendant is of sufficient mentality to be
25 able to understand the nature of the criminal charge(s) against
26 her; and
2. Whether or not, because of mental insufficiency, the
Defendant is able to aid and assist counsel.

1 IT IS FURTHER ORDERED that the alternate physician's report be e-filed with the
2 Second Judicial District Court no later than January 16, 2018, and that the results of said
3 examination be made known to this Court, to the District Attorney of Washoe County, and to the
4 Washoe County Public Defender.

5 IT IS FURTHER ORDERED that a status hearing/report psychiatric evaluation is
6 scheduled for January 23, 2018, at 9:00 a.m.

7 IT IS FURTHER ORDERED that motion to confirm trial schedule for December 20,
8 2017, in CR17-0690 is vacated and trial by jury scheduled for January 2, 2018, in CR17-0690 is
9 vacated.

10 DATED this 23rd day of October, 2017.

11 
DISTRICT JUDGE

CERTIFICATE OF ELECTRONIC SERVICE AND/OR FACSIMILE SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 23 day of October, 2017, I electronically filed the foregoing document with the Clerk of the Court by using the ECF system, which will send a notice of electronic filing to the following:

Derek Dreiling
Deputy District Attorney

Kristin L. Erickson
Deputy District Attorney

Linda M. Nordvig
Deputy Public Defender

Emilie Meyer
Deputy Public Defender

I further certify that on the 23 day of October, 2017, I delivered via facsimile a copy of the foregoing document addressed to:

Washoe County Jail
775-785-4331
775-785-4332

Lakes Crossing Center
775-688-1909

edick
Court Clerk

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)
12)
13 Plaintiffs,)
14)
15 vs.) Case No. CR17-0690A and
16) CR17-1127
17)
18 KATHERINE DEE FLETCHER,)
19) Department 7
20)
21 Defendant.)
22)
23)
24)

17
18 TRANSCRIPT OF PROCEEDINGS
19 REPORT ON PSYCHIATRIC EVALUATION

20 January 23, 2018

21 9:00 a.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: DEREK DREILING, ESQ.
5 P.O. Box 30083
6 Reno, Nevada

7 For the Defendant:

8 OFFICE OF THE PUBLIC DEFENDER
9 By: LINDA NORDVIG, ESQ.
10 350 S. Center
11 Reno, Nevada
12
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1 RENO, NEVADA, January 23, 2018, 9:00 a.m.

2

3 --oOo--

4 THE CLERK: Case number CR17-0690 and CR17-1127,
5 State versus Katherine Dee Fletcher. Both matters set for
6 report on psychiatric evaluation. Counsel, please state your
7 appearance

8 MR. DREILING: Derek Dreiling on behalf of the
9 State.

10 MS. NORDVIG: Linda Nordvig on behalf of Ms.
11 Fletcher, who is present in custody.

12 THE COURT: Good morning, Ms. Fletcher. Welcome
13 again. Again, my name is Egan Walker. I have the privilege
14 of being responsible for your cases now. This is the time
15 and date for a return on reports of psychiatric evaluation
16 and I think we need an arraignment on the amended
17 information. Ms. Nordvig, as to the psychiatric evaluations.

18 MS. NORDVIG: Court's indulgence.

19 THE COURT: Sure.

20 MS. NORDVIG: May we have a brief recess, your
21 Honor?

22 THE COURT: Sure. I assume it's to complete the
23 circle of communication as it were. I don't want to invade
24 attorney-client privilege in any way, but I just need to know

1 the reason.

2 MS. NORDVIG: Yes. I need a brief moment with
3 Ms. Fletcher.

4 THE COURT: I'll step out. I'm sure Mr. Dreiling
5 will do the same if you needed it.

6 (A short break was taken.)

7 THE COURT: Back on the record in both cases.
8 Ms. Nordvig.

9 MS. NORDVIG: Thank you, your Honor. After my
10 brief discussion with Ms. Fletcher, she is asking for a
11 continuance. I'll plan to go up and see her at Lakes
12 Crossing to review all of her questions and will be prepared
13 for next week.

14 THE COURT: Here's my concern. Ms. Fletcher has
15 been evaluated repeatedly in this and the collateral civil
16 case. Is there a particular item of evidence that she needs
17 more time to consider? What I mean by that is Dr. Dillinger,
18 Dr. Pearson and Dr. Henson have most recently provided
19 written reporting of their evaluations of her and are
20 unanimous in their evaluation that she is competent to answer
21 these charges, as was Judge Flanagan who previously
22 considered the issue. What is the piece of evidence that
23 needs additional time?

24 MS. NORDVIG: Your Honor, she has not been able to

1 review all of the reports. She wants to be able to do that
2 so she can ask appropriate questions and defend herself in
3 this Court.

4 THE COURT: Of course. These are serious
5 allegations, but the allegations against Ms. Fletcher have
6 been lodged for quite some time.

7 MS. NORDVIG: I'm well aware of that.

8 THE COURT: If I may. Have been lodged for quite
9 some time and the report is -- the most recent report is
10 relatively fresh. Is there a reason she hasn't been able to
11 read it?

12 MS. NORDVIG: I don't know if it was delivered to
13 her at Lakes. It's my custom to send reports out as soon as
14 we get them. If she hasn't gotten them, which she indicates
15 she has not read it.

16 THE DEFENDANT: I haven't gotten it.

17 MS. NORDVIG: I think it's important for her to do
18 that, especially based upon the last year and a half that
19 I've had contact with her. We're only asking for one week so
20 I can go up and see her on Friday morning at Lakes if that's
21 possible with their schedule.

22 THE COURT: I guess the contingency I would set to
23 a continuance is that we be prepared to set entry of plea
24 then.

1 MS. NORDVIG: She's already entered a plea, your
2 Honor.

3 THE COURT: She's got to enter a plea on the
4 amended information and that we are prepared to set trial at
5 that time. I say that, because there have been some
6 overtures, I understand it, through counsel that we would
7 delay, my words, resolution of this procedural issue for some
8 time to give her time.

9 I guess what I'm trying to do is send a message to
10 her as much as to anything that it's time to get about the
11 resolution of these issues and I don't intend to delay things
12 unnecessarily. I'll grant a week's continuance. But my
13 expectation will be that I'll arraign her on the amended
14 information and we'll set -- really, we have three matters to
15 set, the bifurcated charges in what I'm going to call the
16 murder case, and then the charges in the other case, assuming
17 she will enter a not guilty plea.

18 MS. NORDVIG: That's all correct, your Honor. And
19 I believe Mr. Dreiling should be back in the office so we can
20 get with Ms. Oates for possible trial dates between now and
21 next week and everything should be able to be completed.

22 THE COURT: Mr. Dreiling, any objection to the
23 requested continuance?

24 MR. DREILING: No, your Honor.

1 THE COURT: Ms. Oates.

2 THE CLERK: Your Honor, our calendar, counsel,
3 would Monday the 29th be an option? Our calendar is much
4 smaller as opposed to Wednesday.

5 MS. NORDVIG: Court's indulgence. Could I request
6 a 10:00 hearing?

7 THE CLERK: Sure.

8 MS. NORDVIG: My reason for that is if I can't get
9 an appointment at Lakes with Katherine on -- excuse me --
10 Ms. Fletcher on Friday, I can speak with her Monday morning
11 prior to the Court and that would suffice, I think, for
12 everyone's availability, assuming the State's available.

13 MR. DREILING: That works for the State.

14 THE COURT: And given the machinations of visiting
15 somebody at Lakes, which I have a little bit of familiarity
16 with, if you need additional time beyond that, we can always
17 go to the following week. I still stand by what I said, but
18 I want you to have an meaningful opportunity to confer with
19 her and I know Lakes controls that much more than you do.

20 MS. NORDVIG: Exactly, your Honor. You may have
21 easier access than I do. They're very good about trying to
22 schedule things that are important right away. So hopefully
23 between Monday morning, Monday afternoon -- excuse me --
24 Friday morning, Friday afternoon, and Monday morning, I can

1 get there.

2 THE COURT: Let's set it for Monday, the 29th,
3 Ms. Clerk, at 10:00 a.m..

4 THE CLERK: Yes, your Honor.

5 THE COURT: Ms. Fletcher, do you have any
6 questions about what we've done here today or what's coming
7 next?

8 THE DEFENDANT: I don't understand why I only saw
9 one doctor.

10 THE COURT: It's not a question for me to answer
11 today. I invite you to dialogue and consider that and the
12 implications of that when you meet with Ms. Nordvig when you
13 talk to her. Do you have any questions about process, what
14 we've done and what's happening next?

15 THE DEFENDANT: I don't understand it.

16 THE COURT: All right. I'll invite you to have
17 some dialogue with your client, Ms. Nordvig. Thank you all
18 very much for your time this morning. We'll be in recess.

19 --oOo--

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24

1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on January 23, 2018, at the hour of 9:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the report on psychiatric evaluation in the matter
10 of THE STATE OF NEVADA, Plaintiff, vs. KATHERINE DEE
11 FLETCHER, Defendant, Case No. CR17-0690A and CR17-1127, and
12 thereafter, by means of computer-aided transcription,
13 transcribed them into typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 9, both inclusive, contains a full, true and complete
16 transcript of my said stenotype notes, and is a full, true
17 and correct record of the proceedings had at said time and
18 place.

19
20 DATED: At Reno, Nevada, this 24th day of July 2018.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

1 CODE: 4185
2 LORI URMSTON, CCR #51
3 Litigation Services
4 151 Country Estates Circle
5 Reno, Nevada 89511
6 (775) 323-3411
7 Court Reporter

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 HONORABLE EGAN WALKER, DISTRICT JUDGE

11 STATE OF NEVADA,

12 Plaintiff,

Case No. CR17-0690

Case No. CR17-1127

13 vs.

Dept. No. 7

14 KATHERINE DEE FLETCHER,

15 Defendant.
-----/

16 TRANSCRIPT OF PROCEEDINGS

17 REPORT ON PSYCHIATRIC EVALUATION

18 Monday, January 29, 2018

19 Reno, Nevada

20
21
22
23
24 Reported by:

LORI URMSTON, CCR #51

1 APPEARANCES:

2 FOR THE PLAINTIFF: DEREK DREILING
3 Deputy District Attorney
4 1 South Sierra Street
5 South Tower, 4th Floor
6 P.O. Box 30083
7 Reno, Nevada 89520

8 FOR THE DEFENDANT: LINDA M. NORDVIG
9 EMILIE MEYER
10 Deputy Public Defenders
11 350 S. Center Street
12 P.O. Box 30083
13 Reno, Nevada 89520

14 FOR THE DIVISION OF
15 PAROLE & PROBATION: KENDRICK MCKINNEY
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1 RENO, NEVADA; MONDAY, JANUARY 29, 2018; 9:21 A.M.

2 --oOo--

3 THE CLERK: Last case, Your Honor, Case No.
4 CR17-1127, State versus Katherine Dee Fletcher. Matter
5 set for report on psychiatric evaluation. Case No.
6 CR17-0690, State versus Katherine Dee Fletcher. Also a
7 matter before the court on psychiatric evaluation.
8 Counsel and the Division, please state your appearance.

9 MR. DREILING: Derek Dreiling on behalf of the
10 State.

11 MS. NORDVIG: Linda Nordvig and Emilie Meyer on
12 behalf of Ms. Fletcher who is present in custody.

13 THE COURT: Good morning, all, Ms. Fletcher. I
14 show the appearance of Parole and Probation as well.

15 Ms. Nordvig, we set this over to give your client
16 an opportunity to read the reporting specifically by
17 Dr. Henson. Has she had that opportunity?

18 MS. NORDVIG: Thank you, Your Honor. Both
19 Ms. Meyer and I were at Lakes Crossing with Katherine
20 for over an hour on Friday morning. I hand delivered
21 all three evaluations that the Court referred to as
22 well as the Amended Complaint in the second case. So
23 she should have had plenty of time to go through that.
24 I saw her read the evaluation for Dr. Henson and we had

1 an opportunity to discuss any issues that she had.

2 THE COURT: And your answer on her behalf as to her
3 competency?

4 MS. NORDVIG: My answer is that we do not intend to
5 traverse and can proceed. I don't believe that she
6 agrees with me. However, legally I can find no basis
7 to proceed with competency issues.

8 THE COURT: Thank you.

9 The position of the State, please, Mr. Dreiling.

10 MR. DREILING: We don't intend to traverse either,
11 Your Honor.

12 THE DEFENDANT: Your Honor --

13 THE COURT: I take judicial notice of all of the
14 evaluations by --

15 Ms. Fletcher, I know you're raising your hand to
16 interrupt. That's a bad idea. I promise I'll come to
17 you for some comments you might like to make, but I can
18 assure you at this juncture little you could say will
19 help you and I'm concerned that anything you might say
20 would harm you.

21 Really, this is ultimately my determination and
22 I'll base it on the results of the evaluations that
23 have been conducted, not based on what you might tell
24 me about whether or not you agree with those

1 evaluations. I know, for example, in the past you've
2 strongly disagreed, for example, with Dr. Piasecki.
3 That is not really a relevant consideration, I don't
4 think, at this juncture given the representations of
5 your attorney.

6 So, again, I take judicial notice of all of the
7 evaluations done by Ms. -- or performed with
8 Ms. Fletcher in this case and the three most recent
9 evaluations. I specifically find her competent to
10 answer the criminal allegations against her.

11 You wanted to say something, Ms. Fletcher.

12 THE DEFENDANT: Yeah. I don't believe it was legal
13 to have me evaluated by only one doctor at Lakes
14 Crossing and I don't believe the doctor's conclusion
15 was correct as I still have the very same problems that
16 brought me to Lakes in the first place.

17 MS. NORDVIG: If I might, Your Honor.

18 (Discussion off the record between
19 Ms. Nordvig and the defendant.)

20 MS. NORDVIG: Thank you, Your Honor.

21 THE COURT: I am sure, Ms. Fletcher, that your
22 attorney just indicated to you what I began with and
23 what I would now reiterate which is that anything you
24 say now can and likely will be used against you at the

1 series of trials we're going to set. I highly
2 recommend you follow the advice of your attorney. It
3 is a bad idea to say much of anything at this juncture
4 particularly as regards your own assessment of you or
5 the evaluations done of you.

6 THE DEFENDANT: Okay.

7 (Discussion off the record between
8 Ms. Nordvig and the defendant.)

9 THE COURT: I think I see, Ms. Fletcher, by body
10 language -- I certainly am not party to and should not
11 be a party to your conversations -- a decision by
12 Ms. Fletcher to remain silent. There's wisdom in that
13 decision, Ms. Fletcher. And I assure you, you have two
14 of the better attorneys around who can bring relevant
15 matters to my attention if and when they're appropriate
16 to bring to my attention. And I highly encourage you
17 to continue to trust them and their judgment about what
18 you should say and what you shouldn't say. So thank
19 you for making that decision.

20 I think what we should do then is address the
21 Amended Information in CR17-1127 which was filed
22 September 25th. Is Ms. Fletcher's name correctly
23 spelled at line 12 and will she waive the formal
24 reading of that Information? I have a copy if that

1 would be of assistance.

2 MS. NORDVIG: Thank you. I've had several, but --

3 THE COURT: I understand.

4 MS. NORDVIG: -- they're in one of six boxes. And
5 I know Ms. Fletcher has seen it and we discussed it, as
6 I said, on Friday.

7 Is the top name your correct legal name?

8 THE DEFENDANT: Yes.

9 MS. NORDVIG: Thank you.

10 Thank you, Your Honor. We are in receipt of the
11 Amended Information file stamped September 25th, 2017.
12 Ms. Fletcher indicates that her name is correctly
13 spelled at line 12. We're familiar with the contents
14 of the Amended Information and waive its formal
15 reading.

16 THE COURT: How does she intend to answer the
17 allegation?

18 MS. NORDVIG: It's my understanding that she will
19 continue to plead not guilty.

20 THE DEFENDANT: I didn't -- I didn't enter a plea.

21 THE COURT: What would you like to plead to the
22 allegation that you committed the crime of battery by a
23 prisoner, a felony, and unlawful act related to bodily
24 fluid by a prisoner, a felony?

1 THE DEFENDANT: I didn't enter a plea.

2 THE COURT: All right. I'm asking you now to enter
3 a plea. What would you like to --

4 THE DEFENDANT: I would like to not enter a plea.

5 THE COURT: If you choose not to enter a plea, I'll
6 accept that you remain silent and I'll enter a not
7 guilty plea on your behalf. Thank you for that,
8 Ms. Fletcher.

9 Let's proceed now to set these matters for trial.
10 Counsel, thank you very much for reaching out and
11 coordinating with the clerk in advance. I think we
12 have an idea in mind for the structure of how to
13 proceed across trials. We have the murder trial, the
14 counts that were severed to accomplish, and then these
15 counts to resolve.

16 Ms. Clerk.

17 THE CLERK: Your Honor, I received an email from
18 counsel.

19 And, counsel, I'm looking at setting the murder
20 trial on September 10th for two weeks with a motion to
21 confirm for August 29th.

22 THE DEFENDANT: Your Honor, don't I get a
23 preliminary hearing on the new charge?

24 THE COURT: Ms. Fletcher, if you interrupt again

1 I'll probably exclude you from the courtroom. Don't do
2 that anymore. I promise I'll answer any relevant
3 question you may have once we accomplish the business
4 we're about.

5 THE CLERK: And then, counsel, as to the severed
6 counts of II and III, the trial date will be
7 October 22nd for three days with --

8 MS. NORDVIG: I'm sorry. October 22nd?

9 THE CLERK: October 22nd. That's what I saw in the
10 email, or going with the October month. October 22nd,
11 trial, three days, with a motion to confirm for
12 October 10th.

13 Then we have the third trial as to the battery by a
14 prisoner and unlawful act. That would be set for
15 October 29th for three days with a motion to confirm
16 for October 17th.

17 THE COURT: Questions or concerns, counsel, about
18 any of those dates or that structure.

19 MS. NORDVIG: Your Honor, counsel is prepared to go
20 forward on those days. However, Ms. Fletcher indicates
21 that she would like a moment to speak with counsel.

22 THE COURT: I am prepared to give her that latitude
23 as long as we're not delaying a proceeding in another
24 department. I don't know where you folks need to be

1 or, Mr. Dreiling, where you need to be.

2 MR. DREILING: I'm good. And those dates are fine
3 for the State, Your Honor.

4 THE COURT: Thank you very much, Mr. Dreiling.

5 So take a moment. Would you like me to step out?

6 MS. NORDVIG: It might be better. Thank you.

7 THE COURT: I'm happy to do so. We'll be in recess
8 for a few moments. Please reach out to the court clerk
9 when you're ready.

10 (A recess was taken.)

11 THE COURT: We're back on the record in the matter
12 involving Katherine Fletcher. She is present in
13 custody with her counsel. I show the appearance the
14 Mr. Dreiling from the State.

15 Ms. Nordvig.

16 MS. NORDVIG: Thank you, Your Honor. We have had a
17 chance to discuss the questions that Ms. Fletcher had
18 during the recess that you allowed. We have strongly
19 encouraged her to follow the Court's recommendation to
20 remain silent, but I would ask you to ask her whether
21 she has any questions.

22 THE COURT: Do you have any questions,
23 Ms. Fletcher?

24 THE DEFENDANT: Yeah. Aren't I entitled to

1 preliminary hearings since the charges were severed?

2 THE VIDEOGRAPHER: That's a legal question that I
3 don't intend to answer at this time, because now is not
4 a relevant time to discuss it.

5 THE DEFENDANT: And I didn't waive time on the
6 third charge.

7 THE COURT: Is it your desire to invoke the trial
8 within 60 days on that charge?

9 THE DEFENDANT: Yes.

10 THE COURT: Counsel, any response?

11 MS. MEYER: Your Honor, it's my understanding in
12 speaking with our appellate attorney and in reviewing
13 the case law that time in terms of the 60-day right to
14 a speedy trial tolls even during the competency
15 proceeding. Based on that, it is my understanding that
16 there is no longer a speedy trial right on that as the
17 time has been waived by the process of the competency
18 evaluation. However, if the Court wants to resurrect
19 that right, it remains against counsel's advice to set
20 the trials in any other order, though if this Court
21 finds that I've analyzed the law in error, then I
22 certainly understand, and it's up to Ms. Fletcher.

23 THE COURT: Anything you think I should consider,
24 Mr. Dreiling?

1 MR. DREILING: I'm assuming the counts she's
2 speaking to regarding speedy trial would be Count III
3 in the murder case, grand larceny of a firearm. My
4 analysis --

5 MS. NORDVIG: No.

6 THE COURT: No. I think actually she's referring
7 to the counts in the Amended Information, battery by a
8 prisoner and unlawful acts.

9 THE DEFENDANT: Well, I could use another prelim on
10 that since they changed the Information.

11 THE COURT: Ms. Fletcher, I didn't ask you for a
12 comment.

13 MR. DREILING: The waivers are different issues
14 that I don't think are appropriate and not really
15 addressing the tolling. I think tolling is different
16 from waiving. She has never waived any of the speedy
17 trial rights. And they were set out for good cause
18 with calendars of counsel. I have nothing really to
19 add beyond that on those issues.

20 THE COURT: Well --

21 MS. NORDVIG: And, Your Honor, if I might just
22 supplement those statements. We have gotten together
23 and tried to schedule Ms. Fletcher's three trials in
24 the most speedy way possible with our three calendars

1 and then presented those options to your court clerk.
2 So we're not doing anything for any purposes of delay
3 or to violate any potential rights that Ms. Fletcher
4 may still have as far as speedy trial, which I don't
5 believe they exist anymore under case law and with my
6 research. However, I would tell the Court that this is
7 about as fast as the three of us could have done these
8 matters.

9 THE COURT: I'm presented by a circumstance where
10 Ms. Fletcher indicates by her own desire a desire to
11 have CR17-1127 resolved more quickly than the schedule
12 we just set. Ms. Fletcher creates many layers of
13 jeopardy for herself if, in fact, I give effect to her
14 request that I set a more speedy trial in that case.

15 On balance, given the scheduling needs of her
16 attorneys, the jeopardy to her specifically in the case
17 involving an allegation of murder, I will acknowledge
18 her desire for a more speedy trial setting and simply
19 indicate that the dates we've given will be the dates
20 in which these events will be resolved.

21 Ms. Fletcher may be -- let me say it differently.
22 I'm sure she disagrees with my decision, but on par
23 where her speedy trial right has already been invaded
24 by the process substantially, to the extent that she

1 had a right to resolve any of these allegations within
2 60 days, practically we're well beyond that mark, and
3 now I have to bend to the needs of her counsel and the
4 practical reality of the jeopardy she faces across
5 these three case. And for all of those reasons, we'll
6 simply have trial as indicated by the agreement of
7 counsel.

8 Anything else we need to address?

9 THE DEFENDANT: I was never given preliminary
10 hearings after the charges were severed.

11 THE COURT: Ms. Fletcher, I asked you if you had
12 any questions. Your questions, it's apparent to me,
13 are designed to frustrate this process. What I mean by
14 that is engage in a dialogue or an argument with me
15 about legal processes you believe are or aren't
16 happening. That's not relevant this morning, and so I
17 don't intend to continue that conversation.

18 Anything else I can be of assistance with related
19 to discovery or pretrial issues?

20 MR. DREILING: The only outstanding issue, and it's
21 really not one for the State, so to speak, is her
22 housing. The doctor's report indicates a desire on
23 behalf of at least that doctor to have her remain at
24 Lakes Crossing. I don't know with Lakes' difficulties

1 they've had with housing and getting their workflow
2 done what their stance is versus the jail's stance.

3 MS. NORDVIG: If I might, Your Honor. After
4 reading Dr. Henson's evaluation and attempting to go
5 speak with Ms. Fletcher at Lakes prior to last Friday's
6 meeting, Mr. Durante from Lakes, who is now the
7 administrator or director, I believe, of Lakes, called
8 me regarding her case.

9 My specific question after discussing what he
10 needed to discuss was about Dr. Henson's recommendation
11 that she stay. He is in agreement with that and would
12 hope the Court would follow that recommendation.

13 THE COURT: My evaluation of the location of her
14 continued custody is that her residence at Lakes has
15 been beneficial both in terms of the activities she can
16 undertake there and the treatment she receives there
17 for the psychological and psychiatric diagnoses she
18 does carry. And so absent any objection from the
19 State, I'll simply indicate she'll continue her stay at
20 Lakes Crossing until trial.

21 MS. NORDVIG: Thank you.

22 Your Honor, there may be some pretrial matters that
23 we need to address earlier rather than later. If I
24 could just contact Ms. Oates and set a hearing with

1 Mr. Dreiling, if that is appropriate.

2 THE COURT: Absolutely. I appreciate you folks
3 doing what I know you always do which is triage those
4 matters so that we can resolve them as expeditiously as
5 possible.

6 Thank you all very much for your time. We will be
7 in recess.

8 MS. NORDVIG: Thank you.

9 (The proceedings were concluded.)

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[illegible]

I, LORI URMSTON, Certified Court Reporter, in and
for the State of Nevada, do hereby certify:

That the foregoing proceedings were taken by me at the time and place therein set forth; that the proceedings were recorded stenographically by me and thereafter transcribed via computer under my supervision; that the foregoing is a full, true and correct transcription of the proceedings to the best of my knowledge, skill and ability.

I further certify that I am not a relative nor an employee of any attorney or any of the parties, nor am I financially or otherwise interested in this action.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing statements are true and correct.

DATED: At Reno, Nevada, this 22nd day of
February, 2018.

LORI URMSTON, CCR #51

LORI URMSTON, CCR #51

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR17-0690A

11 vs.

12 KATHERINE DEE FLETCHER,

Dept. No. 7

13 Defendant.
14 _____ /

15 **THIRD ORDER OF COMPETENCY**

16 The Court, having reviewed the file, and all Evaluations filed by the Lakes Crossing
17 Center doctors who examined the Defendant, and after having permitted counsel for both sides
18 to present evidence on the issue of the Defendant's competency pursuant to NRS 178.425:

19 The Court hereby enters a finding that the DEFENDANT IS COMPETENT TO
20 PROCEED;

21 IT IS FURTHER ORDERED, pursuant to the recommendation of the Lakes Crossing
22 Center doctors, that Defendant Katherine Dee Fletcher remain at Lakes Crossing Center until
23 further ordered by this Court.

24 Dated this 4 day of April, 2018

25 
26 _____
DISTRICT JUDGE

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)	
)	
12 Plaintiffs,)	
)	
13 vs.)	Case No. CR17-0690A,
)	CR17-0690B and CR17-1127
14 KATHERINE DEE FLETCHER,)	
)	Department 7
15 Defendant.)	
_____)	

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17
18 TRANSCRIPT OF PROCEEDINGS

19 STATUS HEARING

20 July 6, 2018

21 9:00 a.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: DEREK DREILING, ESQ.
5 P.O. Box 30083
6 Reno, Nevada

7 For the Defendant:

8 OFFICE OF THE ALTERNATE PUBLIC
9 DEFENDER
10 By: MARC PICKER, ESQ.
11 350 S. Center
12 Reno, Nevada
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1 RENO, NEVADA, July 6, 2018, 9:00 a.m.

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3 --oOo--

4 THE CLERK: Case numbers CR17-0690A, case number
5 CR17-0690B and case number CR17-1127, State versus Katherine
6 Dee Fletcher. Matter set for status hearing. Counsel,
7 please state your appearance.

8 MR. DREILING: Derek Dreiling on behalf of the
9 State.

10 MR. PICKER: Thank you, your Honor. Marc Picker
11 on behalf of Ms. Fletcher, who is present.

12 THE COURT: Good morning to all. Ms. Fletcher,
13 good morning. Again, my name is Egan Walker. I have the
14 privilege of being responsible for all three cases.
15 Mr. Picker, my thanks to you and your office for being here.
16 Given your statement of representation, I assume you are in
17 fact able to accept representation of Ms. Fletcher.

18 MR. PICKER: We are, your Honor. Mr. Dreiling was
19 very pro-active. He provided us, even though there's been
20 some other difficulties that I'll mention in a minute, he's
21 provided a list of all the potential witnesses and parties
22 and we were able to do a conflict check last week, so we are
23 able to represent Ms. Fletcher in all three cases.

24 THE COURT: Thank you for that. I appreciate you

1 stepping in, as it were, in the middle of all three cases.
2 It is simply the best way to put it. We, of course, have
3 three trials set. I assume you would like to weigh in on
4 procedural issues related to that.

5 MR. PICKER: Yes, your Honor. I've talked to Mr.
6 Dreiling about this and as well I've consulted with
7 Ms. Fletcher, we met on Monday and then we discussed it again
8 this morning. Here's my proposal is that I know without a
9 doubt that we will not be ready for a murder trial on
10 September 10th. That goes without saying. That's the easy
11 part of this matter. So I'm going to ask you to vacate that
12 trial date. All the other trial dates, I would ask that you
13 maintain for the time being, and that we come back on
14 July 30th for another status hearing.

15 The reason I say that, your Honor, is even though
16 your Honor issued the order appointing our office about ten
17 days ago, we have not received anything from the Public
18 Defender's Office. We've received no files whatsoever. And
19 I have inquired a few times.

20 I understand there's some logistical issues in
21 them getting us the file, because it's voluminous, but it
22 puts us on the back foot over here on the defense side,
23 Ms. Fletcher and I, because she has an incomplete version of
24 discovery and I have nothing, although the State did release

1 an overwhelming amount of discovery yesterday that we started
2 to download electronically.

3 With that in mind, I believe that I need to have a
4 more complete picture of the case before I can decide the
5 order that I would request the trials to be in and how long
6 each of those would take.

7 If we come back on July 30th, I think I'll have a
8 much more complete picture. We can then speak with some
9 certainty about how we're going to proceed.

10 THE COURT: Thank you, Mr. Picker. Do you want to
11 weigh in in response to that?

12 MR. DREILING: Your Honor, frankly, I have no
13 objection. I think it's a reasonable request.

14 THE COURT: I concur. I simply will indicate --
15 first, let me confirm. Ms. Fletcher, what we're discussing
16 is vacating the trial date currently set for September 10th
17 at 9:30 a.m. on the murder allegations against you. When we
18 vacate it, that means it goes away, and we would have to
19 reset it.

20 Likely, we would have to reset it for a date in
21 the future after July 30th, when according to Mr. Picker's
22 proposal, we would meet again to talk about the dates and
23 times for various trials on the allegations against you. Are
24 you okay with that? Do you agree that we should give your

1 attorney time in order to prepare adequately for your defense
2 and we should vacate the trial date?

3 THE DEFENDANT: I thought that -- are they
4 reinstating my right to a fair and speedy trial? I thought
5 it wasn't up to me.

6 THE COURT: The issue about a speedy trial,
7 whether the trial against you would occur within 60 days,
8 passed two years ago almost. So that issue is long behind
9 us. If there was an error made or problem with it, we're not
10 going to remedy it today. I don't believe there has been any
11 error.

12 The fact of the matter is, long ago your right to
13 a trial within 60 days passed. That is off the table and
14 shouldn't, I suspect or I would recommend not be a part of
15 our conversation today.

16 Instead, again, when we're talking about is this,
17 you asked for and I granted relief of your counsel.
18 Mr. Picker hasn't even received the file yet from the Public
19 Defender's Office. And, Mr. Picker, if you need me to weigh
20 in to incentivize the transfer of that information, I'm happy
21 to do so. I want to be sensitive to the hard work already
22 done and I'm not casting any aspersions, but ten days is
23 plenty long enough and I would expect you to receive that
24 file with alacrity. If you don't and you need my help, let

1 me know.

2 The fact of the matter is he hasn't even gotten
3 the file yet from your former attorneys and I want and I'm
4 sure you want him to be prepared for trial. He
5 understandably is telling me no way that can happen when I
6 don't even have the file yet and we're moving in the middle
7 of July.

8 So I need to know, though, if you're in agreement
9 with all of this. You can say, well, I insist on what you're
10 describing as a speedy trial and we go to trial on
11 September 10th, we would then have to have a different
12 conversation. I likely wouldn't allow that to occur, but I
13 certainly would respect your voice, that, no, I want the
14 trial to go. Do you understand what's going on?

15 THE DEFENDANT: Yes.

16 THE COURT: I'm asking you again, is it okay with
17 you, are you in agreement that we would vacate the trial and
18 reset it for a later date?

19 THE DEFENDANT: Yes.

20 THE COURT: Thank you for that. Do you have any
21 other questions about that before I move on?

22 THE DEFENDANT: No.

23 THE COURT: So I'll grant the request to vacate
24 the trial date for the murder allegations currently set, as I

1 indicated, September 10th. We'll set a -- I'll call it a
2 status hearing for July 30th, as long as we have it.

3 THE CLERK: You're not available, your Honor. I
4 would suggest August 1st if that works with counsel.

5 MR. PICKER: That's fine with me, your Honor.

6 MR. DREILING: I was hoping to avoid that day.
7 There's a slight chance of an out-of-town trip with the wife,
8 but it is slight. We can set it.

9 THE COURT: I note the appearance of Mr. Lee. I
10 suspect being assiduous and I appreciate a good planner that
11 you are, Mr. Dreiling, you're planning for eventual
12 matriculation of this case or these cases to another person
13 possibly. So perhaps Mr. Lee could cover it on that day as
14 well.

15 MR. DREILING: Yes, I assume so.

16 THE COURT: Let's go to that first date.

17 THE CLERK: August 1st at 9:00. If we're vacating
18 the September 9th trial, will we vacate August 31st motion to
19 confirm?

20 THE COURT: Yes, please. I appreciate as well,
21 Mr. Picker, in your request to keep the other trial dates in
22 place, likely you anticipated that would be my preference
23 anyway. I will apply some, I don't mean to apply too much,
24 but I will apply some pressure to maintain those trial dates

1 related, my words, no one else's, collateral charges that
2 have been severed.

3 MR. PICKER: I understand that, your Honor, and I
4 believe the way the trials were set as they stood before you
5 just vacated that trial date was so that they were done in a
6 certain order and that would be strategically that I need to
7 revisit and I need to discuss with Ms. Fletcher once I know
8 more about the case.

9 THE COURT: I will certainly respect your request
10 and hear from the State and proceed at pace. But the request
11 this morning, as I say, as Mr. Dreiling has indicated are
12 reasonable. They are reasonable to me. I appreciate you
13 stepping in. If you need my assistance, as I said, related
14 to the matriculation of the case file information, please let
15 me know.

16 MR. PICKER: Thank you, your Honor. I appreciate
17 it.

18 THE COURT: Is there anything else we need to
19 discuss this morning, gentlemen?

20 MR. DREILING: No, your Honor.

21 THE COURT: One final thing I'd like to discuss
22 before we finish is the current location of Ms. Fletcher's
23 custodial status. She remains at Lakes. That was, as I
24 recall, at the recommendation of Mr. Henson, over the

1 objection of the State, if I recall, I maintained her status
2 at Lakes.

3 The rationale at that time was to prepare for the
4 then upcoming trial or trials in this case and to facilitate
5 or better facilitate Ms. Fletcher's communication with her
6 attorneys. Here's my perspective and then, of course, I want
7 your response, Mr. Picker.

8 Ms. Fletcher is competent, has now been twice
9 found competent to answer these allegations. The resources
10 at Lakes Crossing are limited and should be husbanded closely
11 by all parties to the system. It has not assisted, in fact,
12 to have her at Lakes from where I sit. What I mean by that
13 is her communication with her attorneys, if anything, got
14 worse and not better, notwithstanding the convenience, if you
15 will, of her being at Lakes.

16 So my intention would be return her to the Washoe
17 County Jail, but before I make that decision finally, I want
18 to know your perspective, please.

19 MR. PICKER: First of all, your Honor, it is my
20 understanding that Ms. Fletcher continues to receive
21 treatment while at Lakes and it was their director's
22 recommendation that she stay there to continue that treatment
23 to maintain her, if you will, mental health equilibrium, that
24 Ms. Fletcher has the danger at the jail of decompensating

1 when she does not receive the kind of treatment she does at
2 Lakes. So that was my understanding and it continues to be
3 my understanding.

4 Second of all, as to access to Ms. Fletcher, I
5 will tell you that I visited with her at Lakes Crossing on
6 Monday. I had no difficulty setting up an appointment. I
7 had no difficulty meeting with her alone in a visiting room
8 where we could discuss matters that were confidential.

9 So I don't know what difficulties had been
10 presented to you previously, but I don't -- I have not
11 encountered any. I believe that I can meet with Ms. Fletcher
12 just fine at Lakes. And if it is better for her mental
13 health and in order to be, continue to be competent and
14 continue to be in the right condition for trial, I would
15 prefer that she stay at Lakes.

16 THE COURT: I suspect I wasn't clear. Actually,
17 what I understood the representation of Ms. Nordvig and
18 Ms. Meyer to me to be was that it was easier to see her at
19 Lakes than it is to see her at the jail. So like you, for
20 the reasons you just articulated, they also thought that it
21 enabled more frequent or more easy contact.

22 MR. PICKER: The only thing it does is eliminate
23 iWeb visits, electronic visits over the Internet. But
24 Ms. Fletcher and I actually did discuss that on Monday. We

1 basically set up a meeting schedule that I will come and meet
2 with her every other week. I would meet with her weekly,
3 every other week personally, or every other week iWeb, which
4 is what I normally do in these serious type of cases. I
5 don't think this is an impediment.

6 And I don't know, you know, I had been told by
7 members of the Public Defender's Office that it was difficult
8 to set up meetings at Lakes. I've encountered no difficulty
9 in any of the times I've had clients there.

10 So at the moment, I would like to see it
11 maintained, but I understand your Honor's concern. And if it
12 is continued concern that maybe what we can do is before the
13 August 1st hearing request some kind of a report from the
14 facility itself saying whether their director still believes
15 it is appropriate that she stay there.

16 THE COURT: Do you want to weigh in?

17 MR. DREILING: Yes, your Honor. I did check with
18 Lakes before the last hearing, the Young hearing in this
19 matter. I asked them, frankly, is she getting treatment? Is
20 she getting any better? From an outsider looking in, I know
21 my contact is limited, but what I've seen in court, what I've
22 seen in jail letters or letters to the Court, nothing has
23 changed whatsoever with regard to her. So I said, is she
24 getting better? What's happening? They said, well, that's

1 treatment related. We can tell you that she is getting
2 treatment. Regarding what it is and what its effect is,
3 we're not comfortable saying right now at least to the
4 prosecutor and I understand that.

5 As far as the timing, the complaints I heard from
6 the Public Defender's Office weren't that it was difficult to
7 do occasional short-term ones, but if they needed more than
8 an hour, more than a couple of hours and multiple days in a
9 row, that's where they believed that they were having
10 problems.

11 THE COURT: At Lakes or at the jail?

12 MR. DREILING: At Lakes. That it was more
13 difficult for that. And then I think you guys hit it on the
14 head, or at least Mr. Picker did, I was going to suggest
15 perhaps we have treating physician come in and weigh in on
16 any of those issues at the next hearing. I can't imagine it
17 would take long, and if there's confidences, obviously, the
18 State can step out.

19 THE COURT: Let me offer some reflections to the
20 two of you and then, again, I'll invite your feedback and
21 input. I reread all of the psychiatric and/or psychological
22 evaluations on Ms. Fletcher yesterday and last night and then
23 the transcript of the hearings that were conducted by Judge
24 Flanagan relating to her competence for the purpose of trying

1 to understand, why is she at Lakes, even though I was the one
2 that said she could stay there, again, on Dr. Henson's
3 suggestion. And my understanding of the nature of her
4 psychological and psychiatric challenges is that they trend
5 towards what we formally call axis two, or personality or
6 characterological diagnoses, and not axis one or mental
7 health diagnoses. She does receive some medication that is
8 mood stabilizing, but not necessarily antipsychotic and that
9 there is a therapeutic milieu, my words, at Lakes.

10 Given that her challenges are personality and/or
11 character trait challenges, meaning volitional, more than
12 they are traditional disease related, psychosis related, axis
13 one type, former actual axis one diagnosis related, I
14 questioned my own decision to allow her to stay at Lakes. I
15 sort of felt the way I did, because I want to enable her
16 relationship with her attorney and preparation for very
17 serious charges against her.

18 So I want to strike a balance appropriate to
19 protecting her rights and preparation for trial against the
20 most expensive placement I could put her in and what are we
21 getting for that?

22 Underneath that, Mr. Picker, a reflection I would
23 give to you is this, I have been worried and frustrated in my
24 interactions with Ms. Fletcher that she continually engages

1 in ex-parte communication with the courts, across all of the
2 courts. Despite admonitions from me and others, she files,
3 my words, fugitive documents. I think I have a different
4 perspective than perhaps did Judge Flanagan, because I noted
5 in one of the hearings about her competency, Judge Flanagan
6 actually invited her to correspond with him or to write
7 letters to him. I didn't appreciate that before or notice
8 that before. I don't appreciate that. She's represented by
9 you. She should not lodge anything with the Court, in my
10 view, but through you. And it has gotten worse and not
11 better, that pattern, if you will.

12 In addition, my concern is that she continually
13 advertently or inadvertently reveals confidential
14 communications with her attorneys and I fear with you going
15 forward in those communications. And I fear that by placing
16 her at Lakes, I've enabled that, not chilled it, if you will.

17 So that's a lot to reflect for the two of you.
18 I'm just trying to demonstrate, I want to strike the
19 appropriate balance, but for the right reasons, and I want to
20 make sure it's actually helping. Your thoughts.

21 MR. PICKER: Your Honor, I think a couple of
22 things. One is that in reviewing what's in the Court's
23 record, which is pretty much all I've had access to, a lot of
24 Ms. Fletcher's correspondence really does relate to her

1 unhappiness with prior counsel. That hopefully is now set
2 aside and we're starting fresh.

3 Second of all, I guess I would offer to you that
4 communication with the Court is actually easier from the jail
5 than it is from Lakes, because at the jail all they have to
6 do is get on the kiosk and send an e-mail and it comes to the
7 Court. So I don't know that you eliminate that issue by
8 sending her to the jail.

9 My concern, really, is in my dealings with the
10 jail and I think that while the medical services there are
11 adequate, the mental health services do not always meet that
12 same level of being adequate. I think your Honor has a lot
13 of experience through your prior stint on the family court
14 and now here is that the jail is just not equipped to handle
15 people with either personality related issues or mental
16 health issues. They're just, because of the numbers and
17 because of the situation, they're just not equipped for that.

18 I have a real concern, a serious concern about
19 somebody in Ms. Fletcher's position decompensating in a jail
20 atmosphere when she is receiving active treatment at Lakes,
21 because she will not receive active treatment at the jail.
22 She may receive those medications. And I say may, because
23 they don't always do that either. And that's a concern for
24 me.

1 So that's why I said, and that's why I stand by my
2 recommendation, is either as Mr. Dreiling said have one of
3 the doctors from Lakes come and tell us about it, or have
4 them provide a report that is confidential to the Court and
5 then the Court can decide how to disseminate it. But at
6 least that way, we get a better picture, because, quite
7 frankly, both Mr. Dreiling and I are standing here shooting
8 in the dark. And that's kind of where we're at.

9 THE COURT: I appreciate that. I think that's
10 actually the most cogent observation you both are offering to
11 me. Here's where I'm at, I'll indicate that she may remain
12 in her current placement until August 1st. I'll direct that
13 you communicate, Mr. Picker, with her treatment providers
14 that I want a report in camera to the Court prior to that
15 date about the specific medications and treatment she's
16 receiving and which if any of those cannot be provided at the
17 Washoe County Jail and why, if the treatment providers know.
18 I realize the treating psychiatrist may not know why the jail
19 can or can't, for example, as a financial matter provide
20 certain treatment.

21 But I want you to hear me to say, Ms. Fletcher,
22 this, being at Lakes Crossing is privilege to you that may be
23 reflective of needs you have, but also may be simply the
24 place you want to be. And I will not continue your placement

1 there if your behavior continues to be poor. More
2 specifically, if you continue to correspond with the Court
3 against your attorney's advice, which has repeatedly happened
4 in this and other cases, or things that are within your
5 control continue to happen that shouldn't, I will revisit
6 your placement having decided that the risk and benefit of
7 your placement no longer weighs towards continuing your
8 placement at Lakes.

9 You don't need to respond. I invite you to speak
10 privately and candidly with your attorney Mr. Picker about
11 it. I really don't want you to respond right now to me. I
12 just want you to know what I'm thinking.

13 I look forward to a report on August 1st. We'll
14 revisit, whatever else we do, the issue of where her
15 continued placement will be at that time.

16 That was all that I wanted to bring. One more
17 time, anything else, gentlemen, from you?

18 MR. DREILING: No, your Honor.

19 MR. PICKER: No, your Honor. Thank you.

20 THE COURT: Good day to you all. Thank you for
21 your time.

22 --oOo--
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24

1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on July 6, 2018, at the hour of 9:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the status hearing in the matter of THE STATE OF
10 NEVADA, Plaintiff, vs. KATHERINE DEE FLETCHER, Defendant,
11 Case No. CR17-0690A, CR17-0690B and CR17-1127, and
12 thereafter, by means of computer-aided transcription,
13 transcribed them into typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 19, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 24th day of July 2018.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

1 Code 2180
2 MARC PICKER, BAR #3566
3 WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
4 BILL HART, BAR #11986
5 DEPUTY ALTERNATE PUBLIC DEFENDER
6 P.O BOX 11130
7 RENO, NV 89520
8 (775) 328-3955
9
10 COUNSEL FOR DEFENDANT
11 KATHERINE DEE FLETCHER
12

13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
14 **IN AND FOR THE COUNTY OF WASHOE**

15 ***

16 THE STATE OF NEVADA,

17 Plaintiff,

Case No. CR17-0690A, CR17-0690B,
CR17-1127

18 v.

19 KATHERINE DEE FLETCHER

Dept. No. 7

20 Defendant,
21
22 _____/

23 **MOTION TO RECUSE**

24 Defendant KATHERINE DEE FLETCHER, by and through counsel above-named, hereby
25 moves for recusal of the honorable District Judge Egan Walker from further involvement in the
26 above listed matters. This motion is made and based upon the Nevada Code of Judicial Conduct, the
27 United States Constitution, and the following points and authorities.

28 **MEMORANDUM OF POINTS AND AUTHORITIES**

BACKGROUND

Defendant Katherine Dee Fletcher is currently charged with the alleged July 28, 2016, murder
with a deadly weapon of Robert Trask. Ms. Fletcher is also charged with Burglary in possession of a
Firearm and Grand Larceny of a Firearm from Jesse Henslee on or about January 14, 2014.

1 Separate and apart from these two charges, Ms. Fletcher is also involved in a guardianship
2 case, case number GR15-00192, with her two minor children and their current court appointed Co-
3 Guardians, Michael and Brandi Jorgenson. At the time of the original petition of that guardianship
4 until around December 2017, District Judge Egan Walker was the judicial officer presiding in that
5 case.

6 In December 2017, Governor Brian Sandoval appointed Egan Walker to Department Seven of
7 the Second Judicial District Court to replace the late Chief Judge Patrick Flanagan on the general
8 jurisdiction bench. Judge Walker had previously been a family court judge presiding over
9 Department Two of the Second Judicial District Court since 2011.

10 Throughout the entirety of GR15-00192, Judge Walker was personally involved with Ms.
11 Fletcher's family court cases, which involved a number of motions and orders.

12 Judge Walker was also involved in Ms. Fletcher's Child Protective Services (CPS) case, case
13 number JV10-00351A from the most recent removal of children from her custody until his
14 appointment to Department Seven in December 2017.

15 **POINTS AND AUTHORITIES**

16 Ms. Fletcher is protected, as an accused in a criminal case, by the Constitutions of the United
17 States and the State of Nevada. Fundamentally, she has the right to due process, to a fair trial by
18 jury, and effective assistance of counsel. One of the cornerstones of the adversary system is that the
19 opponent is the state and the Court is a neutral party. As a neutral party, the Court should only apply
20 and know the facts as presented in open court with the proper protections put in place to protect the
21 accused from evidence of bias from coming into play.

22 Rule 2.11 of the Revised Nevada Code of Judicial Conduct (NCJC) provides the framework for
23 when a judicial officer should be disqualified.¹ Within this framework the language specifically

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28 ¹ **Rule 2.11. Disqualification.**

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

1 states that a judicial officer shall disqualify himself in any proceeding in which the judge's
2 impartiality might reasonably be questioned. This language is important because it does not require
3 proof of actual bias or prejudice to the defendant, but simply a showing that the impartiality might
4 reasonably be questioned by the defendant. Ms. Fletcher reasonably believes that Judge Walker's
5 previous history with her creates the air of partiality and therefore he should recuse himself from the
6 current cases before him.

8 **Factual Assertions**

9 Ms. Fletcher realizes that in many counties throughout the country there may be only a single
10 judicial officer available to preside over every case a defendant may have, regardless of the
11 confidential nature of those other cases. But, Washoe County is not one of those counties and as such
12

13
14 (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

15 (2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

- 16 (a) a party to the proceeding or an officer, director, general partner, managing member, or trustee of a party;
17 (b) acting as a lawyer in the proceeding;
18 (c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or
19 (d) likely to be a material witness in the proceeding.

20 (3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

21 (4) [Reserved.]

22 (5) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

23 (6) The judge:

24 (a) served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

25 (b) served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

26 (c) was a material witness concerning the matter; or

27 (d) previously presided as a judge over the matter in another court.

28 (B) A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court staff, court officials and others subject to the judge's direction and control, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court staff, court officials and others subject to the judge's direction and control, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

1 recusals in Washoe County is a more readily available remedy than if Ms. Fletcher was in another
2 jurisdiction.

3 In the instant case, Judge Walker has made certain comments during certain proceedings that
4 reasonably raise the question of whether his past involvement in Ms. Fletcher's cases has tainted or
5 skewed his current outlook on Ms. Fletcher's innocence. Most notably, this was evident during a
6 recent *Young* hearing in which Judge Walker admonished Ms. Fletcher, and lectured her applying
7 information gained during his previous involvement in her family court matters. (See, transcript
8 excerpt 1, of the sealed hearing of June 7, 2018, in the sealed Exhibit to Motion filed
9 contemporaneously with this Motion.)
10

11 This exchange with Ms. Fletcher is indicative that Judge Walker considering matters from
12 unrelated cases (cases that are confidential in nature and not even available to her current defense
13 counsel) to play a factor in his decision making as Ms. Fletcher's current judicial officer – in what he
14 has described as the most serious criminal allegations that could be lodged against someone.
15 Regardless of whether Judge Walker holds any actual prejudicial or unfair bias against Ms. Fletcher,
16 comments such as ones he has made cause one to reasonably question whether Judge Walker could
17 actually separate his prior judicial position in Ms. Fletcher's CPS case from the current unrelated
18 criminal charges.
19

20 Judge Walker also indicated that he took "umbrage" with the allegations that Ms. Fletcher had
21 made against her previous attorneys. While only a minor detail in the *Young* hearing, it is a detail
22 that again sheds light on the relationship that Judge Walker and Ms. Fletcher have cultivated over the
23 many years they have been intertwined and again could cause a reasonable person to believe that a
24 prejudice or bias may be present.
25

26 Not only has Judge Walker clearly indicated his prior experience is currently affecting his role
27 when considering her case, he also suggested that he has had long-term questions about her
28 competency based on those prior interactions. (See, transcript excerpt 2, of the sealed hearing of June

1 7, 2018, in the sealed Exhibit to Motion filed contemporaneously with this Motion.) Judge Walker
2 was referring to the requests by Ms. Fletcher’s previous attorneys that she undergo multiple
3 competency evaluations, implying that – based upon his previous knowledge – if they had not made
4 such requests, that he would have considered their representation to be incompetent. This is another
5 clear indication that Judge Walker is unable to be a neutral magistrate and put aside previous
6 interactions with Ms. Fletcher in order to render unbiased judicial decisions in her current cases.
7

8 Judge Walker was also the presiding judge in a guardianship case involving Ms. Fletcher, case
9 number GR15-00192. In an Order Denying Motion to Modify Visitation entered on February 1,
10 2017, ruled that Ms. Fletcher had used her son “to lure the alleged victim to a park where she
11 allegedly killed him in front of Max.” Despite there having been no evidence presented to the Court
12 regarding this allegation, Judge Walker has already ruled that such an allegation is a proven fact such
13 as to be used in denying a motion brought by Ms. Fletcher. Judge Walker has already made a factual
14 ruling – for which no evidence was ever presented – and there is little reason to believe he could
15 divorce his own judicial rulings in that previous case from the current matters to which Ms. Fletcher
16 is currently facing trial.
17

18 Legal Analysis

19 NRS 1.230 provides that a judge may be disqualified for bias or prejudice against a party,
20 whether such bias or prejudice be actual or implied. The statute provides the framework for
21 determining the existence of implied bias, which exists when the judge is interested in the action, is
22 related to either party, has been attorney for either party in the action, or is related to an attorney for
23 either party. ²
24
25

26 **2 NRS 1.230 Grounds for disqualifying judges other than Supreme Court justices or judges 27 of the Court of Appeals.**

28 1. A judge shall not act as such in an action or proceeding when the judge entertains actual bias
or prejudice for or against one of the parties to the action.

2. A judge shall not act as such in an action or proceeding when implied bias exists in any of
the following respects:

1 Until recently, Nevada had been among a small minority of states that interpreted recusal
2 through the doctrine of “duty to sit,” which only allowed recusal in cases for the most egregious bias.
3 This interpretation varies from nationwide practices that follows a more general “presumption of
4 disqualification” in cases of *perceived* or *potential* (as opposed to actual) bias. Most of this “duty to
5 sit” doctrine flows from the *Ham v. Eighth Judicial District Court*, 93 Nev. 409 (Nev. 1977) in
6 which the Nevada Supreme Court found that a district court judge could not voluntarily disqualify
7 himself from a case absent a judicially warranted reason. This strict interpretation of when it would
8 be proper for a judge to recuse himself that was later expounded upon in *Cooper v. State*, 127 Nev.
9 1127 (Nev. 2011) in which the Supreme Court found that recusal would be proper when there is
10 evidence of potential bias, not just actual.
11

12 In *Caperton v. A.T. Massey Coal Company*, 556 U.S. 868 (2009), the United States Supreme
13 Court found that Due Process considerations often require recusal in cases of *potential* bias or undue
14 influence, a holding that runs counter to Nevada’s *Ham* decision. The United States Supreme Court
15 found that recusal is proper and necessary when the “probability of actual bias on the part of the
16 judge or decision maker is too high to be constitutionally tolerable.” Under such a standard, the
17 “Court asks not whether the judge is **actually, subjectively biased, but rather whether the average**
18 **judge in his position is “likely” to be neutral, or whether there is an unconstitutional “potential**
19 **for bias.”**³ (Emphasis added). This standard was reflected in the NCJC revised rules adopted in
20 2009, the same year of this holding.
21
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23

-
- 24 (a) When the judge is a party to or interested in the action or proceeding.
25 (b) When the judge is related to either party by consanguinity or affinity within the third degree.
26 (c) When the judge has been attorney or counsel for either of the parties in the particular action
27 or proceeding before the court.
28 (d) When the judge is related to an attorney or counselor for either of the parties by
consanguinity or affinity within the third degree. This paragraph does not apply to the presentation of
ex parte or uncontested matters, except in fixing fees for an attorney so related to the judge.

³ *Id* at 879

1 The test for determining if disqualification is warranted is an objective one.⁴ The court
2 determines as a matter of law “whether a reasonable person, knowing all the facts, would harbor
3 reasonable doubts” about the judge’s impartiality.⁵ Because the test is objective, the judge’s actual
4 or self-perceived impartiality is not material.⁶ “The objective standard not only ignores the judge’s
5 personal view of his own impartiality, but it also ignores the litigants’ necessarily partisan views.
6 Further, disqualification must be factually necessary *and not based on mere speculation.*”⁷

8 The Due Process Clause of the United States Constitution guarantees the right to a fair trial
9 before a fair tribunal.⁸ Bias is easy to attribute to others and difficult to discern in oneself. To
10 establish an enforceable and workable framework, the United States Supreme Court's precedents
11 apply an objective standard that, in the usual case, avoids having to determine whether actual bias is
12 present. The question is not whether a judge harbors an actual, subjective bias, but whether – as an
13 objective matter – “the average judge in his position is ‘likely’ to be neutral, or whether there is an
14 unconstitutional potential or bias.” *Williams v. Pennsylvania*, 136 U.S. 1899 (2016)⁹

16 The Due Process Clause guarantees the right to a fair trial before a fair tribunal.¹⁰ Due Process
17 will compel disqualification, *even when proof of actual bias is absent*, if a court objectively
18 determines the probability of actual bias is too high to ensure the protection of a party’s due process
19 rights.¹¹

24 ⁴ *PETA v. Bobby Beronsini, Ltd.*, 111 Nev. 431

25 ⁵ *Id.* at 438

26 ⁶ *Id.* at 436

27 ⁷ *Id.* at 437 (emphasis added)

28 ⁸ *Caperton.* at 876

⁹ Citing *Caperton* at 881

¹⁰ *In re Murchison*, 349 U.S. 133

¹¹ *Ivey v. District Courts*, 129 Nev. 154

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Judge Walker was the family court judge in Ms. Fletcher's guardianship case in which he found to be true alleged facts and elements of the crime not presented to him. Judge Walker also presided over Ms. Fletcher's CPS case in which highly confidential information was disseminated to the Court, all of which is unavailable to Ms. Fletcher's current defense counsel based on the confidentiality of those proceedings. Judge Walker has made statements during this case to Ms. Fletcher and her prior counsel which imply his personal opinions as to Ms. Fletcher's mental health. All of these factors together create a reasonable implication that Judge Walker cannot be a neutral judicial officer in the pending cases against Ms. Fletcher.

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2 **AFFIRMATION PURSUANT TO NRS 239B.030**

3 The undersigned does hereby affirm that the preceding document does not contain the social
4 security number of any person.

5 Respectfully submitted July 30, 2018.

6 Washoe County Alternate Public Defender

7 By: /s/ Marc Picker

8 MARC PICKER, ESQ.
9 Alternate Public Defender

10
11 By: /s/ Bill Hart

12 BILL HART, ESQ.
13 Deputy Alternate Public Defender

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Alternate Public Defender, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit either for mailing in the U.S. Mail, with postage fully prepaid, or by interoffice mail, or court-run delivery where indicated, a true and correct copy of foregoing document to the following:

Derrick Dreiling
Chief Deputy District Attorney
Via Electronic filing

DATED this 30th day of July, 2018.

/s/ Randi M. Jensen

RANDI M. JENSEN

INDEX OF EXHIBITS

Exhibit No.	Description	No. of Pages
1	Excerpt 1	1

EXHIBIT 1

EXHIBIT 1

EXCERPT 1

“Do you understand that your competency was appropriately questioned in this case? Let me say it a different way, and, again, for the purposes of this confidential record, you and I benefit from the fact that we’ve known each other for a couple of years in the context of this and the child welfare case. **And given my knowledge of you behavior in the child welfare case, your competency should have been questioned.** I mean no unkindness to you. I mean in no way to be disparaging to you. Mental health is an illness just like anything else can be an illness. **And I questioned as your presiding judge in the child welfare case your competency, let alone your competency in a – in the context of the most serious criminal allegations that can be lodged against a human being.**”

Transcript of proceedings on June 7, 2018, Page 25-26 (emphasis added).

EXCERPT 2

“Had she not sought to evaluate mental health issues and/or competency issues, it would have been patently incompetent by her and Ms. Meyer to do so.”

Transcript of proceedings on June 7, 2018, Page 26 (emphasis added) .

1 Code 1075
2 MARC PICKER, BAR #3566
3 WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
4 BILL HART, BAR #11986
5 DEPUTY ALTERNATE PUBLIC DEFENDER
6 P.O BOX 11130
7 RENO, NV 89520
8 (775) 328-3955
9 COUNSEL FOR DEFENDANT
10 KATHERINE DEE FLETCHER
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18 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

19 **IN AND FOR THE COUNTY OF WASHOE**

20 ***

21 THE STATE OF NEVADA,

22 Plaintiff,

Case No. CR17-0690A, CR17-
0690B, CR17-1127

23 v.

24 KATHERINE DEE FLETCHER

Dept. No. 7

25 Defendant,
26 _____/

27 **AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION TO RECUSE PURSUANT**
28 **TO NRS 1.235**

29 COMES NOW, Washoe County Alternate Public Defender Marc Picker, attorney of
30 record for Defendant KATHERINE DEE FLETCHER, and respectfully submits this Affidavit
31 as follows:

- 32 1. I represent Katherine Dee Fletcher in Case Numbers CR17-0690A, CR17-0690B, and
33 CR17-1127 in the Second Judicial District Court.
- 34 2. My first appearance on the record was July 6, 2018.

1 3. That the Motion for Recusal was based upon a review of the record, conversations with
2 Ms. Fletcher, the Defendant, and a review of other ancillary cases involving both Ms.
3 Fletcher and District Judge Egan Walker.

4 4. That based upon that review and conversations with Ms. Fletcher, it was appropriate to
5 file a motion to recuse Judge Walker pursuant to NRS 1.235 and the Revised Nevada
6 Code of Judicial Conduct.

7
8 5. That I am informed and do believe that all the factual allegations contained in the
9 Motion for Recusal are true and correct to the best of my knowledge and ability.

10 6. That the Motion for Recusal and this affidavit are filed in good faith and not for the
11 purposes of delay.

12 I declare under penalty of perjury that the foregoing is true and correct.

13 EXECUTED this 1st day of August 2018, Reno, Nevada.

14
15 By 
16 MARC PICKER, ESQ.

17 SUBSCRIBED AND SWORN to before me

18 this 1st day of August, 2018.

19 
20 NOTARY PUBLIC



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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 1st day of August, 2018.

Washoe County Alternate Public Defender	Washoe County Alternate Public Defender
By: <u>/s/ Bill Hart</u>	By: <u>/s/ Marc Picker</u>
BILL HART	MARC PICKER
Deputy Alternate Public Defender	Alternate Public Defender

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Washoe County Alternate Public Defender's Office, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit for mailing in the U.S. Mail, with postage fully prepaid, or by interoffice mail, or by court-run delivery, or facsimile, or e-filing where indicated, a true and correct copy of the foregoing document to the following:

Washoe County District Attorney's Office
Via E-filing

DATED this 1st day of August, 2018.

/s/ Randi M. Jensen
RANDI M. JENSEN

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IN THE FAMILY DIVISION
IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

vs.

KATHERINE DEE FLETCHER,

Defendant.

Case No. CR17-0690A, CR17-0690B, CR17-1127

Dept. No. 7

ADDENDUM TO RESPONSE TO MOTION FOR DISQUALIFICATION

Upon review of the advanced opinion released on this date in *Rippo v. State*, 134 Nev. Adv. Op. 53626 (Aug. 02, 2018), the undersigned observes that a new standard is to be used when determining judicial bias. The standard is no longer whether the evidence of a complaint demonstrates actual bias, but "whether considering all the circumstances alleged, the risk of bias was too high to be constitutionally tolerable." *Rippo v. State*, 134 Nev. Adv. Op. 53626 (citing *Rippo v. Baker*, 580 U.S. ___, 137 S. Ct. 905 (2017)).

1 Even in light of the new and/or refined standard, it is apparent that the statements
2 and actions complained of by Ms. Fletcher do not demonstrate a risk of bias that is
3 constitutionally intolerable. At best, she seeks to project her subjective view of
4 "unfavorable" comments and/or rulings onto the undersigned and then to create from
5 that projection an appearance of bias or prejudice.

6 For all of the foregoing reasons, Defendant's Motion for Recusal should be denied.

7 Pending resolution, this matter is referred the Chief Judge Scott Freeman for further
8 proceedings pursuant to NRS 1.235(6).

9 THE UNDERSIGNED DOES HEREBY AFFIRM, UNDER PENALTY OF PERJURY,
10 THAT ALL OF THE ASSERTIONS IN THIS RESPONSE ARE TRUE AND CORRECT TO
11 THE BEST OF HIS KNOWLEDGE.

12 Dated: August 2, 2018

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15 _____
16 Egan K. Walker
17 District Court Judge
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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court, and that on the 2 day of August, 2018, I electronically filed the foregoing with the Clerk of the Court System which will send a notice of electronic filing to the following:


Document: ADDENDUM TO RESPONSE TO MOTION FOR DISQUALIFICATION

Mark Picker, Esq.

Derek Dreiling, Esq.

Chief Judge Scott Freeman

* Interoffice Mail


Administrative Assistant

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**IN THE FAMILY DIVISION
IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE**

THE STATE OF NEVADA,

Plaintiff,

vs.

KATHERINE DEE FLETCHER,

Defendant.

Case No. CR17-0690A, CR17-
0690B, CR17-1127

Dept. No. 7

RESPONSE TO MOTION FOR DISQUALIFICATION

The undersigned has reviewed Defendant Katherine Dee Fletcher's ("Ms. Fletcher") Motion to Recuse Judge Walker, filed on July 30, 2018, the Exhibits filed with the Motion, as well as all of the papers and pleadings on file in this action, and now responds to the Motion to Recuse as follows:

FACTUAL BACKGROUND

Ms. Fletcher is currently charged with murder with the use of a deadly weapon related to the death of Robert Trask on July 28, 2016. Robert Trask was the father of Ms. Fletcher's two minor children, Max Trask and Bay Trask. Ms. Fletcher is also separately

1 charged with Burglary in Possession of a Firearm and Grand Larceny of a Firearm from
2 Jesse Henslee on or about January 14, 2014.

3 Judge Walker was appointed to the Second Judicial District Court, Department
4 Two, in March 2011 by Governor Brian Sandoval. In that Department, Judge Walker most
5 recently presided over minor guardianships, child dependency, juvenile delinquency and
6 the Project One dockets. In those assignments, Judge Walker oversaw custody matters
7 involving Ms. Fletcher's children: a guardianship case for Bay, and a child dependency
8 case for Max. Ms. Fletcher appeared before Judge Walker at a variety of hearings in those
9 cases.

10 In December 2017, Governor Sandoval appointed Judge Walker to Department
11 Seven of the Second Judicial District Court after the untimely death of Chief Judge Patrick
12 Flanagan. Ms. Fletcher's current criminal cases were already assigned to Department
13 Seven, and are, therefore, now in front of Judge Walker.

14 Ms. Fletcher appeared before Judge Walker, in Department Seven, on January 23,
15 2018 for a competency hearing, which was continued to January 29, 2018. On January 29,
16 2018, Judge Walker found Ms. Fletcher to be competent. (Ms. Fletcher currently is housed
17 at Lake's Crossing, and her competency has been evaluated by no less than seven different
18 professionals in the criminal cases alone.) On April 4, 2018, Judge Walker entered a Third
19 Order of Competency, finding Ms. Fletcher competent to proceed in her criminal cases.
20 (No comment or complaint was timely offered regarding alleged biases by Judge Walker.)
21 On June 7, 2018, Judge Walker held a hearing pursuant to *Young v. State*, 120 Nev. 963
22 (2004), and on June 25, 2018, entered an Order Granting Discharge of Attorney. The Court
23 held a status hearing on July 6, 2018, in which Ms. Fletcher was represented by the
24 Alternate Public Defender, Marc Picker.

25 Now that replacement council has appeared, Ms. Fletcher alleges that Judge
26 Walker's oversight of her cases in the family court, and her criminal cases in the general
27 jurisdiction, has rendered Judge Walker unable to remain impartial or unbiased in her
28

1 criminal cases. Ms. Fletcher outlines situations that she believes reflect Judge Walker's
2 bias against her. They are as follows:

- 3 1. In case GR15-00192, an Order Denying Motion to Modify Visitation states, "Ms.
4 Fletcher allegedly used her son and Bay's older brother, Max, to lure the alleged
5 victim to a park where she allegedly killed him in front of Max." See Order
6 Denying Motion to Modify Visitation, p. 4.
- 7 2. Judge Walker "admonished" Ms. Fletcher for speaking about her case before
8 the Court against the wishes of her counsel.
- 9 3. Judge Walker took "umbrage" with certain allegations Ms. Fletcher made
10 against her previous attorneys.
- 11 4. Judge Walker indicated that he had questions regarding her competency to
12 stand trial based on his interactions with her in the family court.

13 Ms. Fletcher filed a Motion to Recuse Judge Walker on July 30, 2018. She states that
14 Judge Walker has made comments during certain proceedings that Ms. Fletcher believes
15 show a skewed outlook on her innocence.

16 LEGAL STANDARDS

17 I. General legal standards and procedure for disqualification

18 The statutory grounds for disqualification are described in NRS 1.230:

- 19 1. A judge shall not act as such in an action or proceeding when the judge
20 entertains actual bias or prejudice for or against one of the parties to the action.
- 21 2. A judge shall not act as such in an action or proceeding when implied bias exists
22 in any of the following respects:
 - 23 (a) When the judge is a party to or interested in the action or proceeding.
 - 24 (b) When the judge is related to either party by consanguinity or affinity within the
25 third degree.
 - 26 (c) When the judge has been attorney or counsel for either of the parties in the
27 particular action or proceeding before the court.
 - 28 (d) When the judge is related to an attorney or counselor for either of the parties by
consanguinity or affinity within the third degree. This paragraph does not apply to
the presentation of ex parte or uncontested matters, except in fixing fees for an
attorney so related to the judge.

Any party to an action pending in any court other than the Supreme Court may
seek to disqualify a judge. A party who seeks to disqualify a judge for actual or implied

1 bias or prejudice must file an affidavit specifying facts upon which the disqualification is
2 sought and a certificate of the attorney of record that the affidavit is filed in good faith and
3 not interposed for delay. NRS 1.235(1). The affidavit must be filed not less than twenty
4 (20) days before the date set for trial or hearing of the case or not less than three (3) days
5 before the date set for the hearing of any pretrial matter, and the affidavit must be served
6 upon the judge sought to be disqualified. NRS 1.235 (1)(a), (4). Thereafter, the judge shall
7 file a written answer with the clerk of the court within five (5) judicial days after the
8 affidavit is filed or immediately transfer the case to another department of the court. NRS
9 1.235(5)(b). If the judge files a written answer to the parties' affidavit, the question of the
10 judges' disqualification must thereupon be heard and determined by another judge agreed
11 upon by the parties or by a judge appointed by the presiding judge of that judicial district.
12 See NRS 1.235(5)(b).

13 Even after the deadline has passed to file a motion to disqualify under NRS 1.235, a
14 party may file a motion to disqualify based on NCJC 1.2 as soon as possible after becoming
15 aware of new information. *Towbin Dodge, LLC v. District Court*, 121 Nev. 251, 260, 112 P.3d
16 1063, 1069 (2005). The motion must set forth facts and reasons sufficient to cause a
17 reasonable person to question the judge's impartiality, and the challenged judge may
18 contradict the motion's allegations. *Id.* The motion must then be referred to another judge
19 for decision on the disqualification. *Id.*

20 Under NCJC 1.2, the test for an appearance of impropriety is whether the conduct
21 alleged would "create in reasonable minds a perception that the judge violated this Code
22 or engaged in other conduct that reflects adversely on the judge's honesty, impartiality,
23 temperament, or fitness to serve as a judge." NCJC 1.2, Comment 5. This objective
24 standard not only ignores the judge's personal view of his own impartiality but also
25 ignores the litigants' necessarily partisan views. See *PETA v. Bobby Berosini, Ltd.*, 111 Nev.
26 431, 437, 894 P.2d 337, 341 (1995) (citation omitted), (emphasis added). Disqualification
27 based on subjective reasons, including a judge's personal bias or prejudice, is very limited
28 as a consequence. The Supreme Court of Nevada has concluded that a judge is presumed

1 to be unbiased, and generally the attitude of a judge toward, for example, a party or their
2 attorney is largely irrelevant. See *Millen v. District Court*, 122 Nev. 1245, 148 P.3d 694 (2006)
3 (quoting *Las Vegas Downtown Redev. Agency v. Hecht*, 113 Nev. 632, 635, 940 P.2d 127, 128
4 (1997)). "[D]isqualification for personal bias requires 'an extreme showing of bias [that]
5 would permit manipulation of the court and significantly impede the judicial process and
6 the administration of justice.'" *Id.* at 1254-1255.

7 Further, the bias must arise from an outside source, separate and apart from the
8 legal proceedings over which the judge has presided. *Matter of Dunleavy*, 104 Nev. 784,
9 789-790, 769 P.2d 1271, 1275 (1988) (citing *United States v. Board of Sch. Comm'rs*, 503 F.2d
10 68, 81 (7th Cir. 1974), *cert denied*, 439 U.S. 824, 99 S.Ct. 93, 58 L.Ed.2d 116) (stating rulings
11 and actions of a judge during the course of official judicial proceedings do not establish
12 legally cognizable grounds for disqualification). "The personal bias necessary to
13 disqualify must stem from an extrajudicial source and result in an opinion on the merits
14 on some basis other than what the judge learned from his participation in this case.'" *Id.* at
15 789 (quoting *United States v. Beneke*, 449 F.2d 1259, 1260-61 (8th Cir. 1971)). A Judge has a
16 constitutional duty to sit, and an allegation of bias based on a Judge performing this duty
17 "would nullify the court's authority and permit manipulation of justice, as well as the
18 court." *Id.* at 790 (citing *State v. Rome*, 235 Kan. 642, 685 P.2d 290, 295-296 (1984)).

19 **II. Overarching Duty to Sit**

20 The undersigned has an affirmative "duty to sit" in this matter, and a judge has as
21 great an obligation not to disqualify himself when there is no occasion to do so as he has to
22 do so in the presence of valid reasons. *Goldman v. Bryan*, 104 Nev. 644, 649, 764 P.2d 1296,
23 1299 (1988); *Laird v. Tatum*, 409 U.S. 824 (1972); see also *Ham v. District Court*, 93 Nev. 409,
24 566 P.2d 420 (1977).

25 This duty is mirrored by the practical reality that in nine of the eleven judicial
26 districts in Nevada, only one or at most two judges hear every single case, no matter the
27 civil, criminal or family nature of jurisdiction, in the county in which they preside. Judges
28 Montero, Stockard and Shirley hear every single District Court case in their respective

1 counties. If Ms. Fletcher's complaints had merit and were taken to their logical extreme,
2 she would be entitled to a new judge for every single new civil or criminal matter in which
3 she becomes involved. The Second Judicial District Court has a one defendant/one judge
4 policy reflecting similar realities, which would likewise run afoul of the logical
5 underpinnings of her argument.

6 **III. Burden of Proof; Discretion Given to Court's Decision**

7 The decision by a judge not to recuse himself voluntarily is given "substantial
8 weight" and will be affirmed absent an abuse of discretion. *Kirksey v. State*, 112 Nev. 980,
9 923 P.2d 1102 (1996). "Under [such] circumstances a judge is presumed not to be biased,
10 and the burden is on the party asserting the challenge to establish sufficient factual
11 grounds warranting disqualification." *PETA v. Bobby Berosini, Ltd.*, 111 Nev. 431, 437, 894
12 P.2d 337, 341 (1995).

13 Moreover, as noted by the Supreme Court of Nevada, factual grounds sufficient for
14 disqualification do not include "[r]umor, speculation, beliefs, conclusions, innuendo,
15 suspicion, opinion, and similar non-factual matters." *Rippo v. State*, 113 Nev. 1239, 1248,
16 946 P.2d 1017, 1024 (1997) (citation omitted).

17 In addition to the grounds set forth at NRS 1.230, the Nevada Code of Judicial
18 Conduct has been recognized as providing substantive grounds for judicial
19 disqualification. *PETA* at 435-436. NCJC 1.2 provides, for example, that "[a] judge shall
20 act at all times in a manner that promotes public confidence in the independence, integrity,
21 and impartiality of the judiciary and shall avoid impropriety and the appearance of
22 impropriety." NCJC 2.11(A) requires a judge to disqualify himself from any case in which
23 the "judge's impartiality might reasonably be questioned."

24 A questioned judge is presumed to be impartial, and the burden is on the party
25 moving for disqualification to establish sufficient factual grounds warranting
26 disqualification. *Ybarra v. State*, --- Nev. ---, ---, 247 P.3d 269, 272 (2011) (quoting *Goldman*
27 *v. Bryan* *Goldman v. Bryan*, 1044 Nev. 644, 649, 764 P.2d 1296, 1299 (1988)).
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ANALYSIS

I. Ms. Fletcher's Motion to Recuse is Procedurally Improper Pursuant to NRS 1.230 and NRS 1.235

Ms. Fletcher's Motion to Recuse is procedurally improper pursuant to NRS 1.235(1)(b), which instructs:

Any party to an action or proceeding pending in any court other than the Supreme Court or the Court of Appeals, who seeks to disqualify a judge for actual or implied bias or prejudice must file an affidavit specifying the facts upon which the disqualification is sought. The affidavit of a party represented by an attorney must be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith and not interposed for delay. Except as otherwise provided in subsections 2 and 3, the affidavit must be filed: (a) Not less than 20 days before the date set for trial or hearing of the case; or (b) Not less than 3 days before the date set for the hearing of any pretrial matter.

(Emphasis added).

Pursuant to NRS 1.235(1)(b), the Motion to Recuse is improper because it was filed less than two days before a scheduled pre-trial status hearing, about which Ms. Fletcher had proper notice through counsel. At the hearing where current counsel first appeared, the Court set a status hearing for August 1, 2018 at 9:00 a.m. in these matters. Ms. Fletcher's Motion to Recuse was filed on July 30, 2018 at 4:50 p.m., less than forty-eight hours before the status hearing. It was only in preparation for that status hearing that the undersigned became aware of the instant motion.

Further, the Motion to Recuse has yet to be properly served upon Judge Walker. NRS 1.235(4) requires: "At the time the affidavit is filed, a copy must be served upon the judge sought to be disqualified. Service must be made by delivering the copy to the judge personally or by leaving it at the judge's chambers with some person of suitable age and discretion employed therein." Although the Motion to Recuse was filed on July 30, 2018, the motion has not been served upon Judge Walker.

1 Accordingly, Ms. Fletcher's Motion to Recuse should be denied based upon the
2 procedural errors which accompany the mechanics of her filing.

3 Out of an abundance of caution given the serious nature of the allegations against
4 Ms. Fletcher, and to avoid unnecessary delay, the undersigned elects to answer the merits
5 of the allegations should a reviewing authority choose to assess them.

6 **II. Ms. Fletcher Has Not Brought Forth Sufficient Factual Grounds to Warrant**
7 **Disqualification.**

8 As noted above, the test for an appearance of impropriety is whether the conduct
9 alleged would "create in reasonable minds a perception that the judge violated this Code
10 or engaged in other conduct that reflects adversely on the judge's honesty, impartiality,
11 temperament, or fitness to serve as a judge." NCJC 1.2, Comment 5. Ms. Fletcher has
12 failed to produce any facts which would create such an objective perception.

13 On page four of Ms. Fletcher's Motion to Recuse she alleges, "Regardless of
14 whether Judge Walker holds any actual prejudicial or unfair bias against Ms. Fletcher,
15 comments such as ones he has made cause one to reasonably question whether Judge
16 Walker could actually separate his prior judicial interactions in Ms. Fletcher's family court
17 cases from the current unrelated criminal charges."¹

18 Because Ms. Fletcher is not entitled to a "blank slate" anew with each
19 successive case she brings to Court, her motion must logically fail.

20 **A. The allegation that a quote about luring her ex to a remote area was not**
21 **derived from a confidential source**

22 Context is everything to the understanding of language, and Ms. Fletcher does not
23 acknowledge the context of the statements about which she now complains. To
24 understand the statement regarding "alleged luring," for example, it is important to know
25 a few background facts taken from publicly available cases and records:

26
27
28 ¹ . Although irrelevant, the undersigned affirms that he harbors no actual bias or prejudice against Ms. Fletcher. Ms. Fletcher's concerns, which also reflect her own subjective conclusions, are likewise irrelevant in this case.

1 1. Ms. Fletcher's six year old child, Bay Trask, was in the guardianship of Ms.
2 Fletcher's brother and sister-in-law when Robert Trask died in July of 2016, (whether he
3 died by homicide, excusable homicide in self-defense or defense of another, or otherwise).
4 After she was arrested on the charges in this case and while she was incarcerated on open
5 murder charges, Ms. Fletcher demanded a pattern of specified visitation with her six year
6 old daughter Bay Trask, at the Washoe County Jail. (See GR15-00192, and Motion
7 attached hereto as Exhibit A.)

8 2. On December 14, 2016, Ms. Fletcher's sister-in-law, Brandi Jorgenson, and
9 brother, Michael Jorgenson, filed an Opposition to Motion to Modify Orders. (Exhibit B)
10 Therein, at page 1, the Jorgenson's alleged: "The evidence against her {Ms. Fletcher}
11 suggests that she lured her ex, the father of the minor children, to a remote area where she
12 shot him in front of their son Max who was eight years old at the time." (Brandi
13 Jorgenson likewise indicated she has been identified as a witness for the prosecution
14 against Ms. Fletcher in the same pleading.) Contrary to Ms. Fletcher's assertions in her
15 current motion, as a consequence, the allegation of "luring" about which she now
16 complains was not drawn by the undersigned from a confidential child welfare case
17 involving Ms. Fletcher's other child, Max Trask or anywhere else. It came from her own
18 family, who are or were witnesses to the alleged crime or crimes, during a public
19 proceeding.

20 3. In an order resolving the motion work described in part above, Judge Walker
21 reiterated the allegations made in the public forum, (guardianship hearings and pleadings
22 are open and not confidential), by Ms. Fletcher's family. (Exhibit C). The language of
23 the order reiterates the factual allegations against Ms. Fletcher, as reported by a lawful
24 guardian over her child, in the context of resolving Ms. Fletcher's visitation motion. (Ms.
25 Fletcher did not, for example, deny that she was incarcerated and unable to care for her
26 children; she simply iterated her hope she would be freed.) No factual finding of guilt
27 regarding Mr. Trask's death is made or inferred therein, but the evidence presented by her
28 own brother and his wife about their concerns related to visitation was properly

1 considered. NRS 159A.061, (which mirrors NRS 159.061 which it replaced after the last
2 legislative session), mandated that the court consider whether or not: "Because of action or
3 inaction, the parent poses a significant safety risk of either physical or emotional danger to
4 the proposed protected minor."

5 It is unclear, outside of mere speculation, what then is prejudicial or demonstrates
6 any bias about reporting allegations which have been made against a party in the context
7 of custody litigation. By definition, allegations are unproven facts, which in the context
8 complained of, set the table for a decision about the advisability of visits at jail between a
9 six year old and her mother who is accused of killing the same child's father.

10 A party bringing a motion for recusal must present "sufficient factual grounds
11 warranting disqualification." *Ybarra*, --- Nev. ---, ---, 247 P.3d 269, 272 (2011). *Ybarra*
12 further instructs that disqualification must be based on facts, not mere speculation about
13 facts. *Id.* citing *Rippo v. State*, 113 Nev. 1239, 1248, 946 P.2d 1017, 1023 (1997). Here,
14 whether a judicial officer can or will separate the facts of multiple cases a party may have
15 in front of any one court is not a sufficient showing for disqualification. In fact, the
16 Nevada Supreme Court has explicitly stated that a judicial officer cannot be disqualified
17 based on allegations of bias that arise from legal proceedings over which the judge has
18 presided. Ms. Fletcher is simply speculating on any bias Judge Walker may have based on
19 a small number of comments taken out of context. Notably, no objection was lodged at
20 the time the comment was included in any order.

21 In point of fact, the publicly available pleadings in this and other cases reveal that
22 Ms. Fletcher has complained about her family, her attorneys, examining experts, this Judge
23 and just about every person or thing involved in her current legal circumstances on
24 multiple occasions. That consistent projection is a telling observation about the merits of
25 her current motion. At its core, Ms. Fletcher wants to control the legal process. Taken to
26 its extreme, she seemingly argues that the District's one judge/one defendant rule cannot
27 ever be given effect because a judge "might" carry information, after a prior conviction or
28 otherwise, from one case to the next as one example.

1 In the case at bar, Ms. Fletcher has not presented objective evidence which
2 demonstrates a lack of neutrality. Ms. Fletcher has not presented any evidence which
3 would create a reasonable perception Judge Walker has violated the Judicial Code of
4 Conduct or engaged in other conduct that reflected adversely on his honesty, impartiality,
5 temperament, or fitness to serve as a judge, pursuant to NCJC 1.2.

6 Almost as an aside, it is worth noting that Judge Walker will not be the trier of fact
7 in Ms. Fletcher's criminal matters; they are all jury trials. Even if, therefore, he harbored a
8 factual belief about the truth of the allegations in her cases, (which he unequivocally
9 denies), such a belief is literally irrelevant as it will be jurors in separate trials who will
10 decide the facts regarding her guilt or innocence in the criminal matters.

11 Finally, any bias or prejudice alleged must arise from an outside source, separate
12 and apart from the legal proceedings over which the judge has presided. *Matter of*
13 *Dunleavy*, 104 Nev. 784, 789-790, 769 P.2d 1271, 1275 (1988) (citing *United States v. Board of*
14 *Sch. Comm'rs*, 503 F.2d 68, 81 (7th Cir. 1974), *cert denied*, 439 U.S. 824, 99 S.Ct. 93, 58 L.Ed.2d
15 116) (stating rulings and actions of a judge during the course of official judicial
16 proceedings do not establish legally cognizable grounds for disqualification). Here, Ms.
17 Fletcher's proffered evidence to show bias or prejudice towards her is handpicked, out of
18 context, from prior orders or transcripts from disparate proceedings that Judge Walker has
19 presided over. Ms. Fletcher attempts to aggregate terms and phrases, trying to build a
20 showing of bias. Because each statement is derived from cases over which Judge Walker
21 has presided in his official capacity, however, they cannot form legally cognizable grounds
22 for disqualification.

23 **B. Statements drawn from the confidential Young hearing**

24 At the outset, this author is very concerned that Ms. Fletcher has chosen to unmask
25 fragments of statements taken from a sealed, confidential transcript which include
26 material which is harmful to her and may pierce her attorney/client privilege. Consistent
27 with *Young v. State*, 120 Nev. 963, 102 P.3d 572 (2004), the most recent hearing where Deputy
28 Public Defenders Linda Nordvig and Emilie Meyer were relieved, at Ms. Fletcher's

1 insistence, was conducted on an ex parte, confidential basis. The State was excluded from
2 the hearing and the transcript was sealed.

3 At the hearing, Ms. Fletcher offered several ad hominem, unfounded accusations
4 against her attorneys, and she also made statements of a potentially incriminating nature
5 after being warned by her attorney and the Court not to do so.

6 Absent an order from an appropriate authority, this author does not believe he can
7 ethically discuss the full context, and exact language, of the comments about which Ms.
8 Fletcher complains without further opening the door to potentially incriminating
9 statements made by Ms. Fletcher.

10 NRS 47.120 instructs, after all, that:

11 1. When any part of a writing or recorded statement is introduced by a
12 party, the party may be required at that time to introduce any other part of it which
13 is relevant to the part introduced, and any party may introduce any other relevant
14 parts.

15 2. This section does not limit cross - examination.

16 (Emphasis added.)

17 The undersigned declines to participate in Ms. Fletcher's choice, or potential choice,
18 to "open the door" to the confidential contents of the *Young* hearing in this matter.

19 Suffice it to say such is not necessary to demonstrate the factual and/or legal
20 failings of Ms. Fletcher's claims of bias and/or prejudice.

21 **III. Conclusion**

22 Given his unequivocal duty to sit in the absence of a rational, objective reason for
23 disqualification, the undersigned should proceed as the assigned judge in this matter; no
24 objective appearance of bias or prejudice exists or has been demonstrated. Ms. Fletcher
25 has chosen to focus on a few, isolated statements taken largely out of context to attempt to
26 bolster a subjective perception which, in her mind, supports disqualification.

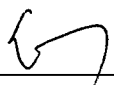
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1 For all the foregoing reasons, Defendant's Motion for Recusal should be denied.

2 Pending resolution, this matter is referred the Chief Judge Scott Freeman for further
3 proceedings pursuant to NRS 1.235(6).

4 THE UNDERSIGNED DOES HEREBY AFFIRM, UNDER PENALTY OF PERJURY,
5 THAT ALL OF THE ASSERTIONS IN THIS RESPONSE ARE TRUE AND CORRECT TO
6 THE BEST OF HIS KNOWLEDGE.

7 Dated: August 2, 2018

8
9 
10 Egan K. Walker
11 District Court Judge

12 **CERTIFICATE OF MAILING**

13 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial
14 District Court, and that on the 2 day of August, 2018, I electronically filed the
15 foregoing with the Clerk of the Court System which will send a notice of electronic filing
16 to the following:

17 Document: RESPONSE TO MOTION FOR DISQUALIFICATION

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19
20 Mark Picker, Esq.

21 Derek Dreiling, Esq.

22 Chief Judge Scott Freeman
23 * Interoffice Mail

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25 
26 Administrative Assistant
27
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EXHIBIT A

GR15-00192
GUARD: BAY TRASK
District Court
Washoe County
DC-09900082538-009
4 Pages
11/21/2016 12:59 PM
2490
JAMES

Code:

Name: Katherine Fletcher

Address: 911 Parr Blvd.

Reno NV 89512

Telephone: I.D. #1611813

Self-Represented Litigant

FILED

2016 NOV 21 PM 12:59

JACOB
CLERK
BY [Signature]

IN THE FAMILY DIVISION

OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

Mike & Brandi Jorgenson

Plaintiff / Petitioner / Joint Petitioner,

Case No. GR15-00192

Dept. No. D2

vs.

Katherine D. Fletcher

Defendant / Respondent / Joint Petitioner.

MOTION TO MODIFY ORDER

(Title of Motion)

Minor Children

Place an "X" in a box to select **ONLY ONE** of the two statements below.

A. 1. ☐ There are no minor children involved in this matter.

-OR-

2. ☒ There are minor children involved in this matter and their names and ages are:

NAME

AGE

Bay Beyonka Trask

5

Max KloveR Trask

9

If more room is needed, attach additional sheets.

Relief Requested and Argument

Describe what you want the Court to order. In detail, tell the Court what you are asking for and why you believe you should be granted your request(s).

B. To the Honorable Judge Walker,

I, Katherine D. Fletcher, beg the court ^{to} ~~to~~ modify the current order to allow equal parent-child privileges for both my children; As my Son Max & I have privileges through Social Services, that my Daughter Bay & I are being denied through Guardianship. And it is in Bay Beyonka's best interests to update the order to meet her updated family situation - her Brother's return home! And as I am working a case plan w/ C.P.S., I ask that all increases in privileges be synchronized between the 2 kids' cases. So should Max be given visitation, Bay should be as well - simultaneous. Same with reunification. And in a best case scenario - should my criminal & C.P.S. case be completely dropped, that they both be returned to their Mom together.

Currently: I am allowed to make cards for Max. I was also given the okay on gifts, but was not successful in accessing my bank account from here. I was given a large photograph of my Son. Am given monthly updates on Max. His school & medical information is shared w/me. And God forbid if something happens, i.e. - a broken arm, I am to be updated immediately. I'd very much like the same for Bay & I. And believe Mike & Brandi should want that too.

At our last hearing it was expressed that it would not be fair to Max if Bay were to be allowed to visit me in jail & not him. I believe the same to be true in regards to the minimal contact that is allowed for Max, ^{that it} should also be allowed for Bay; i.e. - Specialized cards. And should any major break throughs happen with my case, it would not be right to send Max to Mommy while leaving Bay behind. I do expect miracles! And want us to prepare for them now. So that Bay will not be inflicted any undue emotional harm, should any gradual or sudden changes take place.

Also, I just want Mike & Brandi to know that I am very grateful that ^{both} my children are a part of their family now. Though I ultimately believe I am best for Max & Bay, I also want my children to have Mike & Brandi & their kids in their lives. And will put my best foot forward.

If more room is needed, attach additional sheets. Thank You!

P.S. Please also adjust & backdate Bay's Child Support order, as you've already done in Max's case. Thank You.
This document does not contain the Social Security number of any person.

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

Date: 11-14-16

Your Signature: Katherine Fletcher

Print Your Name: Katherine Fletcher

Notice to Responding Party: You have a limited amount of time to respond to this Motion. If you do not respond in writing within ten (10) judicial days, plus three (3) calendar days if the Motion was mailed, the Court may grant this Motion without a hearing.

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

Brandi & Mike Jorgensen

vs.

Katherine Fletcher

FAMILY DIVISION
MOTION/OPPOSITION NOTICE
(REQUIRED)

CASE NO. GR-15-00192

DEPT. NO. D2

NOTICE: THIS MOTION/OPPOSITION NOTICE MUST BE ATTACHED AS THE LAST PAGE to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X .	YES	NO
	1. Has a final decree or custody order been entered in this case? If <u>yes</u> , then continue to Question 2. If <u>no</u> , you do not need to answer any other questions.		X
	2. Is this a motion or an opposition to a motion filed to change a final order? If <u>yes</u> , then continue to Question 3. If <u>no</u> , you do not need to answer any other questions.		X
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		X
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?		X
	IF the answer to Question 4 is YES, write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: 11-14, 2016

Signature:

Print Name:

Print Address:

Telephone Number:

[Signature]

Katherine Fletcher

911 Parr Blvd

LD#1611813

EXHIBIT B

ORIGINAL

FILED

2016 DEC 14 PM 12:59

JACQUELINE BRYANT
CLERK OF THE COURT
BY: *[Signature]*
DEPUTY

Code: 2645
Name: Michael and Brandi Jorgenson
Address: 3860 Shearwater Drive
Reno, NV 89508
Telephone: 775-2910294
Mail: _____
Self-Represented Litigant

IN THE FAMILY DIVISION
OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

MICHAEL and BRANDI JORGENSEN,
Plaintiff / Petitioner / Joint Petitioner,

Case No. GR15-00192

Dept. No. 2

vs.

KATHERINE D. FLETCHER,
Defendant / Respondent / Joint Petitioner.

OPPOSITION TO MOTION TO MODIFY ORDERS

(Title of Motion)

Argument

Below, explain why you oppose the Motion.

A. Katherine is currently incarcerated in the Washoe County Jail charged with Open
murder. Her preliminary examination was continued to January 13, 2017. The evidence
against her suggests that she lured her ex the father of the minor children to a
remote area where she shot him in front of their son Max who was 8 years old at the time.
Prior to this Katherine had both children removed from her custody by CPS due to her
chronic meth use. Michael is Katherine's brother. Placement of Max, age 9 in the
Jorgenson household was done through CPS, Foster Parent program, whereas, the

1 Jorgensons obtained guardianship over Bay age 5.

2 Mike and Brandi oppose any motion to expand Katherine's participation in the child's lives.

3 Both children are under the care of therapists, and neither counselor believes that they
4 should have contact with Katherine. The outcome of her criminal case will determine what
5 if any contact with the children she is capable of. Any changes in the relations between
6 the children and their mother should be approved by the therapists, and agreed to by the
7 CPS caseworker, and Mike and Brandi. They have an 18 month old son, and Mike has joint
8 physical custody of his 13 year old son by a previous marriage, as well as living with Max
9 and Bay. The requirement of driving the kids to and from therapy as well as school, and

10
11 If more room is needed, attach additional sheets.

12 B. 1. ☒ I do not request a hearing on this matter.

13 -OR-

14 2. ☐ I request a hearing on this matter because: _____
15 _____
16 _____
17 _____

18 This document does not contain the Social Security number of any person.

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

21 Date: 12/11/16

22 Your Signature: _____

23 Print Your Name: Michael and Brandi Jorgenson

24
25 **Notice to person receiving this Opposition:** You have a limited amount of time to respond to this
26 Opposition. If you do not reply in writing within five (5) judicial days, the opposing party may
27 request the Motion be submitted to the Court. If this Opposition was mailed to you, you have three
28 (3) additional calendar days to file your reply.

ATTACHMENT TO OPPOSITION TO MOTION TO MODIFY ORDERS

continuation:

the daily activities of a household with four children is burdensome to Michael and Brandi. If visits between Katherine and the kids were ordered this would only increase the burden on the Jorgenson household. Additionally, Brandi has been named by the Washoe County District Attorney as a witness in Katherine's murder trial, and the DA advised no contact between Brandi and Katherine.

Katherine's motion appears to be based on a belief that the criminal case against her will go away. The Deputy District Attorney in contact with the Jorgenson's is of the belief that there is ample evidence to convict her.

Katherine's motion asks for the Court to grant the same privileges for Bay that Katherine has for Max through CPS. Katherine has no privileges with Max at this time. She says she sends him cards but according to CPS they do not share any communication between mother and son.

Again, any changes to the relationship between Katherine and the children should be done with the approval of the therapists, CPS caseworker, and Mike and Brandi. Given the current situation there is no reason to change the current orders or status of the guardianship as it relates to Katherine.

The Jorgenson's ask the Court not to set a hearing in this matter. Mike is the sole supporter of his family, and pays substantial child support to his ex-wife for the support of their 13 year old son.

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

Michael and Brandi Jorgenson)
)
)
)
 vs.)
 Katherine D. Fletcher)
)
)
)
)

FAMILY DIVISION
MOTION/OPPOSITION NOTICE
(REQUIRED)

CASE NO. GR15-00192

DEPT. NO. 2

NOTICE: THIS MOTION/OPPOSITION NOTICE **MUST BE ATTACHED AS THE LAST PAGE** to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X .	YES	NO
	1. Has a final decree or custody order been entered in this case? If yes , then continue to Question 2. If no , you do not need to answer any other questions.		X
	2. Is this a motion or an opposition to a motion filed to change a final order? If yes , then continue to Question 3. If no , you do not need to answer any other questions.		X
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		X
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?		
	IF the answer to Question 4 is YES, write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: 12-11, 16

Signature:

Print Name:

Michael and Brandi Jorgenson

Print Address:

3860 Shearwater Drive Reno, NV 89508

Telephone Number:

775-2910294

EXHIBIT C

1
2
3
4
5 IN THE FAMILY DIVISION
6 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 In the Matter of the Guardianship of:

Case No. GR15-00192

10 BAY TRASK,

Dept. No. 2

11
12 A Minor.
13 _____/

14 **ORDER DENYING MOTION TO MODIFY VISITATION**

15 The Court has reviewed Ms. Fletcher's November 21, 2016 Motion to Modify Order
16 regarding the minor child: Bay Trask (DOB: 06/29/2011). The related Opposition and
17 Reply and the underlying pleadings and documents on file have also been reviewed. The
18 Court finds and orders as follows:

19 **FACT STATEMENT**

20 Michael and Brandi Jorgenson were appointed Co-Guardians of Bay Trask on
21 September 21, 2015. The initial guardianship was necessary because Bay began living with
22 the Jorgensons when Ms. Fletcher was incarcerated because she violated her probation on
23 June 5, 2015. Bay has been continuously living in their home since that date. Throughout
24 the Jorgenson's guardianship of Bay, Ms. Fletcher has filed multiple Pro Se motions
requesting modification or termination of the guardianship.

25 This Court addressed Ms. Fletcher's most recent incarceration at a status hearing on
26 August 22, 2016. Ms. Fletcher is currently detained after allegedly luring the father of Bay
27 and Max Trask to a downtown Reno park, where she allegedly murdered him in front of
28 Bay's older brother, Max. During the August 22 hearing, Ms. Fletcher requested contact
with Bay. The Jorgensons opposed Ms. Fletcher's request. The Court stated that any

1 contact between Bay and Ms. Fletcher would only be electronic, and would be left to the
2 guardians' discretion. Due to Ms. Fletcher's most recent Motion to Modify, the Court
3 construes that the Jorgensons have declined to allow contact.

4 In her instant motion, filed on November 21, 2016, Ms. Fletcher asks this Court to
5 Order Bay's guardians to allow her to have contact with Bay through handmade cards and
6 artwork. Ms. Fletcher states that Washoe County Department of Social Services
7 ("WCDSS") allows this contact between her and her son, Max, who is placed in the
8 Jorgensons' home by WCDSS. Ms. Fletcher argues it is harmful to Bay that she does not
9 receive the same contact. Ms. Fletcher requests that both children be allowed the same
10 visitation privileges. Ms. Fletcher also requests that she receive monthly updates on Bay,
11 and if an emergency happens she would like to be updated immediately.

12 In their Opposition, filed on December 14, 2016, Ms. Jorgenson states that both she
13 and Mr. Jorgenson are opposed to Ms. Fletcher having contact with either child. She
14 further asserts that Bay's therapist concurs that neither child should have contact with Ms.
15 Fletcher at this time. Ms. Jorgenson states that Max's WCDSS worker does not share any
16 communication between Ms. Fletcher and Max, including any cards or artwork. Ms.
17 Jorgenson ask that this Court deny Ms. Fletcher's motion to modify, and not set a hearing
18 in this matter.

19 In her December 27, 2016 Reply, Ms. Fletcher states that this Court should grant
20 her request because it is in the best interest of Bay. Ms. Fletcher also insists that she be
21 given contact with Bay so that she may have an easier transition back into Ms. Fletcher's
22 home once her current case is dismissed. Ms. Fletcher states that her cards and artwork
23 should be getting to Max, contrary to Ms. Jorgenson's assertions, and it is not in Bay's best
24 interest to be left out of this contact.

25 LEGAL DISCUSSION

26 Generally, the Court will review a contested motion to change custody or visitation
27 to determine if the moving party has stated a *prima facie* case for modification. See
28 *Hopper v. Hopper*, 113 Nev. 1138, 946 P.2d 171 (1997). If the burden has not been met, the
motion may be denied without hearing pursuant to *Rooney v. Rooney*, 109 Nev. 540, 853
P.2d 123 (1993). The standard used to determine a change of custody/visitation is found in
Ellis v. Carucci, 123 Nev. 145, 161 P.3d 239 (2007). *Ellis* requires a showing that (1) there
has been a substantial change of circumstances affecting the welfare of a child and (2) that

1 the proposed modification serves the child's best interests. *Id.* at 151. *Ellis*, involves the
2 modification of custody between two parents, however, the two-prong test also applies
3 between custody or visitation modification between a parent and non-parent. *Hudson v.*
4 *Jones*, 122 Nev. 708, 713, 138 P.3d 429 (2006).

5 The Court assumes it is in the best interest of a child for a parent to have
6 custody/visitation, unless there is substantial proof to suggest otherwise. When a
7 nonparent has custody of a child, a parental preference still exists and must be overcome.
8 "Nevada's guardianship statute provides that the parents or either parent of a minor child,
9 'if qualified and suitable, are preferred over all others for appointment as guardian for the
10 minor.'" *Id.* at 712. By adopting a parental preference, Nevada has recognized that parents
11 have a "constitutionally protected liberty interest in the care, custody, and control of his or
12 her child." *Id.* A parent does not waive their parental preference when they consent to a
13 guardianship, but they do have the burden to prove that a court should still adhere to the
14 parental preference, and no extraordinary circumstances exist to overcome the preference.
Id.

15 On the contrary, although the Court in *Hudson* recognizes the importance of
16 parental preference in initial custody determinations, they also stated that, "applying the
17 parental preference to modifications would only 'weaken the substantial change
18 requirement.'" *Id.* at 713, (quoting *C.R.B. v. C.C.*, 959 P.2d 375, 379 (Alaska 1998)).
19 Accordingly, the Court adapted the reasoning of the Alaska Supreme Court, "that the
20 parental preference does not apply to custody modifications between a parent and
21 nonparent." *Id.*

22 For this Court to consider Ms. Fletcher's requests, she would have to show: (1) there
23 has been a substantial change in circumstances that have affected Bay's welfare; and (2)
24 that communication, in the form of cards and artwork, is in Bay's best interest. First, there
25 has been no change in circumstances since before the status hearing on August 22, 2016.
26 Ms. Fletcher has been incarcerated since that date as a suspect in the murder of the
27 children's father. Further, Bay has been in the care of the Jorgensons since June 5, 2015,
28 when Ms. Fletcher was initially incarcerated because of a probation violation. Bay has
been living with the Jorgensons for the last 18 months, without interruption.

1 Second, court ordered visitation, even if only in the form of cards and artwork, is not
2 in Bay's best interest at this point. Bay is five years old and has been out of Ms. Fletcher's
3 care for more than eighteen months. Ms. Fletcher is currently incarcerated because she
4 has been accused of committing the extremely violent act of murdering the father of her
5 children. Further, Ms. Fletcher allegedly used her son and Bay's older brother, Max, to
6 lure the alleged victim to a park where she allegedly killed him in front of Max. Although
7 Ms. Fletcher has not been convicted of any crime, these are extraordinary circumstances in
8 which visitation with her mother is not in Bay's best interest.

9 The allegations against Ms. Fletcher fit broadly within the definition of the abuse
10 and neglect of the children. In addition, this Court has concerns over Ms. Fletcher's
11 mental health, and Bay's therapist has suggested that Bay have no contact with her mother
12 at this time. Combined with the details surrounding Ms. Fletcher's ongoing criminal case,
13 this Court has compelling reasons to deny Ms. Fletcher's request for a modification of
14 visitation, as well as a hearing on the matter at this time. (Which would likely place Ms.
15 Fletcher at risk of making statements against her own interest in the ongoing criminal
16 litigation.)

17 The Court finds Ms. Fletcher has not made a *prima facie* case showing that
18 visitation requires review at this time. Ms. Fletcher failed to state any concrete changes
19 that have affected Bay's welfare, nor has she shown that visitation is in Bay's best interest.
20 Therefore, the Motion to Modify Order, which asks for visitation with Bay, is DENIED.

21 **IT IS SO ORDERED.**

22 Dated: This 1 day of February, 2017.

23 

24 Egan K. Walker
25 District Court Judge

26
27
28 ///

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court, of the State of Nevada, County of Washoe; and that on the 1 day of February, 2017, I electronically filed the foregoing with the Clerk of the Court System which will send a notice of electronic filing to the following and/or I deposited for mailing first-class, postage pre-paid, a true copy of the attached addressed to:

Katherine Fletcher
911 Parr Blvd.
Reno, NV 89512
I.D. #1611813

Mike and Brandi Jorgenson
3860 Shearwater Drive
Reno, NV 89508

DATED: 2-1-17



Administrative Assistant

1 Code 2485
2 MARC PICKER, BAR #3566
3 WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
4 BILL HART, BAR #11986
5 DEPUTY ALTERNATE PUBLIC DEFENDER
6 P.O BOX 11130
7 RENO, NV 89520
8 (775) 328-3955

9 COUNSEL FOR DEFENDANT
10 KATHERINE DEE FLETCHER

11 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

12 **IN AND FOR THE COUNTY OF WASHOE**

13 ***

14 THE STATE OF NEVADA,

15 Plaintiff,

Case No. CR17-0690A, CR17-0690B,
CR17-1127

16 v.

17 KATHERINE DEE FLETCHER

Dept. No. 7

18 Defendant,

19 **REPLY TO RESPONSE TO MOTION FOR RECUSAL**

20 Defendant KATHERINE DEE FLETCHER, by and through her counsel, Washoe County
21 Alternate Public Defender Marc Picker and Deputy Alternate Public Defender Bill Hart, hereby
22 provides her reply to the Response to Motion for Disqualification filed with this Court. This reply is
23 made and based upon the Nevada Code of Judicial Conduct, the United States Constitution, the
24 following Memorandum of Points and Authorities, as well as all papers and documents filed
25 previously in this matter.

26 ...

27 ...

28 ...

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**
3

4 **I. The Original Motion was not Deficient**

5 In his response, District Judge Egan Walker asserts that Ms. Fletcher's original motion is
6 deficient on two procedural grounds. First, that an affidavit was not filed in support of the motion
7 and, second, that the motion was not filed within a proper timeframe. Both of these arguments are
8 belied by the record.
9

10 First, the affidavit in support of Motion for Recusal was filed on August 1, 2018, prior to the
11 filing of Judge Walker's response. Thus, that claim is without merit. Additionally, it must be noted
12 that NRS 1.235 states that the affidavit must be filed and served upon the judge sought to be
13 removed.
14

15 In addressing his second argument, Judge Walker's own actions undermine its merit. Almost
16 immediately after the Motion for Recusal was electronically filed on July 30, 2018, an email was sent
17 out to all parties by the Court's staff at 9:26 a.,, vacating all upcoming hearings for Ms. Fletcher
18 based entirely upon the filing of the instant motion. As the affidavit was filed on August 1, 2018, a
19 day after Judge Walker unilaterally vacated all hearings but prior to his response, the affidavit was
20 filed within the proper timeline.
21

22 Finally, Judge Walker asserts that the motion and affidavit were defective based on a lack of
23 personal service, something that seems to have been waived by Judge Walker by his simple action of
24 his filing a response. In addition, as noted above, the email sent by the Court's staff vacating all
25 pending hearings was a tacit acceptance that actual notice existed.

26 Both of Judge Walker's procedural objections must fail.

27 It should also be additionally pointed out that Judge Walker admits that NCJC 1.2 instructs a
28 motion to disqualify be filed as soon as possible after becoming aware of the new information. As

1 stated in the original motion, current counsel was appointed on July 6, 2018, but did not receive Ms.
2 Fletcher's file from the Washoe County Public Defender for more than two (2) weeks after that date.
3 The Motion for Recusal was filed approximately three (3) weeks after appointment which could be
4 seen as a remarkable turnaround based on the case lingering in the court system for almost two (2)
5 years. The Motion for Recusal was timely filed.

6
7 **II. Judge Walker's reliance on his overarching "Duty to Sit" is misplaced.**

8 The United States Court of Appeals for the Ninth Circuit recently filed its decision in
9 *Echavarria v. Filson*, — F.3d. — (9th Cir. 2018) which has been ordered for publication, and
10 attached here as Exhibit 1. The Court found in *Echavarria* that the judge presiding over his case
11 posed a "significant risk that an average judge would possibly be tempted to lean in favor of the
12 prosecution or to potentially have an interest in the outcome of the case."¹ The Court further held
13 that the objective test for perceived bias "requires only a showing of an undue risk of bias, based on
14 the psychological temptations affecting the "average judge."² The Ninth Circuit reversed the Nevada
15 Supreme Court, holding that the Nevada Supreme Court failed to look at the perceived bias of the
16 judge and only adjudicated whether there was actual bias. Again, the Ninth Circuit held, a claim of
17 bias does not have to be one of actual bias, but a showing of a constitutionally intolerable risk of bias
18 or implied bias.³

19
20
21 Also, as noted in Judge Walker's addendum, *Rippo v. State*, (*Rippo III*) 134 Nev. Adv. Op.
22 53626 (August 2, 2018), the Supreme Court of Nevada has now accepted the standard to be
23 considered in such cases not to be a question of simply actual bias, but also the risk of bias or implied
24 bias.

25
26
27

¹ *Id* at page 20

28 ² *Id* at 23, citing *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 888

³ *Caperton* at 883 (emphasis added)

1 As previously argued by Ms. Fletcher, the fact that some rural counties only have one (1) judge
2 presiding over all cases plays no role in this motion to recuse since there are multiple judges in this
3 jurisdiction, including those assigned specifically to the family court division. Ms. Fletcher's motion
4 is based upon the facts and assertions recounted therein, which do not rely simply on Judge Walker
5 presiding over Ms. Fletcher's other cases, but is based upon the implied bias he may have based on
6 his actions in those cases and this current case. As noted in *Echavarria*, there is always a serious
7 question to be considered when there are outside factors weighing on a judge that interfere with
8 merely sitting as an unbiased magistrate. Here, Judge Walker would be asked to ignore his own
9 previous rulings, decisions and factual findings in favor of an objective review of the law and facts in
10 the pending criminal cases. His previous comments in the instant cases show that he has not been
11 able to do so.
12

13 **III. Judge Walker's filed response gives rise to further examples that bias may be present in**
14 **his actions.**
15

16 Once the voluminous response filed by Judge Walker is examined closely, it is evidence in and
17 of itself that could cause an objective person to think that the risk of bias is impermissibly high.
18 Specifically, on Page 10 of the response, Judge Walker states that the fact that Ms. Fletcher has filed
19 pleadings "in this and other cases complaining about her family, her attorneys, examining experts,
20 this Judge and just about every other person or thing involved in her current legal circumstances on
21 multiple occasions" as evidence he believes somehow discredits the current motion. This is
22 especially interesting as it was Ms. Fletcher's pro per pleading and presentation during a *Young*
23 hearing that led Judge Walker to relieve prior counsel. Apparently, Judge Walker believed that Ms.
24 Fletcher has and still does bring up valid points. This contradicts Judge Walker's position that Ms.
25 Fletcher has filed motions that have no merit while at the same time he failed to point out that he
26 personally granted her previous motion granted after a *Young* hearing.
27
28

1 Again, the crux of Ms. Fletcher's argument is not simply that Judge Walker presided over her
2 other cases and therefore may carry over previously disclosed information or bias, it's that Judge
3 Walker has made statements and orders that raise the question of whether there is an unconstitutional
4 potential for bias. Judge Walker made comments on the record in the recent *Young* hearing
5 questioning the mental health of Ms. Fletcher, raising a question about the competency of the defense
6 attorneys and then he used facts and allegations made during other hearings – some of which are
7 confidential and not available to current defense counsel – to bolster his opinion about the current
8 pending criminal cases. This is not an attack on the “one judge/one defendant” rule but rather the
9 implied bias of having a judge who has heard confidential and, often inaccurate, information apply
10 that information in an unrelated manner.
11

12 Judge Walker also noted that Ms. Fletcher made “several ad hominem, unfounded accusations
13 against her attorneys, and she also made statements of a potentially incriminating nature” again
14 showing that he has already decided that she has filed and will continue to file frivolous pleadings
15 and motions not only in this case, but in her other unrelated cases. This hinders his ability to play an
16 impartial role in the pending criminal cases against Ms. Fletcher.
17

18 CONCLUSION

19 One of a trial judge's primary duties is to impart the proceedings with an air of impartiality
20 and fairness, and to avoid presiding over any matter in which he may be perceived to harbor bias
21 and/or prejudice. An allegation of actual bias is not necessary, and neither is it alleged in the Motion
22 for Recusal. Recusal here is the proper remedy at law. The mere potential and appearance that there
23 might be bias or prejudice is sufficient to grant the instant motion. Ms. Fletcher's concerns as
24 documented in the original motion are not mere conjecture nor are they irrational. These concerns
25 are supported by Judge Walker's own words and actions in previous hearings as well as his written
26 orders. As such, Ms. Fletcher is asking that her foregoing motion be granted that all of her pending
27 criminal matters be re-assigned to a different department within the Second Judicial District Court.
28

1 **AFFIRMATION PURSUANT TO NRS 239B.030**

2 The undersigned does hereby affirm that the preceding document does not contain the social
3 security number of any person.

4 Respectfully submitted this 8th day of August, 2018..

5 Washoe County Alternate Public Defender

6 By: /s/ Marc Picker

7 MARC PICKER, ESQ.
8 Alternate Public Defender

9 By: /s/ Bill Hart

10 BILL HART, ESQ.
11 Deputy Alternate Public Defender

INDEX OF EXHIBITS

Exhibit No.	Description	No. of Pages
1	<i>Echavarria v. Filson</i>	30

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Derrick Dreiling
Chief Deputy District Attorney
Via Electronic filing

/s/ Randi M. Jensen

RANDI M. JENSEN

1 CODE: 3370
2
3
4
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 STATE OF NEVADA,

10 Plaintiff,

11 v.

12 KATHERINE DEE FLETCHER,

13 Defendant.
14

Case No.: CR17-0690A,
CR17-0690B,
CR17-1127

Dept. No.: 7

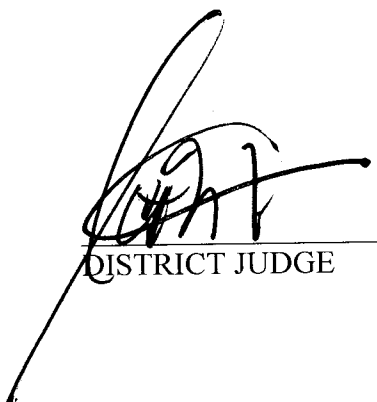
15 **ORDER REFERRING DISQUALIFYING QUESTION**

16 On July 30, 2018, Defendant KATHERINE DEE FLETCHER filed a *Motion to Recuse*
17 requesting the Court to recuse Judge Egan Walker from involvement in the above-captioned
18 matters. On August 2, 2018, Judge Walker filed a *Response to Motion for Disqualification* as well
19 as an *Addendum to Response to Motion for Disqualification*.

20 Pursuant to NRS 1.235 and after randomization, the disqualification motion is referred to
21 Department 10 for decision.

22 IT IS SO ORDERED.

23 DATED: this 9th day of August, 2018.

24 
25 DISTRICT JUDGE
26
27
28

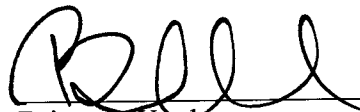
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this _____ day of _____, 2018, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

[NONE]

Further, I certify that on the 9th day of August, 2018, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

MARC PICKER, ESQ. for KATHERINE DEE FLETCHER
DEREK DREILING, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION



Brianne Ward,
Judicial Assistant

1 CODE: 4185
2 LORI URMSTON, CCR #51
3 Litigation Services
4 151 Country Estates Circle
5 Reno, Nevada 89511
6 (775) 323-3411
7 Court Reporter

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 HONORABLE ELLIOTT A. SATTLER, DISTRICT JUDGE

11 STATE OF NEVADA,

12 Plaintiff,

13 vs.

14 KATHERINE DEE FLETCHER,

15 Defendant.
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Case No. CR17-0690A

Case No. CR17-0690B

Case No. CR17-1127

Dept. No. 10

16 TRANSCRIPT OF PROCEEDINGS

17 HEARING ON MOTION FOR DISQUALIFICATION

18 Tuesday, September 11, 2018

19 Reno, Nevada

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23
24 Reported by:

LORI URMSTON, CCR #51

APPEARANCES:

FOR THE PLAINTIFF:

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1 RENO, NEVADA; TUESDAY, SEPTEMBER 11, 2018; 2:03 P.M.

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3 THE COURT: This is CR17-0690 and CR17-1127, both
4 cases entitled the State of Nevada versus Katherine Dee
5 Fletcher. Ms. Fletcher is present in court in custody
6 with her attorney, Mr. Picker.

7 Good afternoon, Mr. Picker.

8 MR. PICKER: Good afternoon, Your Honor.

9 THE COURT: Good afternoon, Ms. Fletcher.

10 THE DEFENDANT: Good afternoon.

11 THE COURT: Mr. Dreiling is here on behalf of the
12 State of Nevada.

13 Good afternoon, Mr. Dreiling.

14 MR. DREILING: Hello.

15 THE COURT: This is the time set for a hearing
16 regarding a request to remove Judge Walker. The cases
17 are assigned to Department No. 7. They were assigned
18 to Department 7 when the Honorable Patrick Flanagan was
19 the presiding judge in Department 7. And at the time
20 Judge Walker was the presiding judge in Department 2 in
21 the Family Division of the Second Judicial District
22 Court. In that capacity Judge Walker had the
23 opportunity to be a judicial officer in a number of
24 proceedings regarding Ms. Fletcher. That forms the

1 basis of the motion before the Court.

2 As a preliminary matter, Mr. Dreiling, I wasn't
3 quite sure how this happened or even what to make of
4 it, but there are two case numbers in CR17-0690, A and
5 B. As I look at the Informations, they look exactly
6 the same, the cases look the same. There's one
7 Information. I don't know where we got an A and an B.

8 MR. DREILING: Over the State's objection Judge
9 Flanagan severed the stolen firearms count from the
10 murder count and created A and B for respective trials.

11 THE COURT: Gotcha. So now it makes sense. There
12 are two different files. Okay. But they're all --
13 there are a number of offenses in CR17-0690 and then
14 there's the second charging document CR17-1127. Now it
15 makes perfect sense.

16 The Court has received and reviewed the July 30th,
17 2018, file-stamped Motion to Recuse and the associated
18 exhibit.

19 I paused for a moment, everyone, because it sounded
20 like there was a bunch of noise, and I couldn't tell
21 where it was coming from, but it's next door in Judge
22 Polaha's courtroom.

23 The Court has also received and reviewed the
24 August 2nd, 2018, file-stamped Response to Motion for

1 Disqualification and associated exhibits filed by Judge
2 Walker. Further, the Court has received and reviewed
3 the August 2nd, 2018, file-stamped Addendum to Response
4 to Motion for Disqualification filed by Judge Walker.

5 Further, the Court has received and reviewed the
6 August 8th, 2018, file-stamped Reply to Response to
7 Motion for Recusal and the attached exhibit. The
8 exhibit is a case that was interesting reading I would
9 say. It is a decision recently handed down by the
10 Ninth Circuit Court of Appeals in a case by the name of
11 Echavarria, E-c-h-a-v-a-r-r-i-a, versus Filson,
12 F-i-l-s-o-n. And it was filed on July 25th of 2018, so
13 it is very recent. The opinion numbers are 15-99001
14 and 17-15560.

15 And as Mr. Picker pointed out, it has been
16 designated for publication, so it will be a published
17 case at some point. But I read it and I'm familiar
18 with it.

19 The Court would also note that Mr. Dreiling on
20 behalf of the State did not file a pleading regarding
21 the motion to recuse. I would assume, Mr. Dreiling,
22 the State's position is we don't have a dog in the
23 fight, unless you do. You stand and pause. I don't
24 know if you have a dog now or not.

1 MR. DREILING: That was going to be one of my
2 questions. I've conducted a couple of these hearings
3 before and every court has handled them differently.
4 The statute contemplates the moving party and the
5 judge. It doesn't address the State's ability to file
6 a document.

7 In similar proceedings I have played somewhat of a
8 devil's advocate giving the court things to think about
9 as far as the State's perspective on the defense's
10 arguments or the judge's arguments. But I'm not sure
11 how Your Honor has handled these and what you would
12 like. I certainly have some thoughts to offer.

13 THE COURT: Well, I'll hear your thoughts at the
14 time and then, of course, give Mr. Picker the
15 opportunity to reply to them. I will tell the parties
16 that in my five and a half years now on the bench this
17 is the first time that I have actually had to decide
18 one of these. On two occasions that I can think of as
19 I sit here somebody filed a motion to recuse me, not
20 because I prosecuted that person or because I was even
21 involved in the prosecution of that case. If memory
22 serves me correctly, it was a motion to recuse me
23 because I worked in the D.A.'s office at the time that
24 the person was prosecuted and therefore there was some

1 question about whether or not I could sit. The case,
2 of course, was referred to another judge and it was
3 resolved. So this is my first opportunity to consider
4 the issue on behalf of a filing party. So that's kind
5 of where I stand.

6 Mr. Dreiling, I would note that on August 9th of
7 2018 the Chief Judge entered an order referring the
8 disqualification question to this department, and so
9 that's where we are today.

10 MR. DREILING: And I've also been informed that
11 Judge Walker is available should there be a factual
12 question for him.

13 THE COURT: That should be interesting. I think
14 Mr. Picker has questioned me on the stand before after
15 I became a judge and some of the other people in the
16 D.A.'s office have as well. So I don't know if there
17 would be a reason to call Judge Walker, but I
18 appreciate the fact that he is available if the need
19 should arise.

20 Mr. Picker, it is your motion. So what would you
21 like to say about the request to -- or your request to
22 recuse Judge Walker? Just so you know, I did go back
23 and do some additional research on my own. The case
24 that Judge Walker primarily cites to and relies upon

1 once we get past the procedural issues, which I'm not
2 going to base my decision on the procedural issues, I
3 think we should base them on the merits, though Judge
4 Walker does raise some procedural issues in his
5 response, is the case of In Re Dunleavy,
6 D-u-n-l-e-a-v-y, 104 Nevada 784, 769 P.2d 1271, a 1988
7 case, where the Nevada Supreme Court in addressing
8 whether or not a supreme court justice could be
9 involved in a case found that a judge performing his or
10 her roles as a judge would not be grounds for
11 disqualification. The issue regarding disqualification
12 has to arise outside of the judge's official role or
13 the decisions that judges would make.

14 To me that makes some sense, because as Judge
15 Walker pointed out in his response, here in the Second
16 Judicial District, and I think overall in the state, we
17 kind of have a one-judge, one-defendant policy. And if
18 I see a defendant three or four times and I refer back
19 to something that he or she has done in the past, I
20 don't think there's anything inappropriate about that.

21 I know you've had defendants in my department
22 before where they're back again on probation violations
23 and I point out that, you know, we've done this dance
24 three or four times in the past. So I'm referring back