

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Apr 08 2021 04:41 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

MICHAEL FOLEY,
Appellant(s),

vs.

CLARK COUNTY DISTRICT
ATTORNEY,
Respondent(s),

Case No: R-11-162425-R

Docket No: 82569

RECORD ON APPEAL VOLUME 3

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either his ability or inability to pay. (1 App. 219-229). The Court then ordered Mr. Foley to serve 10 days in jail (with time served) unless he could produce the outstanding bench warrant amount of \$2,000. (1 App. 228). The court set another hearing for January 15, 2017, and informed Mr. Foley that if he did not pay \$833 in December (the current court-ordered child support amount) he would be held in contempt again. (1 App. 228). Mr. Foley had no attorney at this hearing to represent or advocate for his interests.

Mr. Foley filed objections to this order of incarceration. (1 App. 230-233, 234-235). He once again tried to explain his indigency to the court, objected to the unconstitutional confinement as punishment, and argued that he had a constitutional right to appointment of counsel. (1 App. 230-233, 234-235). Mrs. Foley did not respond to these objections. The District Attorney filed a written opposition to Mr. Foley's objections. (1 ROA 162-170).

The court denied Mr. Foley's objections at a hearing on January 20, 2016. (1 App. 240-247). Mrs. Foley was not present for this hearing. (1 App. 241). The State, however, was present. (1 App. 241). In its January 26, 2016 order on Mr. Foley's objections, the court only found that "there is an *indication* of *possible* willful underemployment." (1 ROA 185-186)(emphasis added). The court's order gave no reasoning for either its finding that Mr. Foley had the ability to pay, or for its uncertain assertion that Mr. Foley might possibly be underemployed. *Id.*

II. SUMMARY OF ARGUMENT

First, this Court should overturn Mr. Foley's contempt conviction because it was imposed in an unconstitutional fashion.

The Constitution prohibits courts from using their civil contempt power to jail indigent defendants for failure to pay. To do otherwise deprives defendants of their rights to equal protection and due process under the Fourteenth Amendment.

Civil contempt is a tool available to courts to coerce compliance with an order. Incarceration may be appropriate as a coercive tool in civil contempt cases because where the contemnor possesses the present ability to pay, the contemnor "carr[ies] the keys of their prison in their own pockets." *Penfield Co. of Cal. v. Securities*, 330 U.S. 585, 590, 67 S. Ct. 918, 921 (1947). Yet, when an individual is incarcerated for contempt for failure to pay, and does not in fact have the present ability to meet the outstanding amount owed, their only recourse is to remain in jail for the remainder of their sentence. The jail sentence then has no coercive effect and is simply a punishment, which is a hallmark of criminal contempt; a punitive incarceration is unconstitutional in the civil contempt context.

To avoid jailing indigent debtors and violating their constitutional rights, the U.S. Supreme Court has explained that a careful assessment of an individual's ability to pay must be made prior to incarceration, and the Court outlined a number of procedural safeguards to be followed. *Turner v. Rogers*, 564 U.S. 431, 454, 131

S. Ct. 2507, 2523 (2011). Recently enacted federal regulations recognized this constitutional necessity and adopted similar procedural safeguards. 45 C.F.R. § 303.6 (2016). These procedural protections are critically important because the majority of individuals in arrearages on child support are indigent and thus precautionary measures must be taken. The court instituted none of these safeguards for Mr. Foley.

Incarceration for an inability to pay is also bad public policy. It creates an endless cycle of imprisonment and nonpayment, and has significant negative consequences for familiar relationships.

Second, this Court should join the weight of authority from other states and recognize a right to counsel for indigent defendants in contempt cases where the state seeks to incarcerate a child support obligor. The United States Supreme Court suggested in *Turner* that when the state is prosecuting the contempt charge (as it is here), the equities weigh in favor of appointing counsel. *Turner*, 564 U.S. at 449. This is exactly what happened in this case: a representative from the district attorney's office, not Mrs. Foley, consistently argued for contempt and incarceration of Mr. Foley. Even if the procedural safeguards outlined in *Turner* are implemented, they are unlikely to provide the intended protections without counsel. Unsophisticated debtors often lack the skills to present compelling

evidence of their inability to pay and may have difficulty distinguishing between civil and criminal contempt to effectively represent their interests to the Court.

III. ARGUMENT

A. THE USE OF CIVIL CONTEMPT TO INCARCERATE INDIGENT NON-CUSTODIAL PARENTS IS BOTH UNCONSTITUTIONAL AND BAD PUBLIC POLICY

1. Use Of The Civil Contempt Power To Jail Non-Custodial Parents Without Assessing Ability To Pay Violates The Fourteenth Amendment's Equal Protection And Due Process Clauses.

a) Contempt as a tool to coerce compliance versus contempt as a tool to punish

A court's contempt power is used to address "disobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers." Nev. Rev. Stat. § 22.010. When the contempt is based on "the omission to perform an act *which is yet in the power of the person to perform*, the person may be imprisoned until the person performs it." Nev. Rev. Stat. § 22.110 (emphasis added). Imprisonment can be an effective remedy to compel compliance in these circumstances, as the contemnor has the power to secure their own release from imprisonment by performing the court ordered act, which they have been previously unwilling to perform. When a contemnor can comply with the order,

but simply refuses to do so, they “carry the keys of their prison in their own pockets.” *Penfield Co. of Cal. v. Securities*, 330 U.S. 585, 590, 67 S. Ct. 918, 921 (1947) (citing *In re Nevitt*, 117 F. 448, 461 (8th Cir. Mo. Aug. 28, 1902)).

However, when a civil contempt order seeks to compel performance of an act that the alleged contemnor cannot perform, incarceration will not further – and may, in fact, frustrate – the court’s goal of compelling compliance. See *United States v. Rylander*, 460 U.S. 752, 757, 103 S. Ct. 1548, 1552 (1983) (“Where compliance is impossible, neither the moving party nor the court has any reason to proceed with the civil contempt action.”). If a court is unconcerned with whether the contemnor has the means to comply, this is a hallmark of criminal contempt as it indicates the contempt is for the purposes of punishment, not coercion. “Criminal contempt is a crime in the ordinary sense; therefore, criminal contemnors are entitled to the protections that the Constitution requires of such criminal proceedings, including the right to counsel.” *Turner v. Rogers*, 564 U.S. 431, 454, 131 S. Ct. 2507, 2523 (2011) (internal citations omitted) A court may not impose punishment “in a civil contempt proceeding when it is clearly established that the alleged contemnor is unable to comply with the terms of the order.” *Id. at* 442 (citing *Hicks v. Feiock*, 485 U.S. 624, 638, n. 9, 108 S.Ct. 1423 (1988)).

b) A court acts in contravention of the Constitution if it does not make a finding that the contemnor is able to pay prior to incarceration.

The Supreme Court has explained that a careful ability-to-pay hearing is the key to ensuring that civil contempt is not unconstitutionally transformed into criminal contempt:

The fact that ability to comply marks a dividing line between civil and criminal contempt, reinforces the need for accuracy. That is because an incorrect decision (wrongly classifying the contempt proceeding as civil) can increase the risk of wrongful incarceration by depriving the defendant of the procedural protections (including counsel) that the Constitution would demand in a criminal proceeding.

Turner, 564 U.S. at 445 (internal citations omitted).

A court thus violates the non-custodial parent's right to due process under the Fourteenth Amendment to the US Constitution when it imposes a civil contempt sentence of incarceration if the alleged contemnor has no present ability to pay. *See Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 811, 102 P.3d 41, 50 (2004) ("In the setting of a contempt hearing for the nonpayment of child support, a party loses his personal freedom *only after the court determines that he has the ability to comply* with the child support order but failed to make an effort to do so.") (emphasis added); *Rodriguez v. Robbins*, 804 F.3d 1060, 1075–76 (9th Cir. 2015) ("If compliance is impossible—for instance, if the individual lacks the financial resources to pay court-ordered child support—then contempt sanctions do not serve their purpose of coercing compliance and therefore violate the Due

Process Clause.”); *Shillitani v. United States*, 384 U.S. 364, 371, 86 S. Ct. 1531, 1536 (1966)(“... the justification for coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court’s order.”); *Elzey v. Elzey*, 435 A.2d 445, 448 (Md. 1981) “[W]ith regard to civil contempt proceedings based upon the defendant’s failure to comply with a decree ordering support payments ..., the issue is not the ability to pay at the time the payments were originally ordered; instead, the issue is his *present* ability to pay.”).³

Turner outlined several procedural safeguards that it hoped would help ensure that the ability-to-pay determination is made correctly. These included:

³ Helpful comparisons can be drawn from jurisprudence regarding legal financial obligations as failure to pay these types of court imposed debts, like contempt based on failure to pay child support, carries the possibility of unconstitutional confinement. The U.S. Supreme Court established in *Bearden v. Georgia* that it is a violation of the Fourteenth Amendment’s Equal Protection and Due Process clauses to jail a person for nonpayment if the court does not first provide a hearing on that person’s ability to pay. *Bearden v. Georgia* 461 U.S. 660, 672, 103 S. Ct. 2064, 2073 (1983) (“... a sentencing court must inquire into the reasons for the failure to pay.”). This Court applied the *Bearden* holding to its decision in *Gilbert v. State*, where it determined that ability to pay hearings are required before imprisonment for nonpayment of a fine. “Before a defendant may be imprisoned for nonpayment of a fine, a hearing must be held to determine the present financial ability of the convict.” *Gilbert v. State*, 99 Nev. 702, 708, 669 P.2d 699, 703 (1983). Incarceration for failure to pay child-support carries the same fundamental fairness concerns as depriving an individual of liberty due to inability to pay court imposed costs, fines, and fees. *See Bearden*, 461 U.S. at 672. This Court should recognize the same here.

“(1) notice to the defendant that his ‘ability to pay’ is a critical issue in the contempt proceeding; (2) the use of a form (or the equivalent) to elicit relevant financial information; (3) an opportunity at the hearing for the defendant to respond to statements and questions about his financial status (e.g., those triggered by his responses on the form); and (4) an express finding by the court that the defendant has the ability to pay.” 564 U.S. at 447-48.

Recently enacted federal regulations further recognize the constitutional obligation to properly assess a child support debtor’s ability to pay prior to imposing incarceration. 45 C.F.R. § 303.6. This new rule, adopted in December 2016, establishes procedural standards surrounding the use of civil contempt in the enforcement of child support obligations. Specifically, the rule requires child support agencies to:

- (i) screen the case for information regarding the noncustodial parent’s ability to pay or otherwise comply with the order;
- (ii) provide the court with such information regarding the noncustodial parent’s ability to pay, or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent’s ability to pay the purge amount or comply with the purge conditions; and
- (iii) provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

45 C.F.R. § 303.6

These regulatory requirements, the Department of Health and Human Services explained, “are designed to reduce the risk of erroneous deprivation of the noncustodial parent’s liberty [], without imposing significant fiscal or administrative burden on the State.” Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, 81 Fed. Reg. 93492, 93532 (Dec. 20, 2016)

In fact, this Court has recognized that “consistent with due process, a party cannot be found guilty of failing to pay child support and sentenced to jail conditional upon his payment of arrearages unless the trial court first determines that the individual (1) has the ability to make the payment and (2) willfully refuses to pay. *Rodriguez*, 120 Nev. at 809. In discussing the indigency determination in *Rodriguez*, this Court made note of the importance of ensuring a correct determination because the decision to incarcerate an individual “involves the protection of basic constitutional rights.” *Id* at 807.

These procedural protections are essential because the majority of individuals in arrearages on child support are indigent. “70% of child support arrears nationwide are owed by parents with either no reported income or income of \$10,000 per year or less.” *Turner v. Rogers*, 64 U.S. 431, 445–46, 131 S. Ct. 2507, 2518, 180 L. Ed. 2d 452 (2011)(*citing* E. Sorensen, L. Sousa, & S. Schaner, Assessing Child Support Arrears in Nine Large States and the Nation 22 (2007)

(prepared by The Urban Institute), <http://aspe.hhs.gov/hsp/07/assessing-CS-debt/report.pdf>.

The trial court instituted none of these safeguards for Mr. Foley. Mr. Foley was not given notice that his “ability to pay” would be a critical issue in the contempt proceeding and the hearing master did not make an express finding of Mr. Foley’s ability to pay before imposing incarceration. In fact, the hearing master completely ignored testimony from Mr. Foley that he did not in fact have the means to cure the contempt order. In confirming this unconstitutional order, the District Court Judge made just a cursory finding that Mr. Foley had the ability to pay, and made a noncommittal assessment that Mr. Foley was potentially willfully underemployed. Even if such underemployment were proven, at most it would indicate that he had the ability to comply at the time the payments were ordered, not that he had the *present* ability to pay, and incarceration of Mr. Foley completely eliminated the possibility of any present income, fully employed or otherwise.

2. Incarceration For An Inability To Pay Child Support Creates A Cycle Of Imprisonment And Nonpayment, Harming Families And Running Counter To The Policy Goals Of The Child Support Program.

The Child Support Enforcement Program is a “family-first program intended to ensure families[’] self-sufficiency by making child support a more reliable

source of income.” Nev. Dep’t of Health and Human Services, *Child Support*, https://dwss.nv.gov/Support/1_0_0-Support/. The Federal Office of Child Support Enforcement describes its goal as one of assisting state agencies to “ensure that child support orders are fair – that noncustodial parents are not burdened by a debt they cannot pay – and that children receive regular support payments.” U.S. Dep’t of Health and Human Services, Admin. for Children and Families, *Child Support Handbook*, 1 (Feb. 28, 2013). Incarcerating non-custodial parents who are too poor to pay child support, frustrates achievement of these goals.

While incarcerated, the parent has no real ability to earn a wage, and worse, incarceration will likely lead to loss of employment for the non-custodial parent, further reducing their ability to pay child support. Studies have shown that incarceration has a negative impact on wages overall. A 2010 study by Pew Charitable Trusts regarding collateral consequences of incarceration found that incarceration reduces hourly wages for men by approximately 11 percent, annual employment by 9 weeks and annual earnings by 40 percent. The Pew Charitable Trusts, *Collateral Costs: Incarceration’s Effect on Economic Mobility* (2010)(http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2010/collateralcosts1pdf.pdf).

The Department of Health and Human Services, in adopting its final rule in 2016 recognized the significant policy concerns with incarcerating indigent

parents, explaining:

While the State has a strong interest in enforcing child support orders, it secures no benefit from jailing a noncustodial parent who cannot discharge his obligation. The period of incarceration makes it less, rather than more, likely that such parent will be able to pay child support. Meanwhile, the State incurs the substantial expense of confinement. While child-support recovery efforts once “followed a business model predicated on enforcement” that “intervened only after debt, at times substantial, accumulated and often too late for collection to be successful, let alone of real value to the child,” experience has shown that alternative methods—such as order modifications, increased contact with noncustodial parents, and use of “automation to detect noncompliance as early as possible”—are more effective than routine enforcement through civil contempt.

Flexibility, Efficiency, And Modernization In Child Support Enforcement Programs 81 Fed. Reg. 93492, 93532 (Dec. 20, 2016)

Even this Court noted in *Rodriguez v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, that “putting a father in jail for an extended stay is counterproductive to the ultimate goal of coercing his payment of child support.” 120 Nev. 798, 805, 102 P.3d 41, 46 (2004).

Imprisonment also negatively impacts the relationship between an indigent parent and their family. An incarcerated parent may not be allowed visitation with children, which is traumatic for both the parent and the child. See Lindsey Cramer, Margaret Goff, Bryce Peterson, & Heather Sandtrom, *Parent-Child Visiting Practices in Prisons and Jails: A Synthesis of Research and Practice*, (2017)

(prepared by The Urban Institute)(available at http://www.urban.org/sites/default/files/publication/89601/parent-child_visiting_practices_in_prisons_and_jails.pdf) “[T]he disruption of the parent-child relationship and attachment is considered an adverse childhood experience. Adverse childhood experiences are associated with an increased risk of trauma and the potential for lasting effects such as risky health behaviors, chronic health conditions, and early death.” *Id.* at 2. Children with incarcerated parents are also “more likely to have insecure attachments to their incarcerated parents and primary caregivers.” *Id.* at 6.

Taking into consideration the ultimate goals of the child support enforcement program, as well as the trial court’s failure to conduct a proper inquiry into Mr. Foley’s inability to pay, this Court should overturn his contempt conviction.

B. THE COURT SHOULD RECOGNIZE A RIGHT TO COUNSEL IN CIVIL CONTEMPT CASES WHERE THE STATE SEEKS TO INCARCERATE A CHILD SUPPORT OBLIGOR.

1. The Supreme Court Has Suggested that Child Support Contempts Prosecuted by the State Require Counsel, and Other States Have Agreed.

While *Turner* declined to recognize a categorical right to counsel in child support contempt actions purely between two private parties, it strongly implied it would come to a different conclusion were the State to prosecute the action:

We do not address civil contempt proceedings where the underlying child support payment is owed to the State, for example, for reimbursement of welfare funds paid to the parent with custody. *See supra*, at 443, 180 L. Ed. 2d, at 463. Those proceedings more closely resemble debt-collection proceedings. The government is likely to have counsel or some other competent representative. *Cf. Johnson v. Zerbst*, 304 U.S. 458, 462-463, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938) (“[T]he average defendant does not have the professional legal skill to protect himself when brought before a tribunal with power to take his life or liberty, wherein the prosecution is presented by experienced and learned counsel” (emphasis added)). And this kind of proceeding is not before us.

Turner, 564 U.S. at 449.

Indeed, such a proceeding not only lacks the “asymmetry of representation” concern raised by the Court when two private parties litigate contempt, *Id.* at 447, but in fact creates a completely different asymmetry of representation, namely pitting an unrepresented and indigent obligor against the vast resources and expertise of the State. Moreover, such a scenario was not contemplated in *Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 102 P.3d 41 (2004), as that case involved two private parties, and therefore *Rodriguez* is not dispositive of whether a right to counsel should attach in State-prosecuted contempt actions.

This Court would not be alone in creating a limited right to counsel in this fashion: prior to *Turner*, state supreme courts in Delaware, and Michigan, and Wisconsin recognized a Fourteenth Amendment right to counsel that was limited

to contempt prosecuted by the state. Because *Turner* explicitly declined to address this situation, these decisions continue to be good law. *Black v. Div. of Child Support Enforcement*, 686 A.2d 164, 169 (Del. 1996) (“[A]n indigent obligor who faces the possibility of incarceration in a State initiated civil contempt proceeding does have a due process right to court appointed counsel”); *Mead v. Batchlor*, 460 N.W.2d 493, 503 (Mich. 1990) (reversing *Sword v. Sword*, 249 N.W.2d 88 (Mich. 1976)(holding that counsel in contempt cases should be appointed on case-by-case basis, to establish categorical right in state-initiated contempt, in part “since the state's representative at such a hearing is well versed in the laws relating to child support, fundamental fairness requires that the indigent who faces incarceration should also have qualified representation.”);⁴ *State v. Pultz*, 556 N.W.2d 708, 715 (Wis. 1996) (indigent individual is entitled to appointed counsel “when an arm of government brings a motion for a remedial contempt hearing against an individual, and that person's liberty is threatened.”).⁵

⁴ In *Sturgis v. Sturgis*, No. 326163, 2016 Mich. App. LEXIS 1977, *9 (Mich. App. 2016), the Court of Appeals stated that *Mead* was “abrogated by *Turner*.” But given that *Mead* specifically confined its holding to a situation that *Turner* explicitly did not address, this statement in *Sturgis* is without merit.

⁵ See also *Finding of Contempt in v. Sheppard*, Appeal No. 2016AP350, 2017 Wisc. App. LEXIS 541, *17-18 (Wisc. App. 2017) (noting that *Pultz* established a ‘bright-line rule’ that a defendant has a right to appointed counsel when his or her liberty ‘is threatened by a remedial contempt action brought by the government’ ... The decision reaffirmed the rule in *Ferris v. State*, 75 Wis. 2d 542, 546, 249 N.W.2d 789 (1977), which provided that ‘where the state in the exercise of its (continued...)

In Mr. Foley's case, a representative from the DA's office was not only present at every hearing, but was also the one to seek contempt sanctions against Mr. Foley and oppose Mr. Foley's request for appointment of counsel. Mrs. Foley, on the other hand, was not even present at many of the hearings, and when present acted more like a witness. At one particular hearing on a Motion to Review and Adjust Child Support, the Court informed Mrs. Foley that she did not even need to appear for these proceedings if she did not want to appear. (1 App. 197–201).⁶

Such a situation clearly fits into the scenario referred to by the Supreme Court, where the government acts as a debt collector and has "counsel or some other competent representative." *Turner*, 564 U.S. at 449.

police power brings its power to bear on an individual through the use of civil contempt ... and liberty is threatened ... such a person is entitled to counsel.' Thus, a key part of the rationale for the blanket rule was 'to protect litigants against unpredictable and unchecked adverse governmental action.'").

⁶ Of the eleven relevant hearings after Mr. Foley was ordered to pay child support, a Chief Deputy D.A. from the Family Support Divisions was present at every one. Mrs. Foley was present at only five of these hearings and never made substantive arguments to the Court. (*See* 1 App 1–11; 1 App 63–71; 1 App 72–79; 1 App 104–108; 1 App 172–183; 1 App. 190–196; 1 App 197–201; 1 App 202–215; 1 App 216–218; 1 App 219–229; 2 App. 315–317).

2. The Majority of States Examining a Right to Counsel in Contempt Cases Have Recognized Such a Right and Have Continued to Do So Since *Turner v. Rogers*.

In addition to the states mentioned above that have created a right to counsel limited to government-prosecuted civil contempt cases, at least six states (Alaska, Indiana, Maryland, New Jersey, Washington State, and West Virginia) have recognized an independent state constitutional due process right to counsel in child support contempt cases, and nearly all have explicitly reaffirmed this right since *Turner*.⁷

⁷ *Otton v. Zaborac*, 525 P.2d 537, 538 (Alaska 1974) (relying on Alaska Const, Art. I, § 7 as well as the Fourteenth Amendment); *Dennis O. v. Stephanie O.*, 393 P.3d 401, 406, (Alaska 2017) (stating, “We have held that due process requires appointment of counsel to an indigent parent if the proceeding could lead to ... the deprivation of liberty”, and citing to *Otton*); *Branum v. State*, 822 N.E.2d 1102, 1104 (Ind. App. 2005) (recognizing that *In re Marriage of Stariha*, 509 N.E.2d 1117 (Ind. Ct. App. 1987), established right to counsel for any proceedings where person will be incarcerated, and observing that “Indiana has long recognized a person's right to have counsel appointed under such circumstances”, citing to 1854 case in which the Indiana Supreme Court recognized a right to counsel in criminal cases “more than a century before *Gideon v. Wainwright*”); *Moore v. Moore*, 11 N.E.3d 980 (Ind. Ct. App. 2014) (quoting *Stariha* for proposition that “where the possibility exists that an indigent defendant may be incarcerated for contempt for failure to pay child support he or she has a right to appointed counsel and to be informed of that right prior to commencement of the contempt hearing”); *Rutherford v. Rutherford*, 296 Md. 347, 464 A.2d 228, 237 (1983) (recognizing right to counsel in child support contempt cases under Md. Declaration of Rights Art. 24 in addition to Fourteenth Amendment); *Grandison v. State*, 38 A.3d 352, 364 (Md. 2012) (“We recognized in *Rutherford* ... that, under certain circumstances, the requirements of due process include a right to counsel, with appointed counsel for indigents, in civil cases or other proceedings not constituting stages of criminal trials”); *Pasqua v. Council*, 892 A.2d 663, 673 (N.J. 2006) (continued...)

Additionally, more than a dozen courts recognized a federal constitutional right to counsel prior to *Turner* and have not yet revisited those opinions. See *County of Santa Clara v. Superior Court*, 5 Cal. Rptr. 2d 7, 10-12 (Cal. App. 1992); *People v. Lucero*, 584 P.2d 1208, 1214 (Colo. 1978); *Emerick v. Emerick*, 613 A.2d 1351, 1353-1354 (Conn. App. Ct. 1992); *Sanders v. Shephard*, 645 N.E.2d 900, 906 (Ill. 1994) (approving *Sanders v. Shephard*, 541 N.E.2d 1150, 1156-1157 (Ill. Ct. App. 1989)); *McNabb v. Osmundson*, 315 N.W.2d 9, 11-14

(relying on N.J. Const. art. I, P1 in addition to Fourteenth Amendment); *In re Child by J.E.V.*, 141 A.3d 254, 264 (N.J. 2016) (citing approvingly to *Pasqua's* state constitutional holding); *Tetro v. Tetro*, 544 P.2d 17, 19 (Wash. 1975) (recognizing right to counsel in civil contempt cases); *In re Detention of Turay*, 986 P.2d 790 (Wash. 1999) (citing *Tetro* for the proposition that “The sixth and fourteenth amendments of the United States Constitution guarantee the right to counsel in state proceedings where liberty is at stake,” but not specifically mentioning state constitution); *State v. Stone*, 268 P.3d 226, 223 n.9 (Wash. App. 2012) (stating *Tetro* was decided under “both the federal and the state constitution”, finding right to counsel in incarceration for failure to pay legal financial obligations, and pointing out that *Turner* was distinguishable because “LFO defendants faced a state prosecutor, not an unrepresented private party”); *Moore v. Hall*, 341 S.E.2d 703, 705 (W. Va. 1986) (citing to *State ex rel. Graves v. Daugherty*, 266 S.E.2d 142 (W.Va. 1980), for proposition that “Our state constitutional due process right to counsel requires court-appointed attorneys in criminal and civil actions which may constrain one's liberty or important personal rights,” and explicitly extending right to child support contempt). See also *State v. Churchill*, 454 S.W.3d 328 (Mo. 2015) (citing to *State ex rel. Family Support Div. - Child Support Enforcement v. Lane*, 313 S.W.3d 182, 186 (Mo. App. 2010), for proposition that “for purposes of triggering a defendant's right to counsel under the due process clause, the distinction between a 'criminal' and a 'civil' proceeding is irrelevant if the outcome of the civil proceeding is imprisonment”, but not finding right to counsel in the case before it since the protective custody proceeding at issue did not involve risk of imprisonment).

(Iowa 1982);⁸ *Johnson v. Johnson*, 721 P.2d 290, 294 (Kan. Ct. App. 1986) (dicta); *Allen v. Sheriff of Lancaster County*, 511 N.W.2d 125, 127 (Neb. 1994), *overruled on other grounds by Smeal Fire Apparatus Co. v. Kreikemeier*, 279 Neb. 661, 684 (Apr. 16, 2010); *McBride v. McBride*, 431 S.E.2d 14, 19 (N.C. 1993);⁹ *Ullah v. Entezari-Ullah*, 836 N.Y.S.2d 18, 22 (App. Div. 2007); *Peters-Riemers v. Riemers*,

⁸ In *Spitz v. Iowa Dist. Court for Mitchell County*, 881 N.W.2d 456, 466 (Iowa 2016), the court held that a parent had no right to counsel in a contempt proceeding regarding child visitation, finding that the trial court had provided all of the “procedural safeguards” outlined in *Turner*, namely notice of the central issue in the case, an opportunity to present evidence, and specific findings on the record. However, like *Turner*, the plaintiff in *Spitz* was the other parent, not the government, and like *McNab*, the *Spitz* court limited its ruling to the requirements of the Fourteenth Amendment; it did not evaluate the state constitution’s due process conclusion.

⁹ Subsequent to *Turner*, the North Carolina Court of Appeals has taken an ambiguous path. In *Young v. Young*, 736 S.E.2d 538 (N.C. App. 2012), the Court of Appeals cited both *Turner* and *McBride* but gave little indication of what it would do on civil contempt cases generally because it found that the defendant had failed to meet his burden of proving that he was indigent. The *Young* court did say, though, that “[c]ontrary to Plaintiff’s assertion, *Turner* does not stand for the proposition that counsel is not required only when the opposing party is also unrepresented; rather it finds both that in such a scenario, counsel is not required if there are appropriate safeguards in place, and that counsel is not ‘*automatically* require[d]’ in all civil contempt hearings for child support from indigent litigants.” *Id.* at 544. Then, in *D’Alessandro v. D’Alessandro*, 762 S.E.2d 329 (N.C. App. 2014), the court quoted from *McBride* regarding a right to counsel in civil contempt proceedings, failed to mention *Turner*, and added, “Where a defendant faces the potential of incarceration if held in contempt, the trial court must inquire into the defendant’s desire for and ability to pay for counsel to represent him as to the contempt issues”). But then, in *Tyll v. Berry*, 758 S.E.2d 411 (N.C. App. 2014), the court relied on *Turner* for the case-by-case approach to appointing counsel under the Fourteenth amendment and did not mention *McBride* except for purposes unrelated to constitutional right to counsel.

663 N.W.2d 657, 664-665 (N.D. 2003); *Wold Family Farms, Inc. v. Heartland Organic Foods, Inc.*, 661 N.W.2d 719, 724-725 & n.3 (S.D. 2003), *abrogated in part on other grounds*, *Sazama v. State ex rel. Muilenberg*, 729 N.W.2d 335 (S.D. 2007); *Bradford v. Bradford*, No. 86-262-II, 1986 WL 2874, at *4-5 (Tenn. Ct. App. Mar. 7, 1986); *Ex parte Walker*, 748 S.W.2d 21, 22 (Tex. App. 1988); *Choiniere v. Brooks*, 660 A.2d 289, 289 (Vt. 1995). At this stage, it is unknown whether the courts will modify their opinions because of *Turner* (for instance by limiting their reach to government-initiated contempts), but the number of opinions demonstrates the general consensus existing that counsel should be required for civil contempt proceedings. This Court should follow the weight of authority and find a right to counsel for civil contempt proceedings, at least where the government prosecutes the contempt action.

3. The Procedural Safeguards Outlined in *Turner v. Rogers* Are Unlikely to Protect Indigent Contemnors Without Counsel.

In its 2016 final rule on child support, the Department of Health and Human Services explained that child support contempt proceedings are often based on wrongly-sized child support orders imposed on parents who lacked counsel.

Many States work diligently to develop a factual basis for orders. However, in some jurisdictions, a two-tiered system exists with better-off noncustodial parents receiving support orders based upon evidence and a determination of their individual income. Poor, low-skilled noncustodial parents, usually unrepresented by counsel, receive standard-issue support orders. Such orders

lack a factual basis and are instead based upon fictional income, assumptions not grounded in reality, and beliefs that a full-time job is available to anyone who seeks it.

Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, 81 Fed. Reg. 93519, 93524 (Dec. 20, 2016).

Although appointed counsel in contempt proceedings cannot collaterally attack the child support order itself, counsel can use evidence that the order is wrongly sized to demonstrate that the contemnor lacks the present ability to pay. Such an approach is beyond most unrepresented parents in contempt proceedings, and the minimal procedural safeguards outlined in *Turner v. Rogers* (such as mere notice that ability to pay is a key issue) do not address this problem.

The Supreme Court of New Jersey, in recognizing a right to counsel in civil contempt cases, further explained the reasons why alternative safeguards are insufficient:

We reject the Appellate Division's contentions that "a judge can adequately protect an [indigent parent] by conducting a thorough and searching ability-to-pay hearing" or that the "solution to plaintiffs' perceived problem can be found readily through judicial education and training, and need not implicate the right to appointed counsel." However well intentioned and scrupulously fair a judge may be, when a litigant is threatened with the loss of his liberty, process is what matters. A person of impoverished means caught within the tangle of our criminal or civil justice system and subject to a jail sentence is best protected by an adversarial hearing with the assistance of a trained and experienced lawyer. Although requiring counsel may

complicate the procedures pertaining to enforcement of court orders, it protects important constitutional values, including the fairness of our civil justice system.

Pasqua v. Council, 892 A.2d 663, 673-74 (N.J. 2006)

Another problem with the procedural safeguards is that an unrepresented child support obligor is not likely to know when a trial court judge has conflated civil and criminal contempt, potentially imposing penalties within the context of a civil contempt proceeding that are constitutionally impermissible. This is not a theoretical problem: courts across the country have struggled with the thin line between criminal and civil contempt, and appellate courts have often reversed trial courts that impermissibly mixed the two.¹⁰

¹⁰ See e.g. *Hale v. Peddle*, 648 A.2d 830, 831 (Vt. 1993) (trial court's finding of ability to pay "was based primarily on his admission that he had given away over \$20,000 to his children within the last year. While this may be evidence of willful dissipation of assets, it is not evidence of present ability to pay. In fact, it suggests the contrary"); *Marriage of Connelly*, 752 P.2d 1258, 1261 (Or. App. 1988) (court notes "difficulty of determining whether the court punished father to enforce compliance with the dissolution judgment, as for a civil contempt, or whether the punishment was for a criminal contempt for failure to pay child support. The judgment and incorporated findings have some of the earmarks of both kinds of contempt ..."); *Key v. Key*, 767 S.E.2d 705 (N.C. App. 2014) ("The district court's imposition of a criminal punishment and its exclusion of any finding that Defendant was delinquent at the time of the order's entry and of a purge provision lead us to conclude that the court mistakenly labeled the contempt 'civil' rather than 'criminal'").

Finally, the procedural safeguards outlined in *Turner* have not achieved their desired effect in Nevada. In *Turner*, the Court made clear that there is no right to counsel only where

the opposing parent or other custodian (to whom support funds are owed) is not represented by counsel *and* the State provides alternative procedural safeguards equivalent to those we have mentioned ...

Turner, 564 U.S. 431, 448 (emphasis added). It stands to reason, then, that where a state has failed to provide such procedural safeguards, the right to counsel must attach. In the instant case, it has been six years since the U.S. Supreme Court decided *Turner*, and as detailed in the Appellant's Brief and this *Amicus* Brief, the Nevada trial courts continue to incarcerate child support obligors without even basic safeguards such as a clear determination of the ability to pay. In fact, Nevada's trial courts were put on notice even earlier, when the *Rodriguez* court pointed out that the trial court in that case had not taken even the minimal steps necessary to determine ability to pay:

Although the district court made summary findings that Rodriguez was underemployed, the court did not make specific findings regarding indigency and his potential ability to pay. The court referenced the business awarded to Rodriguez in the divorce, but made no specific findings concerning the type and value of the business or what Rodriguez has done with the business to this point. In addition, the district court made passing reference to Rodriguez's living arrangement and the level of support received from his mother, but made no specific factual findings of indigency. In this case, the

district court should fully examine the facts underlying its conclusion that petitioner is underemployed and determine whether he is indigent given the relevant factors above ... The district court sentenced Rodriguez to serve 25 days in jail with the possibility of early release upon his payment of a portion of the support payments in arrears. While we express no opinion on the \$ 10,000 figure selected by the district court, we note that without specific findings regarding Rodriguez's current financial status, or the status of the business awarded to him in the divorce, we are concerned whether Rodriguez actually possesses the ability to secure his freedom. As previously noted, this is an important distinction between civil and criminal contempt.

Rodriguez, 120 Nev. at 807-08, 102 P.3d at 47-48.

The overwhelming authority from the United State Supreme Court and other state and federal courts, combined with the lack of procedural protections in Nevada demonstrate the need for this court to find a right to counsel, at least in the context where the State is prosecuting the action.

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IV. CONCLUSION

For the reasons stated above, *Amicus Curiae* American Civil Liberties Union of Nevada respectfully requests that this court find in favor of Appellant, Michael Foley.

DATED on this 2nd day of August, 2017.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this Brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type-style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point font, Times New Roman style. I further certify that this Brief complies with the type-volume limitation of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it contains 6881 words.

Pursuant to NRAP 28.2, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

I understand that I may be subject to sanctions in the event that this Brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

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I hereby certify and affirm that this **Amicus Brief of American Civil Liberties Union Of Nevada In Support Of Appellant** was filed electronically with the Nevada Supreme Court on August 2, 2017 and electronically served on the following parties:

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IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,

Appellant,

vs.

PATRICIAL FOLEY,

Respondent.

Supreme Court Case No.: 69997

District Court No.:

R-11-162425-R

FILED

AUG 09 2017

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18 *CORNELL J. L. & PUB. POL'Y* 95, 104 (2008)..... passim
- Elizabeth Patterson, *Turner in the Trenches: A Study of How Turner v. Rogers Affected Child Support Contempt Proceedings*, 25 *GEORGETOWN J. POV. L. & POL'Y*, __ (2017)
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- Frances Fox Piven, *Welfare Reform and the Economic and Cultural Reconstruction of Low Wage Labor Markets*, in

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Amicus Elizabeth Patterson submits her Amicus Brief in support of the Appellant.

INTRODUCTION

A contempt of court proceeding is one of few contexts in which an individual can be sentenced to jail in a civil proceeding without the benefit of a jury trial, the reasonable doubt standard, the state's burden of proof, or any of the other constitutional protections accorded to criminal defendants. This result is said to be justified by the fact that incarceration or civil contempt is ameliorative, not punitive: the civil contemnor can purchase his freedom at any time by complying with a purge condition set by the court. This argument loses its force, however, if the contemnor does not have the ability to comply with that purge condition because the Supreme Court has long held that ability to comply is a necessary precondition to imposition of a jail sentence in a civil contempt proceeding.

This principle is widely ignored in those states that make heavy use of civil contempt as a method of child support enforcement. Because there are a variety of other tools available to collect child support from parents with the income or assets to make the consistent payments required by the typical child support order, the bulk of enforcement through civil contempt is directed at low-income persons who work sporadically in low-wage or involuntary part-time jobs. Many

of them are unemployed at the time of the contempt hearing. Yet despite their dire financial circumstances, many of these obligors are held in contempt and given jail sentences that can be avoided only by payment of hefty purge amounts.

Not only does this practice violate the due process rights of these obligors, who are being given the equivalent of a criminal sentence in a civil proceeding, it also is irrational and counter-productive in regard to the objectives of the child support enforcement program and the ameliorative purposes of civil contempt proceedings. Civil incarceration cannot and will not achieve its purpose of coercing payment if the contemnor lacks the ability to pay the purge set by the court. To the contrary, a jail sentence diminishes the contemnor's ability to pay both during and after the period of incarceration by causing loss of existing or prospective employment or of unemployment compensation benefits, and impeding the search for employment post-incarceration. In addition, it impedes any constructive personal interactions between the incarcerated parent and the child.

In 2011, the United States Supreme Court held in *Turner v. Rogers*, that a state has an obligation to “assure a fundamentally fair determination of the critical incarceration-related question, whether the supporting parent is able to comply with the support order.” In *Turner*, where the contending parties were the custodial and non-custodial parents – both poor and unrepresented – the U.S.

Supreme Court held that the constitution did not require that counsel be provided to the low-income obligor. The Court expressed the view that in such a case the obligor's due process right to accurate decision-making on the "ability to pay" issue could be adequately protected through "alternative procedural safeguards." But the Court left open the question of whether such "alternative procedures" would be sufficient in cases where the opposing party, as here, represented in the proceeding by government counsel.

In the six years since *Turner* was decided, large numbers of low-income, unrepresented obligors have been given jail sentences despite their apparent inability to pay the purge set by the court. In many of the cases, the unrepresented obligor was opposed by a government attorney. It has become clear that in this class of cases not covered by the Supreme Court's ruling in *Turner*, legal representation of the obligor is needed to assure accurate decisions on the "ability to pay" issue.

**STATEMENT OF IDENTITY, INTEREST, AND AUTHORITY
PURSUANT TO NRAP 29(D)(3).**

Amicus curiae Elizabeth G. Patterson was State Director of the South Carolina Department of Social Services, the agency that administers the child support enforcement program in South Carolina, from 1999-2003. Except for those four years, she has been a member of the faculty at the University of South

Carolina School of Law since 1980, currently holding the rank of Professor of Law. Professor Patterson specializes in law relating to families, children, and poverty.

While at the Department of Social Services, she became aware of the large number of child support obligors who were being incarcerated for nonpayment in civil contempt proceedings. After returning to the University in 2003, she conducted extensive empirical and scholarly research on the use of civil incarceration in child support enforcement, and its impact on low-income non-custodial parents. Her work in this area has been cited by both the United States Supreme Court and the federal Office of Child Support Enforcement.

Prof. Patterson has no stake in the merits of the underlying dispute. However, given her real-world experience and scholarship, Professor Patterson has a unique and informed perspective on child support enforcement systems, their use of the civil contempt process, and the civil incarceration of low-income child support obligors, which she believes may be of assistance to the Court in the resolution of issues presented in this proceeding.

Prof. Patterson has sought leave of the Court to file an amicus brief by Motion pursuant to NRAP 29, filed simultaneously with this Brief.

LEGAL ARGUMENT

I. THE DUE PROCESS CLAUSE IS VIOLATED WHEN A CIVIL CONTEMNOR'S RELEASE FROM JAIL IS CONDITIONED ON AN ACTION THAT THE CONTEMNOR IS INCAPABLE OF PERFORMING, AS WHEN A CHILD SUPPORT CONTEMNOR IS LACKS THE ABILITY TO PAY THE PURGE NECESSARY TO AVOID OR END HIS INCARCERATION. VIOLATION OF THIS CONSTITUTIONAL MANDATE IS COMMON IN THE CHILD SUPPORT ENFORCEMENT CONTEXT.

In contempt proceedings such as those involving Mr. Foley here, indigents end by being incarcerated due to an inability to pay whatever sum is set by the court as the price to purge the contempt. Moreover, the nonpayment of child support that led to the contempt proceedings is, itself, often a product of inadequate methods of determining reasonable child support amounts in light of the economic circumstances of the parent. Imputation of unrealistic income leads to a cycle of nonpayment, incarceration, and ever-deepening debt with ever-decreasing opportunities for employment and payment.

This failing system is perpetuated by the lack of legal representation for the indigent parent during the contempt process. An indigent parent generally lacks the knowledge or skills to marshal or present evidence of an inability to pay either the child support orders ordered, or, once a contempt is determined, an inability to purge any sentence. The result is systematic deprivation of basic due process, and the *de facto* imposition of criminal sentences that serve no purpose other than to punish indigence.

A. The Use of Unlawful Contempt Proceedings to “Enforce” Unrealistic Child Support Orders Is Widespread.

Federal law mandates that states implement a broad array of mechanisms for collecting child support. *See generally* Paul K. Legler, *The Coming Revolution in Child Support Policy: Implications of the 1996 Welfare Act*, 30 FAM. L.Q. 519, 531-535 (1996). Wage withholding is mandatory in all cases. 42 U.S.C. §666(a)(1)(B). Other assets such as bank accounts and tax refunds are also subject to seizure, aided by a vast network of automated systems capable of identifying and seizing such assets. *Id.* §664. If these sources yield insufficient funds, a variety of mechanisms are available to coerce payment, including revocation of occupational, drivers’ and hunting and fishing licenses, *id.* §666(2)(16), and reports to consumer credit reporting agencies. *Id.* §652(k)(2). Civil contempt proceedings are generally used only as a last resort, when this vast array of collection mechanisms has failed to bring about payment of court-ordered child support. Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, 81 *Fed. Reg.* 93492, 93533 (Dec. 20, 2016) (hereafter cited as OCSE Regulations).

In cases where the obligor has the ability to pay the court-ordered support, these tools are usually sufficient to bring about payment. Should it become necessary to institute contempt proceedings against such an obligor, the threat of jail will generally produce payment before or at the contempt hearing. It is

reasonable to infer, therefore, that when large numbers of child support obligors are incarcerated, almost all are indigent. See Patterson, *Civil Contempt, supra*, at 118.

This inference is supported by data showing that, overwhelmingly, obligors who owe large amounts of past-due support, and who are thus most likely to be held to account in contempt proceedings, are poor. See, e.g., Office of Child Support Enforcement, *The Story Behind The Numbers – Understanding And Managing Child Support Debt 1* (2008), avail. at https://www.acf.hhs.gov/sites/default/files/ocse/im_08_05a.pdf. A 2013 study of child support contemnors in South Carolina found that 73% of those held in contempt had been unemployed at the time of nonpayment, and 52% of the contemnors who received a jail sentence were unemployed at the time of sentencing. Elizabeth Patterson, *Turner in the Trenches: A Study of How Turner v. Rogers Affected Child Support Contempt Proceedings*, 25 GEORGETOWN J. POV. L. & POL’Y, — (2017) (forthcoming), pp 20-28, avail. at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3005671, (hereafter cited as Patterson, *Turner in the Trenches*). Purge amounts for these unemployed contemnors generally exceeded \$500. *Id.* at 25-27.

There are various practices within the child support enforcement system that result in child support awards in excess of what the non-custodial parent can

reasonably be expected to pay. Courts often set child support awards without having adequate information concerning the parent's earning potential, as when the non-custodial parent's evidence is incomplete or confusing, or the non-custodial parent fails to appear at the hearing. In these instances, the court will impute an income to the obligor, often over-estimating the amount that he is capable of earning. *See Patterson, Civil Contempt, supra*, at 108-109. The federal Office of Child Support Enforcement (OCSE) notes that "[o]veruse of imputed income frequently results in IV-D [child support] orders that are not based on a realistic or fair determination of ability to pay, leading to unpaid support, uncollectible debt, reduced work effort, and underground employment." OCSE Regulations, *supra*, at 93520.

Other sources of excessive awards include 1) state statutes setting a minimum child support award that the non-custodial parent must be ordered to pay regardless of his economic circumstances, and 2) state statutes allowing for retroactive awards that treat the accrual of child support as commencing at some time prior to entry of the order, such as the date when the child was born. *See Patterson, Civil Contempt, supra* at 107-111.

When payments are missed or not paid in full, the arrearage is typically added to the amount of future support payments, thus putting them further out of reach of the low-income obligor. *Id.* at 111.

Whether or not the order is excessive *ab initio*, the nature of the job market for low-skill workers is not conducive to consistent payment of a pre-set amount. Unlike the typical middle-income employment trajectory, in which employment is stable with a constant or upward wage trajectory, employment in the low-income labor market tends to be sporadic, with wages fluctuating from one job to the next, and separated by sometimes lengthy periods of unemployment. Maureen Waller & Robert Plotnick, *Child Support and Low-Income Families: Perceptions, Practices and Policy* 37-38 (Public Policy Institute of California, 1999).

In this context, the obligor's ability to pay changes frequently and cannot be adequately captured in a child support award based on projected weekly or monthly earnings over an extended period of time. In comments explaining the 2017 amendments to the regulations governing the child support enforcement program, the federal Office of Child Support Enforcement took note of the difficulties that some agency and court personnel have "acknowledging the reality of chronic unemployment and adults with no or very low income." OCSE Regulations, *supra*, at 93525. This skepticism is reflected both in unreasonable child support awards and in the judicial response to obligors' claims of inability to make the support or purge payments ordered by the court.

B. In a Civil Contempt Proceeding for Nonpayment of Child Support, a Contemnor May Not be Jailed Unless He Has the Present Ability to Pay the Amount Necessary to Obtain His Release.

The child support enforcement systems of some states, including Nevada, make extensive use of contempt of court proceedings to enforce child support orders. In such states, a parent who has failed to make one or more payments or to pay the full amount ordered can be charged with contempt on account of his or her noncompliance with the court order.

Contempt of court can be pursued as either a criminal or civil matter. A criminal contempt action, which seeks to punish the noncompliant child support obligor, is subject to the usual procedural protections for the defendant, including the right to counsel, and a guilty verdict can result in the usual punishments, including incarceration. *Lewis v. Lewis*, 132 Nev., Adv. Op. 46, 373 P.3d 878 (2016) ; *Gompers v. Buck's Stove & Range Co.*, 221 U.S. 418, 422 (1911). A civil contempt action, on the other hand, is intended to be ameliorative, its purpose being to secure compliance with the court order. Hence, any jail sentence imposed in such a proceeding must be for the purpose of eliciting compliance, and the contemnor must be released if he complies in the manner directed by the court (the purge condition). *Turner v. Rogers*, 564 U.S. 431, 442 (2011); Elizabeth Patterson, *Civil Contempt and the Indigent Child Support Obligor: The Silent Return of*

Debtor's Prison, 18 CORNELL J. L. & PUB. POL'Y 95, 104 (2008) (hereafter cited as Patterson, *Civil Contempt*).

It is because of the ameliorative, conditional nature of any jail sentence resulting from civil contempt proceedings that the alleged contemnor's potential loss of liberty does not automatically entitle him to the broad range of procedural protections guaranteed to criminal defendants by the constitution. *E.g.*, *Hicks v. Feiock*, 485 U.S. 624, 637-641 (1988); *U.S. v. Dixon*, 509 U.S. 688, 696 (1993). However, if the contemnor has no way to avoid serving the entire sentence because of his inability to comply with the purge condition, the imposed sentence is no different from a criminal sentence. ¹*Id.* Accordingly, it is lawful only if imposed in a criminal proceeding compliant with the various constitutional mandates.

Because the contemnor's ability to pay the purge constitutes a dividing line between civil and criminal contempt, the U.S. Supreme Court held in *Turner v.*

¹ Indeed, numerous jurisdictions hold such an order void. *See, e.g., In re Richardson*, No. 08-16-00310-CV, 2017 WL 2302607, at *9 (Tex. App. May 26, 2017) ("An order of contempt imposing a coercive restraint is void if the condition for purging the contempt is impossible of performance."); *Ortmann v. Ortmann*, 2002-Ohio-3665, 2002 WL 445049 (2002) ("[T]rial court abuses its discretion in ordering purge conditions which are unreasonable or where compliance is impossible."); *Lewis v. Lewis*, 875 S.W.2d 862, 864 (Ky. 1993) ("The power of contempt cannot be used to compel the doing of an impossible act."); *Mays v. Mays*, 193 Conn. 261, 266-67, 476 A.2d 562, 566 (1984) ("An order of confinement upon an adjudication of civil contempt must provide the contemnor with the key to his release in terms which are not impossible for him to satisfy.").

Rogers that accurate decision-making on this issue is critical to assuring that civil contempt proceedings comport with due process. 564 U.S. at 445.

The issue of “ability to pay the purge” should not be confused with a separate “ability to pay” issue that may arise in a child support contempt case. The question of “ability to pay the purge” relates to the sentencing of an obligor who has already been held in contempt. However, “ability to pay” is also involved in determining whether the obligor is in contempt at all. Failure to comply with a court order is in contempt of the court only if the noncompliance is *willful*, i.e., a refusal to make a payment he is capable of making. If a child support obligor was unable to make the court-ordered support payment, then his failure to do so was not willful, and he should not be held in contempt. These two “ability to pay” issues are often confused; however, they relate to different points in time and are subject to different analytical parameters. The focus of this brief is “ability to pay the purge.”

C. If The Contemnor is Unable to Pay the Purge Necessary to Secure His Release, The Reason for His Financial Distress (e.g., Under-Employment) is Irrelevant.

The district court in this case indicated that “willful unemployment or underemployment” can be considered in determining the issue of “ability to pay.” 1 App. 244:3–4. This may be true when the “ability to pay” issue is whether the obligor’s failure to make the periodic child support payments was willful, and

hence in contempt of the court's child support order. *See Patterson, Civil Contempt, supra*, at 120 n.172.

However, the "ability to pay" issue that thereafter arises when incarceration of the contemnor is at issue is quite different. Here, the question does not relate to the obligor's willfulness or effort; the question is whether the sentence can be legitimately be characterized as conditional. The "ability to pay" issue in this context goes solely to the contemnor's actual ability to open the prison door by paying the purge. If the contemnor does not possess sufficient funds to open that door, the reason why he lacks the ability to pay the purge is irrelevant. *Id.* at 104. The inability itself, regardless of the reason, prevents the sentence from being ameliorative, as is required for a jail sentence handed down in a civil contempt proceeding. *Id.*

D. Incarceration Decreases The Non-Custodial Parent's Ability To Make Child Support Payments Both During And After The Period Of Incarceration.

In the low-wage job market, employment is often sporadic, part-time, and insecure. *E.g.*, Frances Fox Piven, *Welfare Reform and the Economic and Cultural Reconstruction of Low Wage Labor Markets*, in *The New Poverty Studies* 135, 136-137 (Judith G. Goode & Jeff Maskovsky eds., 2001). Many persons who work in this environment make child support payments that, like their income, are sporadic and partial. When these persons are jailed for contempt because of their

failure to fully comply with the child support order, they lose the ability to generate even the irregular and inadequate earnings from which they were making sporadic or partial payments. At the same time, it is unlikely that the jail sentence will serve its purpose of coercing payment. Incarceration is thus a lose-lose proposition in regard to its purported purpose of generating support for the child. Indeed, courts have been known to incarcerate child support obligors with stable employment (but whose earnings were insufficient to pay inflated child support awards or arrearages that accrued during earlier periods of unemployment), thus terminating an existing source of current and future support for the child. *See Patterson, Turner in the Trenches, supra*, at 42-45.

Although work release programs may enable some incarcerated obligors to make some or all of their child support payments during the period of incarceration, most will not be able to do so. For these, unpaid support will continue to accrue during the period of incarceration, and they will emerge from jail owing more in arrearages than when their sentences commenced. *See Ann Cammett, Expanding Collateral Sanctions: The Hidden Costs of Aggressive Child Support Enforcement Against Incarcerated Parents*, 13 GEORGETOWN J. POV. L. & POL'Y 313, 326-327 (2006).

Few child support contemnors will have jobs waiting for them when they are released from jail, and unpaid support will continue to accrue while they look for

work and await their first paychecks. Increased competition for low-wage jobs in America's restructured economy, together with the low skill sets, partial disabilities, and poor work histories of many low-income contemnors, makes it likely that this will be a period of at least several months. Kelleen Kaye & Demetra Smith Nightingale, *Introduction and Overview*, in *The Low-Wage Labor Market, Challenges and Opportunities for Economic Self-Sufficiency 1*, 7-10 (Kaye & Nightingale eds. 2000).

As a means for generating child support from low-income non-custodial parents, incarceration is thus singularly ineffective. It cuts off existing sources of income, places obligors in an earnings vacuum, and makes it more difficult for them to generate income when they return to the labor market. At the same time, when the obligor is low-income, civil incarceration is unlikely to achieve the desired result of inducing the obligor to part with available funds that he was willfully withholding. *See* OCSE Regulations, *supra*, at 93533.

When a low-income contemnor does pay the purge, it is often the case that the funds have been borrowed, in which case repayment will impair his ability to make future support payments. *See id.* at 93534. Further negative repercussions may occur if the loan was obtained from a loan shark or a predatory lender.

E. Incarceration Of Non-Custodial Parents Impedes The Maintenance Or Development Of Parent-Child Relationships To The Detriment Of The Children, Who Need Psycho-Social As Well As Financial Support.

The imprisoned non-custodial parent is not only disabled from generating the income necessary for the payment of child support; he or she is also disabled from providing other, non-financial forms of support, assistance, and companionship to the child. *See* OCSE Regulations, *supra*, at 93533. Studies have shown the importance of parental involvement to the social, psychological and behavioral development of children and the long-term negative effects experienced by children of incarcerated parents. *E.g.*, J. Poehlmann et al, *Children's Contact with Their Incarcerated Parents: Research Findings and Recommendations*, 65 AMERICAN PSYCHOLOGIST 575 (2010).

Further, the prospect of imprisonment causes many non-custodial parents to “go underground,” leaving their home states and subsisting through sources of income that will not reveal their whereabouts to the child support authorities. *See, e.g.*, Ann Cammett, *supra*, at 326-327. Thus the threat of incarceration, as well as incarceration itself, deprives children of economic and social support from the non-custodial parent.

II. LEGAL REPRESENTATION OF LOW-INCOME NON-CUSTODIAL PARENTS IN CIVIL CONTEMPT ACTIONS WOULD ENSURE THAT THE DUE PROCESS ISSUES INHERENT IN THE “ABILITY TO PAY” DETERMINATION ARE FULLY AND ACCURATELY CONSIDERED, AND WOULD CONSERVE JUDICIAL RESOURCES BY ASSURING THAT QUESTIONS REGARDING ABILITY TO PAY ARE COHERENTLY PRESENTED AND ACCURATELY DOCUMENTED.

The Supreme Court in *Turner v. Rogers* recognized the constitutional importance of assuring accurate decision-making in respect to the key “ability to pay” question. 564 U.S. at 446. The *Turner* court recognized that “the average defendant does not have the professional legal skill to protect himself when brought before a tribunal with power to take his life or liberty, *wherein the prosecution is presented by experienced and learned counsel.*” *Id.* at 449 (emphasis original). The latter circumstance was one of the exceptions that the Court had in mind in limiting its right to counsel ruling to the situation presented by that case, stating, “[T]he Due Process Clause does not *automatically* require the provision of counsel at civil contempt proceedings to an indigent individual who is subject to a child support order, even if that individual faces incarceration (of up to a year).” *Id.* at 448 (emphasis in original).

In a courtroom filled with skeptical representatives of the State’s executive and judicial branches, including able government counsel charged with presenting the case against the obligor, accuracy of the “ability to pay” determination cannot be assured unless the obligor also has access to an attorney to assure that evidence

favorable to his case is coherently and credibly presented. Even the simplest “inability to pay” argument requires articulating the defense, gathering and presenting documentary and other evidence, and responding to legally significant questions from the bench – tasks which are “probably awesome and perhaps insuperable undertakings to the uninitiated layman.” *Pasqua v. Council*, 892 A.2d 663, 673 (N.J. 2006). This is particularly true where the layperson is indigent and poorly educated.

The absence of an attorney for the obligor also allows important legal issues affecting the obligor’s support obligation or the court’s jurisdiction to be overlooked. Such issues might include, e.g., questions regarding the obligor’s paternity, the child’s minority, or the sufficiency of notice. *See generally, Turner v. Rogers*, 564 U.S. 431 (2011) (brief of Elizabeth G. Patterson and South Carolina Appleseed Legal Justice Center as Amici Curiae in Support of Petitioner, pp. 15-16).

When an unrepresented obligor fails to produce the necessary documentation to support his claims, such as a letter from a doctor, documentation of a disability or unemployment insurance claim, or court filings in another related action, a conscientious judge, seeking to assure the accuracy of his rulings, will often grant the obligor a continuance to obtain and produce the documentation. *See, e.g., Patterson, Turner in the Trenches, supra*, at 16. Thus, the court will have to hold a

second hearing that could have been avoided if the obligor had access to legal advice when preparing for the initial hearing. An attorney can also serve the goal of judicial economy by reducing the amount of time that the judge must spend questioning the obligor in order to understand the nature and validity of his claim of inability to pay.

CONCLUSION

Indigent parents who face contempt proceedings for nonpayment of child support should be appointed counsel for such proceedings. Such appointment is necessary to insure that the indigent parent is able to present an appropriate defense regarding both an ability to pay the underlying child support payments, as well as an ability to pay any purge amount. In the absence of such protections, the civil proceedings can too easily be transformed into de facto criminal proceedings, as a person who has no ability to pay the amount required to purge a contempt sentence has, in practical terms, been given a sentence from which purging is impossible.

Respectfully submitted this 2nd day of August, 2017.

GREENBERG TRAURIG, LLP

/s/ Tami D. Cowden

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Attorney for Amicus Curiae Professor

Elizabeth Patterson.

CERTIFICATE OF COMPLIANCE WITH NRAP 28 AND 32

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using MS Word 2003 in Times New Roman 14.

I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains 4146 words.

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e) (1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Respectfully submitted this 2nd day of August, 2017.

GREENBERG TRAUIG, LLP

/s/ Tami D. Cowden

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Attorney for Amicus Curiae Professor

Elizabeth Patterson.

CERTIFICATE OF SERVICE

This is to certify that on this 2nd day of August, 2017, a true and correct copy of the foregoing BRIEF OF AMICUS CURIAE ELIZABETH PATTERSON was served via this Court's e-filing system, on counsel of record for all parties to the action.

/s/ Andrea Lee Rosehill

An employee of Greenberg Traurig, LLP

Exhibit “B”

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
Appellant,
vs.
PATRICIA FOLEY,
Respondent.

No. 69997

FILED

SEP 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

ORDER DENYING REHEARING

Appellant petitioned this court for partial rehearing of this court's order affirming in part, vacating in part and remanding entered on December 21, 2018. On May 10, 2019, we denied rehearing in part as to the issue regarding NRS 425.3844. Further, we invited the Clark County District Attorney's Office, Family Support Division (CCDA) to participate as amicus curiae and file a brief addressing the appointment-of-counsel issue raised in the rehearing petition.

Having reviewed the petition, the briefs of amicus curiae, and the reply to the amicus curiae brief of the CCDA, we deny the remaining issues in the petition for rehearing. In this court's order affirming in part, vacating in part, and remanding, we noted Michael's failure to offer any compelling reason to find a categorical right to counsel in every civil contempt proceeding where the contemnor is indigent. *See Foley v. Foley*, Docket No. 69997 (Order Affirming in Part, Vacating in Part, and Remanding, December 21, 2018, at 6 n.2). In vacating and remanding the district court's contempt order, we did not decide, and therefore left open,

the question of Michael's right to appointed counsel. Consideration of this issue should be developed by the district court in the first instance.

It is so ORDERED.

L. Gibbons, C.J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Hon. Rebecca Burton, District Judge, Family Court Division
Lewis Roca Rothgerber Christie LLP/Las Vegas
Patricia Foley
Clark County District Attorney/Family Support Division
American Civil Liberties Union of Nevada/Las Vegas
Greenberg Traurig, LLP/Las Vegas
Eighth District Court Clerk



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294910200A

DISTRICT COURT
CLARK COUNTY, NEVADA

Patricia Foley,

Petitioner,

vs.

Michael Foley,

Respondent.)

Case no. R-11-162425-R

Dept. no. CHILD SUPPORT

NOTICE OF ENTRY OF MASTER'S RECOMMENDATIONS

To: Michael Foley, Respondent or Respondent's Attorney

To: Patricia Foley, Petitioner or Petitioner's Attorney

Please take notice that the enclosed Master's Recommendations were entered in the above-entitled matter on December 6, 2019.

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The foregoing Notice of Entry of Master's Recommendations for the Master's
4 Recommendation entered on December 6, 2019, was served upon Michael Anthony Foley by mailing a
5 copy thereof, first class mail, postage prepaid to:

6 Michael Anthony Foley
7 712 E Naples Dr 21
8 Las Vegas NV 89119-6632

9 on December 6, 2019.

10

11 /s/T. Lipscombe
12 Employee, District Attorney's Office
13 Family Support Division

14

15

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25

26

27

28

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The foregoing Notice of Entry of Master's Recommendations for the Master's
4 Recommendation entered on December 6, 2019, was served upon Patricia Foley by mailing a copy
5 thereof, first class mail, postage prepaid to:

6 Patricia Foley
7 8937 Austin Ridge Ave
8 Las Vegas NV 89178

9 on December 6, 2019.

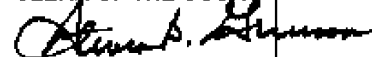
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11 /s/T. Lipscombe
12 Employee, District Attorney's Office
13 Family Support Division
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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
12/9/2019 12:13 PM
Steven D. Grierson
CLERK OF THE COURT



Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

Case No.: R-11-162425-R Dept. 1
Department C

NOTICE OF HEARING

Please be advised that the Objection Hearing in the above-entitled matter is set for hearing as follows:

Date: February 03, 2020
Time: 9:00 AM
Location: Courtroom 08
Family Courts and Services Center
601 N. Pecos Road
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ LaWanda Brown
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ LaWanda Brown
Deputy Clerk of the Court

RSPN
STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar No. 001565
FAMILY SUPPORT DIVISION
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 – TTY and/or other relay services: 711
UPI-294910200A

Electronically Filed
12/10/2019 9:34 AM
Steven D. Grierson
CLERK OF THE COURT



**DISTRICT COURT
CLARK COUNTY, NEVADA**

Patricia Foley,

Petitioner,

vs.

Michael Foley,

Respondent.

Case no.: R-11-162425-R

Dept no.: C / CHILD SUPPORT

DA RESPONSE TO OBJECTION and MOTION

Date of Hearing: February 3, 2020

Time of Hearing: 9:00 AM

Department: C

COMES NOW, the STATE OF NEVADA, through STEVEN B. WOLFSON, District Attorney, by and through Robert J. Gardner, Deputy District Attorney, and files this D.A. Response to Objection.

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RESPONSE
Page 1 of 6

1 This Response is made and based upon the pleadings and papers on file herein, the
2 attached Points and Authorities, exhibit(s), if any, and oral argument, if any, at the time
3 of the hearing.

4 DATED this _10TH_ day of December, 2019.

5 Respectfully Submitted,
6 STEVEN B. WOLFSON
7 DISTRICT ATTORNEY
8 Nevada Bar # 001565

9 BY: Robert J. Gardner
10 ROBERT J. GARDNER
11 Deputy District Attorney
12 Nevada Bar #6983
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1 As to Respondent's Motion For Appointment of Counsel, filed 12-5-19, this issue
2 has already been directed by this Court to first be heard by the Hearing Master to make
3 additional findings regarding Respondent's ability to pay his child support, and possible
4 contempt for failure to obey valid Court orders. As such, Respondent's Motion should be
5 denied as the matter was already set to be heard on 12-6-2019 by the Hearing Master. No
6 further delays in the process should be permitted.

7 The District Attorney does not represent either party in this action as there are no
8 assigned arrears owed to welfare. NRS 12B.150(3). This action was brought pursuant to
9 the District Attorney's public duty to establish paternity and compel support and
10 therefore appears as an attorney of record in the case pursuant to NRS 125B.150 and
11 NRS 425.380. Either party should consult their own attorney if they have other legal
12 questions on this case. The D.A. will enforce the resulting decision of this Court.

13 DATED this __10th__ day of December, 2019.

14 Respectfully Submitted,
15 STEVEN B. WOLFSON
16 DISTRICT ATTORNEY
17 Nevada Bar # 001565

18 BY: Robert J. Gardner
19 ROBERT J. GARDNER
20 Deputy District Attorney
21 Nevada Bar #6983
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Exhibit A

MRAO
STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar No. 001565
FAMILY SUPPORT DIVISION
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200
TTY and/or other relay services: 711
294910200A

District Court
CLARK COUNTY, NEVADA

Patricia Foley,

Petitioner,

Case No. R-11-162425-R

vs.

Department No. CHILD SUPPORT

Michael Foley,

Respondent.

MASTER'S RECOMMENDATION

This matter having been heard on DECEMBER 06, 2019 before the undersigned Hearing Master, having considered all the evidence and having been fully advised in the premises, hereby makes the following Findings and Recommendations:

Parties present: ☐ Respondent ☐ Respondent's attorney ☐ Petitioner ☐ Petitioner's attorney

☐ PATERNITY ☒ PATERNITY PREVIOUSLY DECIDED

☒ FINANCIALS: ☐ CONTINUE PRIOR ORDERS (NO CHANGE TO PRIOR FINANCIAL ORDERS).

Respondent's gross monthly income (GMI) : ; formula amount % of GMI=

Basis for deviation from state formula: _____

Respondent is to pay current support for the child(ren), Elizabeth Foley.

CHILD SUPPORT

Respondent is to pay monthly:

\$729.00 Temp child support

\$79.00 medical support (in lieu of health insurance)

 spousal support

\$25.00 arrears payment

☐ ARREARAGES ☒ ARREARAGES NOT ADDRESSED AT THIS HEARING

\$ 833.00

TOTAL monthly payment is due on the 1st day of each month, and continues thereafter until said child(ren) reach majority, become emancipated or further order of the Court.

Respondent's **INCOME SHALL BE WITHHELD** for the payment of support.

☐ Good cause to stay income withholding is based on: _____. Said withholding shall be postponed until Respondent becomes delinquent in an amount equal to 30 days support.

☐ ENFORCEMENT OF CONTROLLING ORDER: The registered order from _____, dated _____, # _____, is hereby confirmed and is the controlling order for the following reasons: ☐ only order _____.

☐ ESTABLISHMENT OF CONTROLLING ORDER: This is the first order establishing a child support obligation for this noncustodial parent for the child(ren) listed in this order who reside(s) with this custodian.

☐ Respondent is referred to Employment Services for an appointment on _____ at _____ AM.

☒ Health insurance coverage for the minor child(ren) herein:

☐ Respondent to provide: ☒ Petitioner to provide: ☐ Both Parties to provide:

☒ if available through employer. ☐ shall provide per court order.

Exhibit A - Page 1

FINDING 1.2

☒ Ordered Party(ies) to provide proof of said insurance to the District Attorney's Office, Family Support Division within 90 days of today's date.

Under the Affordable Care Act, Medicaid is acceptable coverage.

☒ CONTEMPT OF COURT ☐ NOT A SHOW CAUSE HEARING

☐ **RESPONDENT ORDERED TO SHOW CAUSE CONCERNING CONTEMPT.**

☒ **ORDER TO SHOW CAUSE CONTINUED TO NEXT COURT DATE.**

☐ Respondent is hereby found in Contempt of Court and sentenced to _____ days in the Clark County Detention Center; this sentence shall be stayed until the next court date.

☒ The following sentence(s) shall be stayed/continued to the next court date unless imposed or vacated today:

Sentence of 16 days in the Clark County Detention Center issued 11/21/13 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 03/12/14 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 02/19/15 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 07/09/15 is _____ imposed _____ vacated X stayed

☐ Respondent is recommended for the day arrest program on _____.

☐ Respondent to be released from custody on _____.

☐ Respondent may be released from the above sentence immediately upon payment of \$_____ to be released to Petitioner as child support.

☐ **NO BAIL BENCH WARRANT HEREBY ISSUED FOR THE ARREST OF RESPONDENT. RESPONDENT MAY BE RELEASED UPON PAYMENT OF \$_____ TO BE RELEASED TO PETITIONER AS CHILD SUPPORT. Where circumstances justify a sufficient basis, the District Attorney may administratively quash or recall the bench warrant.**

☐ **BENCH WARRANT PREVIOUSLY ISSUED IS HEREBY** ☐ **QUASHED.** ☐ **CONTINUED.**

☐ **MODIFICATION OF PRIOR ORDER:**

☐ **SUSPENSION OF LICENSES:**

PAYMENTS

All mailed payments **MUST** be made in the form of a cashier's check, money order or business check **ONLY**, made payable to State Collection and Disbursement Unit (SCaDU). If payments are made in person, cash or debit card are also accepted.

Payments can be mailed to:

State Collection and Disbursement Unit (SCaDU)
P.O. Box 98950
Las Vegas, Nevada 89193-8950

Payments can be made in person at:

State Collection and Disbursement Unit (SCaDU)
1900 East Flamingo Road
Las Vegas, Nevada 89119-5168

Additionally, the following information must be included with each payment: name (first, middle, last) of person responsible for paying child support, social security number of person responsible for paying child support, child support case number, and name of petitioner (first and last name of person receiving child support).

NOTICE: NO CREDIT WILL BE GIVEN FOR PAYMENTS PAID DIRECTLY TO THE PETITIONER.

NOTICE: PRIOR ORDERS NOT SPECIFICALLY MODIFIED HEREIN REMAIN IN FULL FORCE AND EFFECT.

NOTICE: Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040. A 10% penalty will be assessed on each unpaid installment, or portion thereof, of an obligation to pay

support for a child, pursuant to NRS 125B.095. If the Respondent pays support through income withholding and the full obligation is not met by the amount withheld by the employer, the Respondent is responsible to pay the difference between the court ordered obligation and the amount withheld by the employer directly to the state disbursement unit. If the Respondent fails to do so, he/she may be subject to assessment of penalties and interest. The Respondent may avoid these additional costs by making current support payments each month. If another state takes jurisdiction and obtains a new order, Nevada interest and penalties will only be calculated to the date of the new order and will be enforced.

NOTICE: Pursuant to NRS 125B.145 and federal law, EITHER parent, the legal guardian, and the Division of Welfare and Supportive Services, where there is an assignment of support rights to the State, has the right to request a review of the support provision of this order at least every three (3) years to determine if modification is appropriate; an application for this purpose may be obtained from D.A. Family Support at 1900 E. Flamingo Rd., Suite 100, Las Vegas, Nevada 89119-5168.

NOTICE: Objections/Appeals are governed by EDCR1.40(e) and (f). You have ten (10) days from receipt of this Master's Recommendation to serve and file written objections to it. A failure to file and serve written objections will result in a final Order/Judgment being ordered by District Court. However, the Master's Recommendation is not an Order/Judgment unless signed and filed by a Judge.

NOTICE: Appeal from a Final Judgment by the Court is governed by NRAP 4 and must be filed within 30 days of written Notice of Entry of Judgment.

NOTICE: Respondent is responsible for notifying the District Attorney, Family Support Division, of any change of address, change of employment, health insurance coverage, change of custody, or any order relative to child support within ten (10) days of such change.

Respondent to bring new financial statement and proof of income next date.

This order does not stay collection of support arrears by execution or any other means allowed by law.

MISCELLANEOUS FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS:

Last payment-8/2014. No parties were present.

This matter is set on an Order After Remand filed 10-28-19. On 12-5-19, R filed an "Objection" which the Court believes is a misnomer and R intended Dept C to hear a motion which is really meant to be a Motion for Reconsideration as to which department and judicial officer should be hearing the case (HM v. District Judge). DA's assessment of the document entitled "Objection" is also that is something that should be addressed by the District Court judge prior to the UFISA court holding any hearing on the merits of this case.

Court contacted Dept C for a court date for R's "Objection" to be addressed. The date for this matter to be addressed has been set for February 3, 2020 at 9:00 AM in Dept C, located at 601 N. Pecos Road, Las Vegas, NV 89101.

DAFS to send a NOH and mailing to the parties with regards to this "Objection" being heard by Dept C. Until such time as there is further direction by Dept C., this court will take the matter off calendar. Dept C is requested to set an appropriate date and time for the next hearing at CSCSN (1900 E. Flamingo Road) location.

NEXT HEARING DATE IS OC in Courtroom in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.

DATED: DECEMBER 06, 2019


MASTER

USJR DISPOSITIONS

- ☐ - Settled/Withdrawn w/Judicial Conference/Hearing
☐ - Involuntary (Statutory) Dismissal

Respondent/Respondent's Attorney

Steven B. Wolfson, District Attorney, Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road #100
Las Vegas, Nevada 89119-5168

(702) 671-9200 - TTY and/or other relay services: 711

- ☐ - Dismissed / Want of Prosecution
☐ - Transferred to Another Jurisdiction
☐ - Other Manner of Dispo
☐ - Close Case

Receipt of this document is
acknowledged by my signature.

ORDER/JUDGMENT

☐ The Clerk of the Court having reviewed the District Court's file and having determined that no objection has been filed within the ten day objection period, **the Master's Recommendation is hereby deemed approved by the District Court pursuant to NRS 425.3844.** The affixing of the Clerk of the Court's file stamp to this Master's Recommendation signifies that the ten-day objection period has expired without an objection having been filed and that the District Court deems the Master's Recommendation to be approved as an **ORDER/JUDGMENT** of the District Court, effective with the file stamp date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this Order/Judgment.**

☐ The District Court, having reviewed the above and foregoing Master's Recommendation, and having received and considered the objection thereto, as well as any other papers, testimony and argument related thereto and good cause appearing,

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS affirmed and adopted as an **ORDER/JUDGMENT** of the District Court this _____ day of _____, 20____.

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS NOT affirmed and adopted this _____ day of _____, 20____ and this matter is remanded to Child Support Court on _____, 20____ at _____ .M.

District Court Judge, Family Division

STEVEN B. WOLFSON, Clark County District Attorney
Nevada Bar No. 001565

By: *Karen Cliffe*
DEPUTY DISTRICT ATTORNEY
FAMILY SUPPORT DIVISION
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168

1 CERT

Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

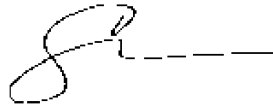
3 The foregoing DA Response to Objection was served upon Michael Anthony
4 Foley by mailing a copy thereof, first class mail, postage prepaid to:

5 Michael Anthony Foley
6 712 E Naples Dr 21
7 Las Vegas NV 89119-6632

8 And to

9 209 S Stephanie St., Ste B-191
10 Henderson, NV 89012-5501

11 on the 10th day of December, 2019.

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15 Employee, District Attorney's Office
16 Family Support Division
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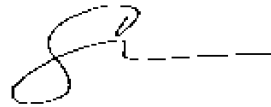
Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

3 The foregoing DA Response to Objection was served upon Patricia Foley by
4 mailing a copy thereof, first class mail, postage prepaid to:

5 Patricia Foley
6 8937 Austin Ridge Ave
7 Las Vegas, NV 89178

8 on the 10th day of December, 2019.

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11 _____
12 Employee, District Attorney's Office
13 Family Support Division
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1 NOH
Steven B. Wolfson, District Attorney
2 Nevada Bar No. 001565
Family Support Division
3 1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
4 (702) 671-9200 - TTY and/or other relay services: 711
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Electronically Filed
12/10/2019 9:34 AM
Steven D. Grierson
CLERK OF THE COURT



6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 Patricia Foley,)
9)
10) Case no.: R-11-162425-R
11)
Petitioner,) Dept. no.: C / CHILD SUPPORT
12)
13 vs.)
14)
Michael Foley,)
Respondent.)

15 **NOTICE OF HEARING**

16 To: Michael Anthony Foley, Respondent

17 To: Patricia Foley, Petitioner

18 Notice is hereby given that the undersigned will bring the above-entitled matter
19 before the Child Support Hearing Master on the **3rd day of February, 2020 at the**
20 **hour of 9:00 AM in Court Room 8, Department C** of Family Court and Services
21 Center, **601 N. Pecos Road, Las Vegas, Nevada**, for review pursuant to NRS 31A, NRS
22 125B, NRS 126, NRS 130 and NRS 425.

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NOHNOH

1 **This is an Initial Hearing** pursuant to the Notice and Finding of Financial
2 Responsibility to Establish an Obligation or Determine Paternity. The purpose for
3 this Hearing is to address:

4 ☐ The Respondent's/Petitioner's/DAFS' request regarding:

6 **This is not an Initial Hearing.** The purpose of this hearing is to address:

7 ☐ The Respondent's/Petitioner's/DAFS' request regarding:

8 ☐ The Respondent's Continuing Order to Show Cause for Respondent to
9 answer why (s)he is not complying with the Court's order. The Court is asked to
10 make a determination of appropriate sanctions, including jail time, pursuant to
11 chapter 22 of NRS.

12 ☐ The Respondent's Request to Quash Bench Warrant.

13 ☐ The Respondent's/Petitioner's Request to address:

14 ☐ arrears ☐ the whereabouts of the minor child(ren) from
15 (month/year) _____ through _____ (month/year). See attached proof/receipts,
16 if any.

17 ☒ **Other: Per Court's request for matter to be heard in Family Court**
18 **Department C on the merits of Respondent's Objection and Motion filed 12-**
19 **5-2019.**

21 ☐ **This is a Modification Hearing** pursuant to the Notice and Finding filed
22 contemporaneously with this Notice of Hearing.

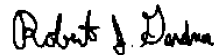
24 The request for this hearing, if any, is attached hereto and by this reference made a
25 part hereof.

26 If you do not appear, the hearing will proceed in your absence, and an Order and
27 Judgment may be entered against you. You should bring any records you believe are
28 relevant to your case to this hearing (such as paycheck stubs, other proof of income,

1 information regarding the cost of dependent health insurance coverage, court orders or
2 birth certificates of other children you are legally responsible to support, proof of prior
3 direct payments).

4 Dated this December ____10th ____, 2019.

5 Respectfully Submitted,
6 Steven B. Wolfson
7 Clark County District Attorney
8 Nevada Bar #001565

9 

10 Deputy District Attorney

1 CERT

Case no. R-11-162425-R

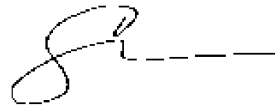
2 **CERTIFICATE OF MAILING**

3 The Notice of Hearing was served upon Michael Anthony Foley by mailing a
4 copy thereof, first class mail, postage prepaid to:

5 Michael Anthony Foley
6 712 E Naples Dr 21
7 Las Vegas NV 89119-6632

8 And to
9 209 S Stephanie St., Ste B-191
10 Henderson, NV 89012-5501

11 on December 10, 2019.

12 
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14 _____
15 Employee, District Attorney's Office
16 Family Support Division
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28 Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

1 CERT

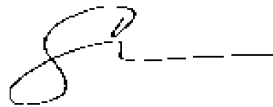
Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The Notice of Hearing was served upon Patricia Foley by mailing a copy thereof,
4 first class mail, postage prepaid to:

5 Patricia Foley
6 8937 Austin Ridge Ave
7 Las Vegas, NV 89178

8 on December 10, 2019.

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11 Employee, District Attorney's Office
12 Family Support Division

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Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711



NTWA
DANIEL F. POLSENBERG (SBN 2376)
ABRAHAM G. SMITH (SBN 13,250)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
(702) 949-8200
DPolsenberg@LRRC.com
ASmith@LRRC.com

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

PATRICIA FOLEY,
Petitioner,

vs.

MICHAEL A. FOLEY,
Respondent.

Case No. R-11-162425-R

Dep't C

LEWIS ROCA
ROTHGERBER CHRISTIE LLP'S
NOTICE OF NONAPPEARANCE OR
WITHDRAWAL AS COUNSEL OF
RECORD

Lewis Roca Rothgerber Christie LLP and its attorneys, including Daniel F. Polsenberg, and Abraham G. Smith, had the honor of representing respondent Michael A. Foley *pro bono* in his appeal before the Nevada Supreme Court (Case No. 69997). Based on recent correspondence addressed to Lewis Roca Rothgerber Christie LLP, however, counsel wish to clarify that they did not appear for—and are unable to represent—Mr. Foley in this Court.

Although counsel's representation in the *pro bono* appeal terminated as a matter of course upon the conclusion of that appeal, counsel as necessary hereby give formal notice of their withdrawal as counsel for Mr. Foley. SCR 46 ("After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney's filing a withdrawal, with or without the client's consent."). (See Ex. A, Order Affirming in Part, Vacating in Part and Remanding, filed Dec. 21, 2018; Ex. B, Order Denying Rehearing in Part, filed May 10, 2019; Ex. C, Order Denying Rehearing, filed Sept. 20, 2019.)

1 A copy of this notice will be sent to respondent by U.S. mail, to the follow-
2 ing last known addresses:

3 Michael A. Foley
4 712 E. Naples Dr., #21
5 Las Vegas, NV 89119-6632

Michael A. Foley
209 S. Stephanie Ste., Ste. B-191
Henderson, NV 89012-5501

6 Respondent Michael A. Foley's last known telephone number is
7 (702) 771-9725.

8 Dated this 28th day of January, 2020.

9 LEWIS ROCA ROTHGERBER CHRISTIE LLP

10 By: /s/ Abraham G. Smith

11 DANIEL F. POLSENBERG (SBN 2376)
12 ABRAHAM G. SMITH (SBN 13,250)
13 3993 Howard Hughes Parkway,
14 Suite 600
15 Las Vegas, Nevada 89169
16 (702) 949-8200
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CERTIFICATE OF SERVICE

I certify that on January 28, 2020, I filed the foregoing “Lewis Roca Rothgerber Christie LLP’s Notice of Nonappearance or Withdrawal as Counsel of Record” through the Court’s electronic filing system.

I further certify that a copy was served by United States mail, postage prepaid, at Las Vegas, Nevada, to the following addresses:

Michael A. Foley
712 E. Naples Dr., #21
Las Vegas, NV 89119-6632
Foley1769@Live.com

Michael A. Foley
209 S. Stephanie Ste., Ste. B-191
Henderson, NV 89012-5501

Patricia Foley
8937 Austin Ridge Avenue
Las Vegas, NV 89178

/s/ Lisa Noltie
An Employee of Lewis Roca Rothgerber Christie LLP

EXHIBIT A

EXHIBIT A

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
Appellant,
vs.
PATRICIA FOLEY,
Respondent.

No. 69997

FILED

DEC 21 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER AFFIRMING IN PART, VACATING IN PART, AND
REMANDING*

This is an appeal from a district court order affirming a special master's recommendations to deny appellant's request to modify his child support obligation and find him in contempt for nonpayment of support in a child support enforcement matter. Eighth Judicial District Court, Clark County; Rebecca Burton, Judge.

In 2012, Michael Foley and Patricia Foley divorced, and the district court ordered Michael to pay child support for their three minor children. Michael failed to pay, and he was subject to an enforcement action assigned to a special master. From 2012 through 2015, Michael was the subject of several civil contempt orders—and incarcerated four times—for his failure to pay child support. Michael frequently failed to attend the contempt proceedings, and each contempt order during that time was entered pursuant to NRS 425.3844(3)(a), allowing judgment to be entered on a special master's recommendation where there is no objection to the recommendation within 10 days.

On November 12, 2015, Michael was arrested pursuant to a civil contempt order and bench warrant after failing to pay child support. During an in-custody hearing four days later, Michael disputed his child support obligation of \$833 per month, stating that he possessed only \$119. The master refused to modify Michael's support obligation, recommended a purge amount of \$2,000 for the contempt, and imposed a sentence of ten days incarceration. While serving this sentence, Michael filed two objections to the recommendation, arguing that the master failed to make a finding that he had the ability to pay the purge amount before ordering his imprisonment for contempt, and the court was constitutionally required to appoint counsel under these circumstances.

The State filed an opposition, arguing that Michael's willful underemployment and lack of evidence demonstrating his indigence were sufficient for the master to find Michael in contempt. The State further noted that the monthly support obligation was calculated based on Michael's own representations in his December 2014 response to the State's motion to modify support, and Michael had failed to file a motion to reduce his child support based on changed circumstances. The State asserted that Michael's in forma pauperis status had no bearing on whether he has an ability to pay an established child support obligation, as applying for indigence status for document filing purposes is an ex parte proceeding that may be granted based on the applicant's affidavit regarding means to prosecute or defend an action, and without an evidentiary hearing. On February 22, 2016, the district court entered an order affirming the master's recommendation, explicitly adopting the points and authorities in the State's opposition and stating generally that Michael, "ha[d] the ability to pay and there is an indication of possible willful underemployment."

The district court appropriately affirmed the special master's refusal to modify Michael's child support obligation

Michael argues that the district court erroneously affirmed the special master's refusal to modify his child support obligation. We disagree.

Once a court has established an obligation for support, a parent can file a request for review and modification by a district court based on changed circumstances. See NRS 125B.080(3); NRS 125B.145(1); *Rivero v. Rivero*, 125 Nev. 410, 431, 216 P.3d 213, 228 (2009). Here, Michael only made an oral objection to his child support obligation during his in-custody contempt hearing with the special master in the context of support enforcement proceedings. Because child support modification requests must be made by proper motion to the district court, upon which a factual record may be made regarding any changed circumstances, we conclude that the district court properly affirmed the special master's refusal in this regard. See *Rivero*, 125 Nev. at 431, 216 P.3d at 228 (reviewing a district court's decision resolving a motion to modify child support for abuse of discretion). Accordingly, we affirm the district court's order as it pertains to Michael's request to modify his child support obligation.

The district court contempt proceedings did not comport with due process requirements

Michael challenges the February 2016, order, arguing that the district court proceedings failed to comport with due process requirements because the district court imposed a term of incarceration for contempt without first determining that he was able to pay the purge amount.¹ We agree.

¹Michael also argues that the earlier contempt orders should be vacated for various reasons. However, because Michael failed to timely object to the master's recommendations on which the contempt orders were

We review an order of contempt for an abuse of discretion. *Lewis v. Lewis*, 132 Nev. 453, 456, 373 P.3d 878, 880 (2016). An abuse of discretion occurs when the district court bases its decision on a clearly erroneous factual determination, *NOLM, LLC v. Cty. of Clark*, 120 Nev. 736, 739, 100 P.3d 658, 660-61 (2004), or disregards controlling law, *Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993).

District courts maintain contempt power to address “[d]isobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers.” NRS 22.010(3). Contempt proceedings may be criminal or civil in nature. *Lewis*, 132 Nev. at 457, 373 P.3d at 880. A civil contempt action is remedial in nature because it is meant to secure compliance with the court order. *Id.*; see also NRS 22.110. However, “consistent with due process, a party cannot be found guilty of failing to pay child support and sentenced to jail conditional upon his payment of arrearages unless the trial court first determines that the individual (1) has the ability to make the payment and (2) willfully refuses to pay.” *Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 809, 102 P.3d 41, 49 (2004).

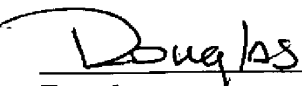
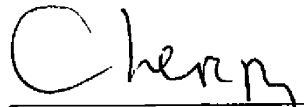
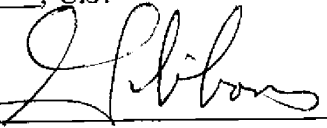
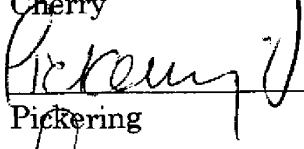
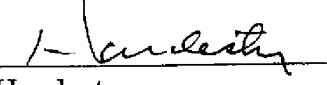
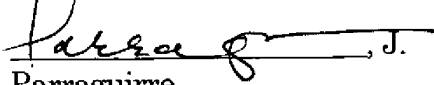
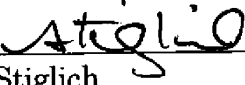
In *Rodriguez*, we examined whether a district court appropriately set the purge amount for the defendant’s release from a 25-

entered, those earlier orders are not properly considered within the context of this appeal, and we, therefore, will not consider his arguments as to those orders. See NRS 425.3844(2) (providing that “[w]ithin 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation”). Indeed, Michael challenged one of those orders in an earlier writ petition before this court and we denied that petition based on Michael’s failure to “demonstrate that he timely objected to the master’s recommendation to hold him in contempt.” See *Foley v. Gillespie*, Docket No. 64351 (Order denying Petition for Extraordinary Writ Relief, May 14, 2014).

day jail sentence for civil contempt. *Id.* at 814, 102 P.3d at 51-52. The district court directed Rodriguez to pay \$10,000 in order to secure his release from his sentence but did not indicate why it set the purge amount at that level. *Id.* at 814, 102 P.3d at 51. This court ordered a temporary stay on his incarceration pending consideration of his writ petition, *id.* at 804, 102 P.3d at 45, and ultimately granted the petition in part with instruction to the district court "to make specific findings concerning Rodriguez's indigency, to hold a further hearing if necessary, and thereafter to determine whether Rodriguez is in contempt of court, the penalty for such contempt, and the amount that will be necessary to purge that contempt," *id.* at 814, 102 P.3d at 52.

Here, in regard to the district court's February 22 order, despite Michael's statement that he possessed only \$119, the special master recommended a purge amount of \$2,000 and imposed ten days' incarceration. After Michael timely objected, the district court affirmed, finding generally that Michael "ha[d] the ability to pay and there is an indication of possible willful underemployment." As in *Rodriguez*, the district court failed to make specific findings regarding Michael's present ability to pay the purge amount. Therefore, the district court deprived Foley of his due process rights by affirming the special master's recommendation of civil contempt without specific findings of his ability to pay the \$2,000 purge amount. Accordingly, we

ORDER the February 22, 2016, order AFFIRMED IN PART AND VACATED IN PART, AND REMAND this matter to the district court for proceedings consistent with this order.²

 _____, C.J. Douglas	 _____, J. Cherry	 _____, J. Gibbons
 _____, J. Pickering	 _____, J. Hardesty	
 _____, J. Parraguirre	 _____, J. Stiglich	

²Michael further argues that (1) the district court erred by incarcerating him while he awaited in-custody hearings, (2) due process should compel counsel for child support contempt proceedings where the obligor is indigent, (3) “[p]unishment is [n]o [l]onger an [a]ppropriate [b]asis for [i]mposing [c]ivil contempt” for inability to pay child support, and (4) on remand, the matter should be reassigned from Master Sylvia Teuton. As to his first argument, given Michael’s failure to appear at multiple hearings prior to the issuance of the bench warrants, his arrest was necessary to secure his personal attendance. See NRS 22.140. Second, Michael offers no compelling reason as to why this court should depart from established precedent and find a categorical right to counsel in every civil contempt proceeding where the contemnor is indigent. See, e.g., *Turner v. Rogers*, 564 U.S. 431, 448 (2011) (“[T]he Due Process Clause does not automatically require the provision of counsel at civil contempt proceedings to an indigent individual who is subject to a child support order, even if that individual faces incarceration . . .” (emphasis omitted)). Third, while we agree that “punishment may not be imposed in a civil contempt proceeding when it is clearly established that the alleged contemnor is unable to comply with the terms of the order,” *Hicks v. Feiock*, 485 U.S. 624, 638 n.9 (1988), it has not been established whether Michael is unable to comply and the lack of specific findings in this regard will be addressed on remand. Fourth and finally, we decline to consider Michael’s argument regarding Master Teuton, as he did not file a motion to disqualify below, and such requests typically implicate factual issues that should be presented to the district court in the first instance.

cc: Hon. Rebecca Burton, District Judge
Lewis & Roca, LLP
Patricia Foley
American Civil Liberties Union of Nevada
Clark County District Attorney's Office
Greenberg Traurig, LLP
National Coalition for a Civil Right to Counsel
Barbara Buckley
Snell & Wilmer
Anne R. Traum
Eighth District Court Clerk

EXHIBIT B

EXHIBIT B

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
Appellant,
vs.
PATRICIA FOLEY,
Respondent.

No. 69997
FILED

MAY 10 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER DENYING IN PART PETITION FOR REHEARING AND
INVITING PARTICIPATION BY AMICUS CURIAE*

Appellant has petitioned this court for partial rehearing of the order entered on December 21, 2018. Having reviewed the petition, we deny rehearing in part as to the issue regarding NRS 425.3844. NRAP 40(c). It appears, however, that the participation of amicus curiae will assist the court in deciding whether to grant rehearing on the appointment-of-counsel issue.¹ We therefore invite the Clark County District Attorney's Office, Family Support Division (CCDA) to file a brief addressing the appointment-of-counsel issue raised in the rehearing petition. NRAP 29. If CCDA agrees, it shall have 28 days from the date of this order to file and serve an amicus brief that complies with NRAP 40(b) (governing form of petition and answer). Appellant shall have 14 days from service of CCDA's answer to file and serve any reply. We defer ruling on appellant's request for oral argument.

It is so ORDERED.

 C.J.

¹Respondent Patricia Foley, who is proceeding pro se, did not file an answering brief. The Clark County District Attorney was allowed to participate as amicus curiae and filed a brief addressing appellant's arguments on appeal.

cc: Lewis Roca Rothgerber Christie LLP/Las Vegas
Patricia Foley
Clark County District Attorney/Family Support Division
American Civil Liberties Union of Nevada/Las Vegas
Greenberg Traurig, LLP/Las Vegas

EXHIBIT C

EXHIBIT C

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
Appellant,
vs.
PATRICIA FOLEY,
Respondent.

No. 69997

FILED

SEP 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING REHEARING

Appellant petitioned this court for partial rehearing of this court's order affirming in part, vacating in part and remanding entered on December 21, 2018. On May 10, 2019, we denied rehearing in part as to the issue regarding NRS 425.3844. Further, we invited the Clark County District Attorney's Office, Family Support Division (CCDA) to participate as amicus curiae and file a brief addressing the appointment-of-counsel issue raised in the rehearing petition.

Having reviewed the petition, the briefs of amicus curiae, and the reply to the amicus curiae brief of the CCDA, we deny the remaining issues in the petition for rehearing. In this court's order affirming in part, vacating in part, and remanding, we noted Michael's failure to offer any compelling reason to find a categorical right to counsel in every civil contempt proceeding where the contemnor is indigent. *See Foley v. Foley*, Docket No. 69997 (Order Affirming in Part, Vacating in Part, and Remanding, December 21, 2018, at 6 n.2). In vacating and remanding the district court's contempt order, we did not decide, and therefore left open,

the question of Michael's right to appointed counsel. Consideration of this issue should be developed by the district court in the first instance.

It is so ORDERED.

L. Gibbons, C.J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Hon. Rebecca Burton, District Judge, Family Court Division
Lewis Roca Rothgerber Christie LLP/Las Vegas
Patricia Foley
Clark County District Attorney/Family Support Division
American Civil Liberties Union of Nevada/Las Vegas
Greenberg Traurig, LLP/Las Vegas
Eighth District Court Clerk



NOTC
Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711
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DISTRICT COURT
CLARK COUNTY, NEVADA

Patricia Foley,)	
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)	Case no.: R-11-162425-R
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Petitioner,)	Dept. no.: C / CHILD SUPPORT
)	
vs.)	
)	
Michael Foley,)	
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Respondent.)	

NOTICE OF INTENT/REQUEST TO APPEAR
BY COMMUNICATION EQUIPMENT

COMES NOW, STEVEN B. WOLFSON, CLARK COUNTY DISTRICT ATTORNEY, by and through Robert J. Gardner, Deputy District Attorney, pursuant to the Order Adopting Part IX Of The Supreme Court Rules filed December 18, 2008, and hereby submits a Notice Of Intent To Appear By Communication Equipment for the:

(check one)

☐ Case Management Conference

☐ Motion Hearing

☐ Trial Setting Conference

☒ Other: Respondent's objection, filed 12-05-2019, currently scheduled for the

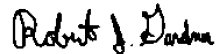
3rd day of February, 2020 at 9:00 a.m. Pacific Time.

For the purposes of this appearance, as the assigned Deputy DA, Robert J. Gardner, I can be reached at the following phone number is (702) 671-9482. This

1 Deputy believes it will be more beneficial and expedient to have access to the D.A.
2 Child Support computer systems at the time of the hearing due to the paperless nature of
3 our records. I understand that it is my responsibility to ensure that I can be reached at
4 this telephone number on the date and time of the hearing. I also understand that due to
5 the unpredictable nature of court proceedings, my hearing may be called at a time other
6 than the scheduled time. Further, I understand that my failure to be available at the
7 above stated telephone number will constitute a nonappearance.

8 Dated this _29th_ day of January, 2020.

9
10 Respectfully Submitted,
11 Steven B. Wolfson
12 District Attorney
13 Nevada Bar No. 001565

14 

15 ROBERT J. GARDNER, Deputy District Attorney
16 Nevada Bar No.: 00006983
17 FAMILY SUPPORT DIVISION
18 1900 East Flamingo Road, Suite 100
19 Las Vegas, NV 89119
20 (702) 671-9476
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Steven D. Grierson
CLERK OF THE COURT



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10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 Patricia Foley,)
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1 **This is an Initial Hearing** pursuant to the Notice and Finding of Financial
2 Responsibility to Establish an Obligation or Determine Paternity. The purpose for
3 this Hearing is to address:

4 ☐ The Respondent's/Petitioner's/DAFS' request regarding:

6 **This is not an Initial Hearing.** The purpose of this hearing is to address:

7 ☐ The Respondent's/Petitioner's/DAFS' request regarding:

8 ☒ **The Respondent's Continuing Order to Show Cause for Respondent to**
9 **answer why (s)he is not complying with the Court's order. The Court is**
10 **asked to make a determination of appropriate sanctions, including jail time,**
11 **pursuant to chapter 22 of NRS.**

12 ☐ The Respondent's Request to Quash Bench Warrant.

13 ☐ The Respondent's/Petitioner's Request to address:

14 ☐ arrears ☐ the whereabouts of the minor child(ren) from
15 (month/year) _____ through _____ (month/year). See attached proof/receipts,
16 if any.

17 ☒ **Other: Matter remand from Family Court Department C for Hearing**
18 **Master to address the contempt for child support.**

20 ☐ **This is a Modification Hearing** pursuant to the Notice and Finding filed
21 contemporaneously with this Notice of Hearing.

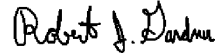
23 The request for this hearing, if any, is attached hereto and by this reference made a
24 part hereof.

25 If you do not appear, the hearing will proceed in your absence, and an Order and
26 Judgment may be entered against you. You should bring any records you believe are
27 relevant to your case to this hearing (such as paycheck stubs, other proof of income,
28 information regarding the cost of dependent health insurance coverage, court orders or

1 birth certificates of other children you are legally responsible to support, proof of prior
2 direct payments).

3 Dated this February ____27th ____, 2020.

4 Respectfully Submitted,
5 Steven B. Wolfson
6 Clark County District Attorney
7 Nevada Bar #001565

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Deputy District Attorney
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1 CERT

Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

3 The Notice of Hearing was served upon Michael Anthony Foley by mailing a
4 copy thereof, first class mail, postage prepaid to:

5 Michael Anthony Foley
6 **712 E Naples Dr 21**
7 **Las Vegas NV 89119-6632**

8 And to
9 **209 South Stephanie Street, Suite B-191**
10 **Henderson, NV 89012**

11 on February 27, 2020.

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15 _____
16 Employee, District Attorney's Office
17 Family Support Division
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28 Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

1 CERT

Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

3 The Notice of Hearing was served upon Patricia Foley by mailing a copy thereof,
4 first class mail, postage prepaid to:

5 Patricia Foley
6 8937 Austin Ridge Ave
7 Las Vegas, NV 89178

8 on February 27, 2020.

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11 _____
12 Employee, District Attorney's Office
13 Family Support Division
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Nevada Bar No. 001565
Family Support Division
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1 **OFO**
2 STEVEN B. WOLFSON
3 DISTRICT ATTORNEY
4 Nevada Bar No. 001565
5 FAMILY SUPPORT DIVISION
6 1900 East Flamingo Rd., Ste 100
7 Las Vegas, Nevada 89119-5168
8 (702) 671-9200
9 UPI-294910200A

Electronically Filed
3/9/2020 12:42 PM
Steven D. Grierson
CLERK OF THE COURT



6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 Patricia Foley,

9 Petitioner,

Case No.: R-11-162425-R

10 vs.

Dept. No.: C / Child Support Court

11 Michael Foley,

12 Respondent.

13
14 **ORDER FOLLOWING OBJECTION**

15 This matter having come on for a hearing this 3rd day of February, 2020, on
16 the Objection of the: ☒ Respondent ☐ Petitioner ☐ District Attorney's Office,
17 Family Support Division, (hereinafter, "DAFS"), to the Master's Recommendations
18 from the Child Support Court hearing held on the 17th day of January, 2020,

19 Respondent being ☒ not present ☐ present in proper person

20 Petitioner being ☒ present ☐ not present

21 and Steven B. Wolfson, District Attorney, being present by and through
22 Deputy District Attorney, ROBERT J. GARDNER, Esq.,

23 The Court having reviewed the pleadings and papers herein and having heard
24 argument AND GOOD CAUSE THEREFORE APPEARING, this Court hereby
25 enters the following findings, conclusions and orders:

26 This Court finds that: Deputy District Attorney Robert Gardner, Bar No. 6982,
27 appeared telephonically for the State of Nevada. Court noted this matter had been on
28 Appeal for a number of years and the Appeal was finally completed. Court noted the

ORDER FOLLOWING OBJECTION
Page 1 of 3

1 Orders from the Supreme Court on the record. On October 28, 2019, this Court in its
2 Order After Remand and noted on the record what was ordered in that Order. Court
3 noted the documentation the Respondent filed after the Order After Remand, and
4 further noted the Respondent had not filed a Financial Disclosure Form (FDF) nor
5 any verification of income. Court reviewed the history of the parties and the
6 pleadings on file. COURT FINDS that it has subject matter jurisdiction over this
7 case, personal jurisdiction over the parties, and child custody subject matter
8 jurisdiction over the minor child(ren). Court further noted none of the Respondent's
9 documents had been served upon the District Attorney's Office as there was no proof
10 of service filed with the court. Court clarified its Order After Remand.

11 **ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND**
12 **DECREED, COURT ORDERED** the following:

13 1. Respondent's Joinder to Objection filed on December 5, 2019 shall be
14 STRICKEN.

15 2. Respondent's Joinder to Objection filed on December 5, 2019 shall be
16 STRICKEN.

17 3. Respondent's Joinder to Objection filed on December 5, 2019 shall be
18 STRICKEN.

19 4. Respondent was admonished to not talk to the minor child about Court
20 issues and/or adult issues under EDCR 5.301.

21 5. Respondent's Motion for Reconsideration is DENIED.

22 6. No later than ten days before the next hearing, Respondent shall file a
23 Financial Disclosure Form (FDF), and attach his last three pay stubs or verification of
24 income, and file proof of service.

25 7. Respondent's Motion to Appoint Counsel is DENIED, WITHOUT
26 PREJUDICE.

27 8. Respondent's Objection is DENIED, WITHOUT PREJUDICE.
28

ORDER FOLLOWING OBJECTION
Page 2 of 3

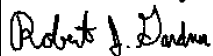
1 9. A hearing shall be SET in front of the Hearing Master to address the
2 contempt for child support. A separate Notice of Hearing will be sent.

3 10. Attorney Gardner shall prepare the Order. MATTER RECALLED.
4 Petitioner not present. Court recalled this matter to verify that the Notice of Hearing
5 was sent to the Respondent at the address listed in Odyssey and to an address on
6 Naples Drive in Las Vegas, Nevada.

7
8 DATED this 3 day of March, 2020.

9
10 
11 REBECCA L. BURTON, DISTRICT COURT JUDGE
12 *A*

13 Submitted By:

14 

15 ROBERT J. GARDNER, ESQ. 2/27/2020
16 DEPUTY DISTRICT ATTORNEY
17 Nevada Bar No. 00006983
18 FAMILY SUPPORT DIVISION
19 1900 East Flamingo Rd., Suite 100
20 Las Vegas, Nevada 89119
21 (702) 671-9200
22
23
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1 **NEOJ**
2 **STEVEN B. WOLFSON**
3 **DISTRICT ATTORNEY**
4 Nevada Bar No. 001565
5 **FAMILY SUPPORT DIVISION**
6 1900 East Flamingo Rd., Ste 100
7 Las Vegas, Nevada 89119-5168
8 (702) 671-9200
9 UPI-294910200A

Electronically Filed
3/11/2020 9:53 AM
Steven D. Grierson
CLERK OF THE COURT



6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 Patricia Foley,

9 Petitioner,

Case No.: R-11-162425-R

10 vs.

Dept. No.: C / Child Support Court

11 Michael Foley,

12 Respondent.

13
14 **NOTICE OF ENTRY OF ORDER**

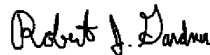
15 TO: PATRICIA FOLEY, Petitioner

16 TO: MICHAEL FOLEY, Respondent

17 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 9th
18 day of March, 2020, an Order Following Objection was entered in the above-entitled
19 matter, a copy of which is attached to this Notice.

20 Dated __10th__ day of March, 2020.

21 Steven B. Wolfson
22 Clark County District Attorney
23 Nevada Bar No. 001565



24 ROBERT J. GARDNER
25 Chief Deputy District Attorney
26 Nevada Bar No.: 0006983

27
28
NOTICE OF ENTRY OF ORDER
Page 1 of 3

1 **OFO**
2 STEVEN B. WOLFSON
3 DISTRICT ATTORNEY
4 Nevada Bar No. 001565
5 FAMILY SUPPORT DIVISION
6 1900 East Flamingo Rd., Ste 100
7 Las Vegas, Nevada 89119-5168
8 (702) 671-9200
9 UPI-294910200A

Electronically Filed
3/9/2020 12:42 PM
Steven D. Grierson
CLERK OF THE COURT



10
11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 Patricia Foley,

14 Petitioner,

Case No.: R-11-162425-R

15 vs.

Dept. No.: C / Child Support Court

16 Michael Foley,

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23 Respondent being ☒ not present ☐ present in proper person

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ORDER FOLLOWING OBJECTION
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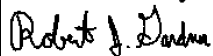
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11 REBECCA L. BURTON, DISTRICT COURT JUDGE
12 *A*

13 Submitted By:

14 

15 ROBERT J. GARDNER, ESQ. 2/27/2020
16 DEPUTY DISTRICT ATTORNEY
17 Nevada Bar No. 00006983
18 FAMILY SUPPORT DIVISION
19 1900 East Flamingo Rd., Suite 100
20 Las Vegas, Nevada 89119
21 (702) 671-9200
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1 CERT

Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

3 The Notice of Entry of Order was served upon Michael Anthony Foley by
4 mailing a copy thereof, first class mail, postage prepaid to:

5 Michael Anthony Foley
6 **712 E Naples Dr 21**
7 **Las Vegas NV 89119-6632**

8 And to
9 **209 South Stephanie Street, Suite B-191**
10 **Henderson, NV 89012**

11 on March 11, 2020.

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16 Employee, District Attorney's Office
17 Family Support Division
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1 CERT

Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

3 The Notice of Entry of Order was served upon Patricia Foley by mailing a
4 copy thereof, first class mail, postage prepaid to:

5 Patricia Foley
6 8937 Austin Ridge Ave
7 Las Vegas, NV 89178

8 on March 11, 2020.

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12 _____
13 Employee, District Attorney's Office
14 Family Support Division

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

NOTICE OF HEARING

Employee, District Attorney's Office
Family Support Division

Case Number: R-11-162425-R

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF HEARING was served upon MICHAEL ANTHONY
4 FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

5
6 MICHAEL ANTHONY FOLEY
7 712 E NAPLES DR APT 21
8 LAS VEGAS, NV 89119-6632
9

10 on March 23, 2020.

11
12 /s/D Carper
13 Employee, District Attorney's Office
14 Family Support Division
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NOHCNG

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF HEARING was served upon PATRICIA FOLEY by
4 mailing a copy thereof, first class mail, postage prepaid to:

5
6 PATRICIA FOLEY
7 8937 AUSTIN RIDGE AVE
8 LAS VEGAS, NV 89178
9

10 on March 23, 2020.

11
12 /s/D Carper
13 Employee, District Attorney's Office
14 Family Support Division
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NOHCNG



1 **NOAS**
2 MICHAEL FOLEY
3 209 S. Stephanie St. Ste B-191
4 Henderson, NV 89012
5 Telephone: (702) 771-9725
6 Defendant in Proper Person

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 PATRICIA FOLEY

11 Petitioner,

Case No. R-11-162425

12 vs.

Dept. No. "Child Support" ("C")

13 MICHAEL FOLEY,

14 Respondent.

15
16
17 **NOTICE OF APPEAL**

18
19 The Respondent hereby appeals the following orders/judgments:
20 ALL ORDERS and JUDGMENTS in this matter decreed by the Court on February
21 3, 2020, and entered on March 11, 2020.

22
23 DATED this 31st day of March, 2020.

24
25
26 /s/ Michael Foley /

27 Michael Foley, Respondent in Proper Person
28

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing NOTICE OF APPEAL was mailed first class via the U.S. Postal Service on March 31, 2020 to the following:

Patricia Foley
8937 Austin Ridge Avenue
Las Vegas, Nevada 89178

DATED this 31st day of March, 2020.

/s/ Michael Foley /
Michael Foley, Respondent in Proper Person



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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

PATRICIA FOLEY,

Plaintiff(s)

vs.

MICHAEL A. FOLEY,

Defendant(s),

Case No: R-11-162425-R

Dept No: C

CASE APPEAL STATEMENT

1. Appellant(s): Michael Foley

2. Judge: Rebecca L. Burton

3. Appellant(s): Michael Foley

Counsel:

Michael Foley
209 S. Stephanie St., Ste. B-191
Henderson, NV 89012

4. Respondent (s): Patricia Foley

Counsel:

Patricia Foley
8937 Austin Ridge Ave.
Las Vegas, NV 89178

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5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis: Yes, July 14, 2015
Expired
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A
9. Date Commenced in District Court: May 9, 2011
10. Brief Description of the Nature of the Action: DOMESTIC - Miscellaneous
Type of Judgment or Order Being Appealed: Misc. Order
11. Previous Appeal: Yes
Supreme Court Docket Number(s): 69997
12. Case involves Child Custody and/or Visitation: Custody
Appeal involves Child Custody and/or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 2 day of April 2020.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Michael Foley



OFO
STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar No. 001565
FAMILY SUPPORT DIVISION
1900 East Flamingo Rd., Ste 100
Las Vegas, Nevada 89119-5168
(702) 671-9200
UPI-294910200A

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Patricia Foley,

Petitioner,

vs.

Michael Foley,

Respondent.

Case No.: R-11-162425-R

Dept. No.: C / Child Support Court

**AMENDED ORDER – Correcting the
hearing date of the objection**

AMENDED ORDER FOLLOWING OBJECTION

This matter having come on for a hearing this 3rd day of February, 2020, on the Objection of the: ☒ Respondent ☐ Petitioner ☐ District Attorney's Office, Family Support Division, (hereinafter, "DAFS"), to the Master's Recommendations from the Child Support Court hearing held on the **26th day of December, 2019**,

Respondent being ☒ not present ☐ present in proper person

Petitioner being ☒ present ☐ not present

and Steven B. Wolfson, District Attorney, being present by and through Deputy District Attorney, ROBERT J. GARDNER, Esq.,

The Court having reviewed the pleadings and papers herein and having heard argument AND GOOD CAUSE THEREFORE APPEARING, this Court hereby enters the following findings, conclusions and orders:

This Court finds that: Deputy District Attorney Robert Gardner, Bar No. 6982, appeared telephonically for the State of Nevada. Court noted this matter had been on Appeal for a number of years and the Appeal was finally completed. Court noted the

ORDER FOLLOWING OBJECTION

Page 1 of 3

1 Orders from the Supreme Court on the record. On October 28, 2019, this Court in its
2 Order After Remand and noted on the record what was ordered in that Order. Court
3 noted the documentation the Respondent filed after the Order After Remand, and
4 further noted the Respondent had not filed a Financial Disclosure Form (FDF) nor
5 any verification of income. Court reviewed the history of the parties and the
6 pleadings on file. COURT FINDS that it has subject matter jurisdiction over this
7 case, personal jurisdiction over the parties, and child custody subject matter
8 jurisdiction over the minor child(ren). Court further noted none of the Respondent's
9 documents had been served upon the District Attorney's Office as there was no proof
10 of service filed with the court. Court clarified its Order After Remand.

11 **ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND**
12 **DECREED, COURT ORDERED** the following:

13 1. Respondent's Joinder to Objection filed on December 5, 2019 shall be
14 STRICKEN.

15 2. Respondent's Joinder to Objection filed on December 5, 2019 shall be
16 STRICKEN.

17 3. Respondent's Joinder to Objection filed on December 5, 2019 shall be
18 STRICKEN.

19 4. Respondent was admonished to not talk to the minor child about Court
20 issues and/or adult issues under EDCR 5.301.

21 5. Respondent's Motion for Reconsideration is DENIED.

22 6. No later than ten days before the next hearing, Respondent shall file a
23 Financial Disclosure Form (FDF), and attach his last three pay stubs or verification of
24 income, and file proof of service.

25 7. Respondent's Motion to Appoint Counsel is DENIED, WITHOUT
26 PREJUDICE.

27 8. Respondent's Objection is DENIED, WITHOUT PREJUDICE.
28

1 9. A hearing shall be SET in front of the Hearing Master to address the
2 contempt for child support. A separate Notice of Hearing will be sent.

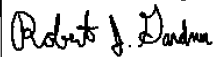
3 10. Attorney Gardner shall prepare the Order. MATTER RECALLED.
4 Petitioner not present. Court recalled this matter to verify that the Notice of Hearing
5 was sent to the Respondent at the address listed in Odyssey and to an address on
6 Naples Drive in Las Vegas, Nevada.

7
8 DATED this 16 day of March, 2020.

9
10 

11 REBECCA L. BURTON, DISTRICT COURT JUDGE
12

13 Submitted By:

14 

15 ROBERT J. GARDNER, ESQ. 3/11/2020
16 DEPUTY DISTRICT ATTORNEY
17 Nevada Bar No. 00006983
18 FAMILY SUPPORT DIVISION
19 1900 East Flamingo Rd., Suite 100
20 Las Vegas, Nevada 89119
21 (702) 671-9200
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THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
592 - 594
WILL FOLLOW VIA
U.S. MAIL

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
Appellant,
vs.
PATRICIA FOLEY,
Respondent.

Supreme Court No. 80958
District Court Case No. R162425

FILED

JUN - 9 2020

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDERS this appeal DISMISSED"

Judgment, as quoted above, entered this 14 day of May, 2020.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
June 08, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Kaitlin Meetze
Administrative Assistant

R-11-162425-R
CCJD
NV Supreme Court Clerks Certificate/Judge
4916968



IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
Appellant,
vs.
PATRICIA FOLEY,
Respondent.

No. 80958

FILED

MAY 14 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

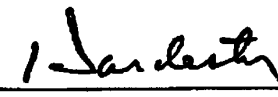
This is a pro se appeal from a district court order entered in a family law matter. Eighth Judicial District Court, Family Court Division, Clark County; Rebecca Burton, Judge.


Review of the notice of appeal and documents before this court reveals a jurisdictional defect. The challenged order strikes several joinders to objections, admonishes appellant, denies a motion for reconsideration, directs appellant to file a financial disclosure form, denies appellant's motion to appoint counsel, denies an objection, and sets a hearing to address contempt for child support. None of these orders is substantively appealable. *See Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court "may only consider appeals authorized by statute or court rule"). Accordingly, this court

ORDERS this appeal DISMISSED.

 J.

Parraguirre

 J.
Hardesty

 J.
Cadish

Supreme Court
of
Nevada

(C) 1971A

20-18332

cc: Hon. Rebecca Burton, District Judge, Family Court Division
Michael Foley
Patricia Foley
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL FOLEY,
Appellant,
vs.
PATRICIA FOLEY,
Respondent.

Supreme Court No. 80958
District Court Case No. R162425

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: June 08, 2020

Elizabeth A. Brown, Clerk of Court

By: Kaitlin Meetze
Administrative Assistant

cc (without enclosures):
Hon. Rebecca Burton, District Judge
Michael Foley
Patricia Foley

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on JUN - 9 2020.

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED
APPEALS

JUN - 9 2020

CLERK OF THE COURT

1 NEOJ
2 STEVEN B. WOLFSON
3 DISTRICT ATTORNEY
4 Nevada Bar No. 001565
5 FAMILY SUPPORT DIVISION
6 1900 East Flamingo Rd., Ste 100
7 Las Vegas, Nevada 89119-5168
8 (702) 671-9200 – TTY and/or other relay services: 711
9 DAFSLegalGroup@clarkcountyda.com
10 UPI-294910200A

Electronically Filed
6/9/2020 8:38 AM
Steven D. Grierson
CLERK OF THE COURT



6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 Patricia Foley,

9 Petitioner,

Case No.: R-11-162425-R

10 vs.

Dept. No.: C / Child Support Court

11 Michael Foley,

12 Respondent.

13
14 **NOTICE OF ENTRY OF AMENDED ORDER**

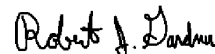
15 TO: PATRICIA FOLEY, Petitioner

16 TO: MICHAEL FOLEY, Respondent

17 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 13th
18 day of April, 2020, an Amended Order Following Objection was entered in the
19 above-entitled matter, a copy of which is attached to this Notice.

20 Dated _8th day of June, 2020.

21 Steven B. Wolfson
22 Clark County District Attorney
23 Nevada Bar No. 001565



24 ROBERT J. GARDNER
25 Chief Deputy District Attorney
26 Nevada Bar No.: 0006983

27 NOTICE OF ENTRY OF ORDER
28 Page 1 of 3



OFO
STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar No. 001565
FAMILY SUPPORT DIVISION
1900 East Flamingo Rd., Ste 100
Las Vegas, Nevada 89119-5168
(702) 671-9200
UPI-294910200A

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

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Petitioner,

vs.

Michael Foley,

Respondent.

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Dept. No.: C / Child Support Court

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hearing date of the objection**

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Respondent being ☒ not present ☐ present in proper person

Petitioner being ☒ present ☐ not present

and Steven B. Wolfson, District Attorney, being present by and through Deputy District Attorney, ROBERT J. GARDNER, Esq.,

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Page 1 of 3

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26 PREJUDICE.

27 8. Respondent's Objection is DENIED, WITHOUT PREJUDICE.
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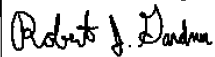
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4 Petitioner not present. Court recalled this matter to verify that the Notice of Hearing
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6 Naples Drive in Las Vegas, Nevada.

7
8 DATED this 16 day of March, 2020.

9
10 

11 REBECCA L. BURTON, DISTRICT COURT JUDGE

12
13 Submitted By:

14 

15 ROBERT J. GARDNER, ESQ. 3/11/2020

16 DEPUTY DISTRICT ATTORNEY

17 Nevada Bar No. 00006983

18 FAMILY SUPPORT DIVISION

19 1900 East Flamingo Rd., Suite 100

20 Las Vegas, Nevada 89119

21 (702) 671-9200

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ORDER FOLLOWING OBJECTION

Page 3 of 3

1 CERT

Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

3 The Notice of Entry of Amended Order was served upon Michael Anthony
4 Foley by mailing a copy thereof, first class mail, postage prepaid to:

5 Michael Anthony Foley
6 **712 E Naples Dr 21**
7 **Las Vegas NV 89119-6632**

8 And to
9 **209 South Stephanie Street, Suite B-191**
10 **Henderson, NV 89012**

11 on June 9, 2020.

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16 Employee, District Attorney's Office
17 Family Support Division
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1 CERT

Case no. R-11-162425-R

2 **CERTIFICATE OF MAILING**

3 The Notice of Entry of Amended Order was served upon Patricia Foley by
4 mailing a copy thereof, first class mail, postage prepaid to:

5 Patricia Foley
6 8937 Austin Ridge Ave
7 Las Vegas, NV 89178

8 on June 9, 2020.

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13 Employee, District Attorney's Office
14 Family Support Division
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1 NOH
2 Steven B. Wolfson, District Attorney
3 Nevada Bar No. 001565
4 Family Support Division
5 1900 East Flamingo Road, Suite 100
6 Las Vegas, Nevada 89119-5168
7 (702) 671-9200 - TTY and/or other relay services: 711
8 294910200A

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 PATRICIA FOLEY)
12)
13) Case no. R-11-162425-R
14)
15) Petitioner,)
16) Dept. no. CHILD SUPPORT
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1 Notice is hereby given that the undersigned will bring the above-entitled matter
2 before the Child Support Hearing Master on the 2nd day of September, 2020 at the
3 hour of 10:30 AM PT (Pacific Time) in Court Room 1 of the Child Support Center of
4 Southern Nevada, **1900 East Flamingo Road Suite 100, Las Vegas, Nevada 89119**, for
5 review pursuant to NAC 425, NRS 31A, NRS 125B, NRS 126, NRS 130 and/or NRS
6 425.

7 ☐ **This is an Initial Hearing** pursuant to the Notice and Finding of Financial
8 Responsibility to Establish an Obligation or Determine Paternity. The purpose for
9 this Hearing is to address:

10 ☐ The Respondent's/Petitioner's/DAFS' request regarding: _____

11 ☐ **This is not an Initial Hearing.** The purpose of this hearing is to address:

12 ☐ The Respondent's/Petitioner's/DAFS' request regarding: _____

13 ☒ The Respondent's Continuing Order to Show Cause for Respondent to answer
14 why (s)he is not complying with the Court's order. The Court is asked to make a
15 determination of appropriate sanctions, including jail time, pursuant to chapter 22
16 of NRS.

17 ☐ The Respondent's Request to Quash Bench Warrant.

18 ☐ The Respondent's/Petitioner's Request to address:

19 ☐ arrears ☐ the whereabouts of the minor child(ren) from
20 (month/year) _____ through _____ (month/year). See attached proof/receipts, if
21 any.

22 ☐ Other: _____

23 ☐ **This is a Modification Hearing** pursuant to the Notice of Motion to Modify
24 or Notice and Finding filed contemporaneously with this Notice of Hearing.

25 The request for this hearing, if any, is attached hereto and by this reference made a
26 part hereof.
27

28 Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

1 If you do not participate by telephone, the hearing will proceed in your absence,
2 and an Order and Judgment may be entered against you. You should provide any records
3 to DAFS that you believe are relevant to your case prior to the hearing (such as paycheck
4 stubs, other proof of income, information regarding the cost of dependent health
5 insurance coverage, court orders or birth certificates of other children you are legally
6 responsible to support, proof of prior direct payments).

7 Dated this July 21, 2020

8 Respectfully Submitted,
9

10 /s/P. Morgan
11 Employee, District Attorney's Office
12 Family Support Division
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28 Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

TELEPHONIC HEARING INSTRUCTIONS

Due to COVID-19 and Governor Sisolak's social distancing mandate, all court hearings will be conducted by telephone. Please do not appear in person, the Court will contact you by phone. The court will use best efforts to contact you at your scheduled hearing time, please be patient as delays may occur.

The Court will call you at your scheduled court date and time. Occasionally, the Court may be delayed and call after your scheduled court time. If you do not answer your phone when the Court calls, the proceeding may still go forward. Please arrange to be on a land line if possible, as the Court does not usually allow the use of cellular phones during telephonic hearings.

Before your hearing, our case manager will call you to verify your number for the Court. It is your responsibility to keep our office updated as to any change in your address or telephone number. Failure to take part in your hearing may result in the Court going forward and entering an order without you.

If you intend to offer exhibits during the telephonic hearing, they must be provided to this office at least 10 days before the scheduled hearing. You may fax them to (702) 366-2410. You must print your name, docket "R" number, and UPI case number on any exhibits, and direct them to the attention of your assigned case manager.

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Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF TELEPHONIC HEARING was served upon MICHAEL
4 ANTHONY FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

5
6 MICHAEL ANTHONY FOLEY
7 712 E NAPLES DR APT 21
8 LAS VEGAS, NV 89119-6632
9

10 on July 21, 2020.

11
12 /s/P. Morgan
13 Employee, District Attorney's Office
14 Family Support Division
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Steven B. Wolfson, District Attorney, Nevada Bar #001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 – TTY and/or other relay services: 711

CTMAIL

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF TELEPHONIC HEARING was served upon PATRICIA
4 FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

5
6 PATRICIA FOLEY
7 8937 AUSTIN RIDGE AVE
8 LAS VEGAS, NV 89178
9

10 on July 21, 2020.

11
12 /s/P. Morgan
13 Employee, District Attorney's Office
14 Family Support Division
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Steven B. Wolfson, District Attorney, Nevada Bar #001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 – TTY and/or other relay services: 711

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NOTC
Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711
294910200A

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PATRICIA FOLEY)
)
) Case no. R-11-162425-R
Petitioner,)
) Dept. no. CHILD SUPPORT
vs.)
)
)
MICHAEL FOLEY)
)
)
Respondent.)

NOTICE OF HEARING

To: MICHAEL ANTHONY FOLEY, Respondent

To: PATRICIA FOLEY, Petitioner

Notice is hereby given that on January 04, 2021 at 02:45 PM a hearing will be held in Court Room 1» of the Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada.

The previously scheduled court date of September 2nd, 2020 has been vacated and rescheduled to the above date and location. This matter is continued to avoid a scheduling conflict.

If you do not appear, the hearing will proceed in your absence and the Court may order a judgment against you.

/s/ E. Benitez
Employee, District Attorney's Office
Family Support Division

NOHCNG

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF HEARING was served upon MICHAEL ANTHONY
4 FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

5
6 MICHAEL ANTHONY FOLEY
7 712 E NAPLES DR APT 21
8 LAS VEGAS, NV 89119-6632
9

10 on July 29, 2020.

11
12 /s/ E. Benitez
13 Employee, District Attorney's Office
14 Family Support Division
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NOHCNG

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF HEARING was served upon PATRICIA FOLEY by
4 mailing a copy thereof, first class mail, postage prepaid to:

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6 PATRICIA FOLEY
7 8937 AUSTIN RIDGE AVE
8 LAS VEGAS, NV 89178
9

10 on July 29, 2020.

11
12 /s/ E. Benitez
13 Employee, District Attorney's Office
14 Family Support Division
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NOHCNG



1 NOH
2 Steven B. Wolfson, District Attorney
3 Nevada Bar No. 001565
4 Family Support Division
5 1900 East Flamingo Road, Suite 100
6 Las Vegas, Nevada 89119-5168
7 (702) 671-9200 - TTY and/or other relay services: 711
8 294910200A

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 PATRICIA FOLEY)
12)
13) Case no. R-11-162425-R
14 Petitioner,)
15) Dept. no. CHILD SUPPORT
16 vs.)
17)
18 MICHAEL FOLEY)
19)
20)
21 Respondent)

22 **NOTICE OF TELEPHONIC HEARING**

23 **Due to COVID-19 and Governor Sisolak's social distancing mandate, all court**
24 **hearings will be conducted by audio/visual appearance. Please do not appear in**
25 **person. Please be patient as delays may occur. Instructions on how to participate**
26 **by the Court's audio/visual program called BlueJeans are attached.**

27 **Go to: <https://www.bluejeans.com>**

28 **Meeting No. 651 753 846**

Or

Phone Dial-in

1 (408) 419-1715

Meeting No. 651 753 846

Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

1 To: MICHAEL ANTHONY FOLEY, Respondent

2 To: PATRICIA FOLEY, Petitioner

3 Notice is hereby given that the undersigned will bring the above-entitled matter
4 before the Child Support Hearing Master on the 4th day of January, 2021 at the hour
5 of 2:45 PM PT (Pacific Time) in Court Room 1 of the Child Support Center of
6 Southern Nevada, **1900 East Flamingo Road Suite 100, Las Vegas, Nevada 89119**, for
7 review pursuant to NAC 425, NRS 31A, NRS 125B, NRS 126, NRS 130 and/or NRS
8 425.

9 ☐ **This is an Initial Hearing** pursuant to the Notice and Finding of Financial
10 Responsibility to Establish an Obligation or Determine Paternity. The purpose for
11 this Hearing is to address:

12 ☐ The Respondent's/Petitioner's/DAFS' request regarding:

13 ☐ **This is not an Initial Hearing.** The purpose of this hearing is to address:

14 ☐ The Respondent's/Petitioner's/DAFS' request regarding:

15 ☒ The Respondent's Continuing Order to Show Cause for Respondent to answer
16 why (s)he is not complying with the Court's order. The Court is asked to make a
17 determination of appropriate sanctions, including jail time, pursuant to chapter 22
18 of NRS. **If you are the Respondent and are Ordered to Show Cause, failure to**
19 **participate in your hearing may result in the Court issuing a Bench Warrant**
20 **for your arrest.**

21 ☐ The Respondent's Request to Quash Bench Warrant.

22 ☐ The Respondent's/Petitioner's Request to address:

23 ☐ arrears ☐ the whereabouts of the minor child(ren) from
24 (month/year) __ through __ (month/year). See attached proof/receipts, if any.

25 ☐ Other:
26
27

28 Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

☐ **This is a Modification Hearing** pursuant to the Notice of Motion to Modify or Notice and Finding filed contemporaneously with this Notice of Hearing.

The request for this hearing, if any, is attached hereto and by this reference made a part hereof.

If you do not participate by BlueJeans, the hearing will proceed in your absence, and an Order and Judgment may be entered against you. You should provide any records to DAFS that you believe are relevant to your case prior to the hearing (such as paycheck stubs, other proof of income, information regarding the cost of dependent health insurance coverage, court orders or birth certificates of other children you are legally responsible to support, proof of prior direct payments).

Dated this December 3, 2020

Respectfully Submitted,

/s/P. Morgan

Employee, District Attorney's Office
Family Support Division

Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

1 **AUDIO/VISUAL APPEARANCE INSTRUCTIONS**

2 **Due to COVID-19 and Governor Sisolak’s social distancing mandate, all court**
3 **hearings will be conducted by Audio/Visual Appearance. YOUR PRESENCE IS**
4 **NECESSARY. If you are the Respondent and are Ordered to Show Cause, failure to**
5 **participate in your hearing may result in the Court issuing a Bench Warrant for**
6 **your arrest.**

7 **Please note that some cases may take longer than others and there is a possibility the**
8 **website may drop your video/telephonic appearance before your case is called. If**
9 **this occurs, please be patient and log back in to BlueJeans and re-enter your**
10 **meeting ID number. The Court will call your case when it is ready to go on the**
11 **record. Please remain on mute until the case is called.**

12 **Go to: <https://www.bluejeans.com>**

13 **Meeting No. 651 753 846**

14 **(no passcode)**

15 **Or**

16 **Phone Dial-in**

17 **1 (408) 419-1715**

18 **Meeting No. 651 753 846**

19 **(no passcode)**

20 Failure to take part in your hearing may result in the Court entering an order without you.
21 If you intend to offer exhibits for the hearing, please provide them to this office at least
22 10 days before the scheduled hearing. You may deliver them in person or fax them to
23 (702) 366-2410. You must print your name, docket “R” number, and UPI case number on
24 any exhibits, and direct them to the attention of your assigned case manager.

REMOTE HEARING PROCESS

Due to COVID-19 many courtrooms are closed, and most court hearings are now *remote*. That means some or all of the people participate by video or by phone. Read below to know how to prepare for a remote appearance.

AUDIO/VISUAL APPEARANCE

- ❖ You may either visit the website noted on page one of this Notice and enter the Meeting ID or you may download the BlueJeans Application.
- ❖ If you are appearing by video, you will also type in your name so the Court can identify who you are when you log into the hearing.
- ❖ When you first log in for your hearing by video, you may see a black room.
- ❖ Once the Court is ready for your case, you will be told to unmute and you will have video access to the Courtroom if appearing by video.
- ❖ Make sure you have a good internet connection. If you do not, appear by telephone only (see instructions below).

TELEPHONIC ONLY APPEARANCE

- ❖ You may appear by phone only by calling the number noted on page one of this Notice and enter the Meeting ID.
- ❖ You do NOT need to set up an account.
- ❖ If you are appearing by phone only, your telephone number will be the only way the Court can identify you.
- ❖ If your number needs to be kept confidential from the other party, use *67 before you call the BlueJeans application so your number does not appear.
- ❖ When you reach the Court, the Court's Marshall will ask you to identify yourself so the Court knows who is present for the hearing. You may be asked more than once as there may be more than one person appearing confidentially.

1 **PLEASE MUTE YOURSELF UNTIL THE MARSHALL ASKS YOU TO**
2 **UNMUTE YOURSELF.**

3 If you are entering the hearing by telephone, you may hear other participants
4 who are waiting for their hearing. This is the waiting room where you will be on hold
5 until the Court is ready for your case.

6 The Marshall will let you know when your case is close to being called.

7
8 **If the Court is running late (by more than 30 minutes, for example) you may**
9 **get automatically disconnected by BlueJeans. If this happens, please log back**
10 **in or call back in. The Court will not proceed without you if you have already**
11 **checked in with the Marshall, but it is your responsibility to check in at the**
12 **time your hearing is scheduled.**

13 **IMPORTANT: You may be connecting from home, but it is still a court hearing.**
14 **Pay attention, and follow all rules.**

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Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF AUDIO/VISUAL HEARING was served upon
4 MICHAEL ANTHONY FOLEY by mailing a copy thereof, first class mail, postage
5 prepaid to:

6
7 MICHAEL ANTHONY FOLEY
8 712 E NAPLES DR APT 21
9 LAS VEGAS, NV 89119-6632

10
11
12
13
14 on December 3, 2020.

15
16 /s/P. Morgan

17 Employee, District Attorney's Office
18 Family Support Division
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27

28 Steven B. Wolfson, District Attorney, Nevada Bar #001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 – TTY and/or other relay services: 711

CTMAIL

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The NOTICE OF AUDIO/VISUAL HEARING was served upon
4 PATRICIA FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

5
6 PATRICIA FOLEY
7 8937 AUSTIN RIDGE AVE
8 LAS VEGAS, NV 89178
9
10
11
12

13 on December 3, 2020.

14
15 /s/P. Morgan

16 Employee, District Attorney's Office
17 Family Support Division
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28 Steven B. Wolfson, District Attorney, Nevada Bar #001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 – TTY and/or other relay services: 711

CTMAIL



NEMR
Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711
DAFSLegalGroup@ClarkCountyDA.com
294910200A

DISTRICT COURT
CLARK COUNTY, NEVADA

PATRICIA FOLEY)
)
) Case no. R-11-162425-R
Petitioner,)
) Dept. no. CHILD SUPPORT
vs.)
)
)
MICHAEL FOLEY)
)
)
)
Respondent,)

NOTICE OF ENTRY OF MASTER'S RECOMMENDATION

To: MICHAEL FOLEY, Respondent or Respondent's Attorney
To: PATRICIA FOLEY, Petitioner or Petitioner's Attorney

Please take notice that the enclosed Master's Recommendations were entered in
the above-entitled matter on January 04, 2021.

CERT

Case no. R-11-162425-R

CERTIFICATE OF MAILING

The foregoing Notice of Entry of Master's Recommendation entered on January 04, 2021, was served upon MICHAEL ANTHONY FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

MICHAEL ANTHONY FOLEY
PO BOX 777972
HENDERSON, NV 89077-7972

On January 04, 2021.

/s/D Carper
Employee, District Attorney's Office
Family Support Division

CERT

Case no. R-11-162425-R

CERTIFICATE OF MAILING

The foregoing Notice of Entry of Master's Recommendation entered on January 04, 2021, was served upon PATRICIA FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

PATRICIA FOLEY
8937 AUSTIN RIDGE AVE
LAS VEGAS, NV 89178

On January 04, 2021.

/s/ D Carper
Employee, District Attorney's Office
Family Support Division

MRAO
STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar No. 001565
FAMILY SUPPORT DIVISION
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200
TTY and/or other relay services: 711
294910200A

District Court
CLARK COUNTY, NEVADA

PATRICIA FOLEY,

Petitioner,

Case No. **R-11-162425-R**

vs.

Department No. **CHILD SUPPORT**

MICHAEL FOLEY,

Respondent.

MASTER'S RECOMMENDATION

This matter having been heard on **JANUARY 04, 2021** before the undersigned Hearing Master, having considered all the evidence and having been fully advised in the premises, hereby makes the following Findings and Recommendations:

Parties present: ☒ Respondent ☐ Respondent's attorney ☒ Petitioner ☐ Petitioner's attorney

☐ PATERNITY ☒ PATERNITY PREVIOUSLY DECIDED

☒ FINANCIALS: ☐ CONTINUE PRIOR ORDERS (NO CHANGE TO PRIOR FINANCIAL ORDERS).

Basis for adjustment from state formula: _____

Respondent is to pay current support for the child(ren), Elizabeth Foley.

CHILD SUPPORT

Respondent is to pay monthly:

\$729.00 child support

\$79.00 medical support

spousal support

25.00 arrears payment

☒ ARREARAGES ☐ ARREARAGES NOT ADDRESSED AT THIS HEARING

Arrears/Obligation period is _____ through 11/30/20.

Arrears, interest and penalty calculated through 11/30/20 by audit. For accounting purposes next payment due 12/1/20.

child support arrearage of	<u>\$80,743.64</u>	plus interest of	<u>\$26,185.58</u>	penalty of	<u>\$8,274.12</u>
medical support arrearage of	<u>\$8,058.00</u>	plus interest of	<u>\$2,205.60</u>	penalty of	<u>\$718.90</u>
spousal support arrearage of	_____	plus interest of	_____		
medical expense arrearage of	_____				
genetic test costs of	_____				
total arrearages of	<u>\$88,801.64</u>	total interest	<u>\$28,391.18</u>	total penalty	<u>\$8,993.02</u>

GRAND TOTAL (arrearages + interest + penalty) = **\$126,185.84**

☐ The total arrears are hereby confirmed.

☒ The total arrears, interest and penalties are reduced to judgment. This supersedes prior Nevada judgments, if any, awarded under this case number. Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040.

☐ Arrears of \$_____ subject to modification until _____, and arrears of \$_____ reduced to judgment.

☒ Arrears listed above are reduced to judgment. This supersedes prior Nevada judgments, if any, awarded under this case number.

☐

\$ 833.00

TOTAL monthly payment is due on the 1st day of each month, and continues thereafter until said child(ren) reach majority, become emancipated or further order of the Court.

Respondent's **INCOME SHALL BE WITHHELD** for the payment of support.

☐ Good cause to stay income withholding is based on:_____. Said withholding shall be postponed until Respondent becomes delinquent in an amount equal to 30 days support.

☐ ENFORCEMENT OF CONTROLLING ORDER: The registered order from _____, dated _____, #_____, is hereby confirmed and is the controlling order for the following reasons: ☐ only order _____.

☐ ESTABLISHMENT OF CONTROLLING ORDER: This is the first order establishing a child support obligation for this noncustodial parent for the child(ren) listed in this order who reside(s) with this custodian.

☒ Health insurance coverage for the minor child(ren) herein:

☐ Respondent to provide: ☒ Petitioner to provide: ☐ Both Parties to provide:

☒ if available through employer. ☐ shall provide per court order.

☒ Ordered Party(ies) to provide proof of said insurance to the District Attorney's Office, Family Support Division within 90 days of today's date.

Under the Affordable Care Act, Medicaid is acceptable coverage.

☒ CONTEMPT OF COURT ☐ NOT A SHOW CAUSE HEARING

☐ **RESPONDENT ORDERED TO SHOW CAUSE CONCERNING CONTEMPT.**

☒ **ORDER TO SHOW CAUSE CONTINUED TO NEXT COURT DATE.**

☒ Respondent is hereby found in Contempt of Court and sentenced to 25 days in the Clark County Detention Center; this sentence shall be stayed until the next court date.

☒ The following sentence(s) shall be stayed/continued to the next court date unless imposed or vacated today:

Sentence of 16 days in the Clark County Detention Center issued 11/21/13 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 03/12/14 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 02/19/15 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 07/09/15 is _____ imposed _____ vacated X stayed

☐ Respondent to be released from custody on _____.

☐ Respondent may be released from the above sentence immediately upon payment of \$_____ to be released to Petitioner as child support.

☐ **NO BAIL BENCH WARRANT HEREBY ISSUED FOR THE ARREST OF RESPONDENT. RESPONDENT MAY BE RELEASED UPON PAYMENT OF \$_____ TO BE RELEASED TO PETITIONER AS CHILD SUPPORT. Where circumstances justify a sufficient basis, the District Attorney may administratively quash or recall the bench warrant.**

☐ **BENCH WARRANT PREVIOUSLY ISSUED IS HEREBY** ☐ **QUASHED.** ☐ **CONTINUED.**

☐ MODIFICATION OF PRIOR ORDER:

☐ SUSPENSION OF LICENSES:

PAYMENTS

All mailed payments **MUST** be made in the form of a cashier's check, money order or business check **ONLY**, made payable to State Collection and Disbursement Unit (SCaDU).

Payments can be mailed to:

State Collection and Disbursement Unit (SCaDU)
P.O. Box 98950
Las Vegas, Nevada 89193-8950

Additionally, the following information must be included with each payment: name (first, middle, last) of person responsible for paying child support, social security number of person responsible for paying child support, child support case number, and name of petitioner (first and last name of person receiving child support).

NOTICE: NO CREDIT WILL BE GIVEN FOR PAYMENTS PAID DIRECTLY TO THE PETITIONER.

Please visit www.clarkcountynv.gov/district-attorney/fs for alternative payment options.

NOTICE: PRIOR ORDERS NOT SPECIFICALLY MODIFIED HEREIN REMAIN IN FULL FORCE AND EFFECT

NOTICE: Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040. If the Respondent pays support through income withholding and the full obligation is not met by the amount withheld by the employer, the Respondent is responsible to pay the difference between the court ordered obligation and the amount withheld by the employer directly to the state disbursement unit. If the Respondent fails to do so, he/she may be subject to assessment of interest. The Respondent may avoid these additional costs by making current support payments each month. If another state takes jurisdiction and obtains a new order, Nevada interest will only be calculated to the date of the new order and will be enforced.

NOTICE: Pursuant to NRS 125B.145 and federal law, EITHER parent, the legal guardian, and the Division of Welfare and Supportive Services, where there is an assignment of support rights to the State, has the right to request a review of the support provision of this order at least every three (3) years to determine if modification is appropriate; an application for this purpose may be obtained from D.A. Family Support at 1900 E. Flamingo Rd., Suite 100, Las Vegas, Nevada 89119-5168.

NOTICE: Objections/Appeals are governed by EDCR1.40(e) and (f). You have ten (10) days from receipt of this Master's Recommendation to serve and file written objections to it. A failure to file and serve written objections will result in a final Order/Judgment being ordered by District Court.

NOTICE: Appeal from a Final Judgment by the Court is governed by NRAP 4 and must be filed within 30 days of written Notice of Entry of Judgment.

NOTICE: Respondent is responsible for notifying the District Attorney, Family Support Division, of any change of address, change of employment, health insurance coverage, change of custody, or any order relative to child support within ten (10) days of such change.

NOTICE: If you want to adjust the amount of child support established in this order, you **MUST** file a motion to modify the order with or submit a stipulation to the court. If a motion to modify the order is not filed or a stipulation is not submitted, the child support obligation established in this order will continue until such time as all children who are the subject of this order reach 18 years of age or, if the youngest child who is subject to this order is still in high school when he or she reaches 18 years of age, when the child graduates from high school or reaches 19 years of age, whichever comes first. Unless the parties agree otherwise in a stipulation, any modification made pursuant to a motion to modify the order will be effective as of the date the motion was filed.

Respondent to bring new financial statement and proof of income next date.

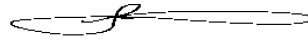
This order does not stay collection of support arrears by execution or any other means allowed by law.

MISCELLANEOUS FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS:

Last payment (involuntary) received 08/13/20.

Respondent testified that he is not paying child support because he believes that Petitioner has committed fraud on him. He is further concerned that any child support payment will be used by Petitioner to gamble. Respondent testified that he is able to give his children payments directly through the use of a credit card, but not able to make Court Ordered child support payments. Respondent asserts he is COVID positive and, therefore, has been unable to work for the last four weeks. DAFS to send a Medical Assessment Form to Respondent. Respondent is to return that form to DAFS at least 30 days prior to the next hearing. If Respondent is medically unable to work, the Court will consider this at the next hearing. Respondent has not made a voluntary payment in seven years. The Court concludes that the failure to pay is willful.

NEXT HEARING DATE IS December 9, 2021 at 1:30 PM in Courtroom 1 in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.

DATED: JANUARY 04, 2021


MASTER

USJR DISPOSITIONS

- ☐ - Settled/Withdrawn w/Judicial Conference/Hearing
☐ - Involuntary (Statutory) Dismissal
☐ - Dismissed / Want of Prosecution
☐ - Transferred to Another Jurisdiction
☐ - Other Manner of Dispo
☐ - Close Case

 Respondent/Respondent's Attorney
 Receipt of this document is
 acknowledged by my signature.

ORDER/JUDGMENT

☐ The Clerk of the Court having reviewed the District Court's file and having determined that no objection has been filed within the ten day objection period, **the Master's Recommendation is hereby deemed approved by the District Court pursuant to NRS 425.3844.** The affixing of the Clerk of the Court's file stamp to this Master's Recommendation signifies that the ten-day objection period has expired without an objection having been filed and that the District Court deems the Master's Recommendation to be approved as an **ORDER/JUDGMENT** of the District Court, effective with the file stamp date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this Order/Judgment.**

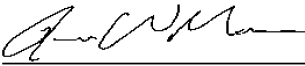
☐ The District Court, having reviewed the above and foregoing Master's Recommendation, and having received and considered the objection thereto, as well as any other papers, testimony and argument related thereto and good cause appearing,

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS affirmed and adopted as an **ORDER/JUDGMENT** of the District Court this _____ day of _____, 20____.

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS NOT affirmed and adopted this _____ day of _____, 20____ and this matter is remanded to Child Support Court on _____, 20____ at _____M.

District Court Judge, Family Division

STEVEN B. WOLFSON, Clark County District Attorney
 Nevada Bar No. 001565

1 By: 
2 **DEPUTY DISTRICT ATTORNEY**
3 **FAMILY SUPPORT DIVISION**
4 **1900 East Flamingo Road, Suite 100**
5 **Las Vegas, Nevada 89119-5168**

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MRAO
STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar No. 001565
FAMILY SUPPORT DIVISION
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200
TTY and/or other relay services: 711
294910200A

Electronically Filed
1/26/2021 10:30 AM
Steven D. Grierson
CLERK OF THE COURT



District Court
CLARK COUNTY, NEVADA

PATRICIA FOLEY,

Petitioner,

Case No. **R-11-162425-R**

vs.

Department No. **CHILD SUPPORT**

MICHAEL FOLEY,

Respondent.

MASTER'S RECOMMENDATION

This matter having been heard on **JANUARY 04, 2021** before the undersigned Hearing Master, having considered all the evidence and having been fully advised in the premises, hereby makes the following Findings and Recommendations:

Parties present: ☒ Respondent ☐ Respondent's attorney ☒ Petitioner ☐ Petitioner's attorney

☐ PATERNITY ☒ PATERNITY PREVIOUSLY DECIDED

☒ FINANCIALS: ☐ CONTINUE PRIOR ORDERS (NO CHANGE TO PRIOR FINANCIAL ORDERS).

Basis for adjustment from state formula: _____

Respondent is to pay current support for the child(ren), Elizabeth Foley.

CHILD SUPPORT

Respondent is to pay monthly:

\$729.00 child support

\$79.00 medical support

spousal support

25.00 arrears payment

☒ ARREARAGES ☐ ARREARAGES NOT ADDRESSED AT THIS HEARING

Arrears/Obligation period is _____ through 11/30/20.

Arrears, interest and penalty calculated through 11/30/20 by audit. For accounting purposes next payment due 12/1/20.

child support arrearage of	<u>\$80,743.64</u>	plus interest of	<u>\$26,185.58</u>	penalty of	<u>\$8,274.12</u>
medical support arrearage of	<u>\$8,058.00</u>	plus interest of	<u>\$2,205.60</u>	penalty of	<u>\$718.90</u>
spousal support arrearage of	_____	plus interest of	_____		
medical expense arrearage of	_____				
genetic test costs of	_____				
total arrearages of	<u>\$88,801.64</u>	total interest	<u>\$28,391.18</u>	total penalty	<u>\$8,993.02</u>

GRAND TOTAL (arrearages + interest + penalty) = **\$126,185.84**

☐ The total arrears are hereby confirmed.

☒ The total arrears, interest and penalties are reduced to judgment. This supersedes prior Nevada judgments, if any, awarded under this case number. Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040.

☐ Arrears of \$_____ subject to modification until _____, and arrears of \$_____ reduced to judgment.

☒ Arrears listed above are reduced to judgment. This supersedes prior Nevada judgments, if any, awarded under this case number.

☐

\$ 833.00

TOTAL monthly payment is due on the 1st day of each month, and continues thereafter until said child(ren) reach majority, become emancipated or further order of the Court.

Respondent's **INCOME SHALL BE WITHHELD** for the payment of support.

☐ Good cause to stay income withholding is based on:_____. Said withholding shall be postponed until Respondent becomes delinquent in an amount equal to 30 days support.

☐ ENFORCEMENT OF CONTROLLING ORDER: The registered order from _____, dated _____, #_____, is hereby confirmed and is the controlling order for the following reasons: ☐ only order _____.

☐ ESTABLISHMENT OF CONTROLLING ORDER: This is the first order establishing a child support obligation for this noncustodial parent for the child(ren) listed in this order who reside(s) with this custodian.

☒ Health insurance coverage for the minor child(ren) herein:

☐ Respondent to provide: ☒ Petitioner to provide: ☐ Both Parties to provide:

☒ if available through employer. ☐ shall provide per court order.

☒ Ordered Party(ies) to provide proof of said insurance to the District Attorney's Office, Family Support Division within 90 days of today's date.

Under the Affordable Care Act, Medicaid is acceptable coverage.

☒ CONTEMPT OF COURT ☐ NOT A SHOW CAUSE HEARING

☐ **RESPONDENT ORDERED TO SHOW CAUSE CONCERNING CONTEMPT.**

☒ **ORDER TO SHOW CAUSE CONTINUED TO NEXT COURT DATE.**

☒ Respondent is hereby found in Contempt of Court and sentenced to 25 days in the Clark County Detention Center; this sentence shall be stayed until the next court date.

☒ The following sentence(s) shall be stayed/continued to the next court date unless imposed or vacated today:

Sentence of 16 days in the Clark County Detention Center issued 11/21/13 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 03/12/14 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 02/19/15 is _____ imposed _____ vacated X stayed

Sentence of 25 days in the Clark County Detention Center issued 07/09/15 is _____ imposed _____ vacated X stayed

☐ Respondent to be released from custody on _____.

☐ Respondent may be released from the above sentence immediately upon payment of \$_____ to be released to Petitioner as child support.

☐ **NO BAIL BENCH WARRANT HEREBY ISSUED FOR THE ARREST OF RESPONDENT. RESPONDENT MAY BE RELEASED UPON PAYMENT OF \$_____ TO BE RELEASED TO PETITIONER AS CHILD SUPPORT. Where circumstances justify a sufficient basis, the District Attorney may administratively quash or recall the bench warrant.**

☐ **BENCH WARRANT PREVIOUSLY ISSUED IS HEREBY** ☐ **QUASHED.** ☐ **CONTINUED.**

☐ MODIFICATION OF PRIOR ORDER:

☐ SUSPENSION OF LICENSES:

PAYMENTS

All mailed payments **MUST** be made in the form of a cashier's check, money order or business check **ONLY**, made payable to State Collection and Disbursement Unit (SCaDU).

Payments can be mailed to:

State Collection and Disbursement Unit (SCaDU)
P.O. Box 98950
Las Vegas, Nevada 89193-8950

Additionally, the following information must be included with each payment: name (first, middle, last) of person responsible for paying child support, social security number of person responsible for paying child support, child support case number, and name of petitioner (first and last name of person receiving child support).

NOTICE: NO CREDIT WILL BE GIVEN FOR PAYMENTS PAID DIRECTLY TO THE PETITIONER.

Please visit www.clarkcountynv.gov/district-attorney/fs for alternative payment options.

NOTICE: PRIOR ORDERS NOT SPECIFICALLY MODIFIED HEREIN REMAIN IN FULL FORCE AND EFFECT

NOTICE: Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040. If the Respondent pays support through income withholding and the full obligation is not met by the amount withheld by the employer, the Respondent is responsible to pay the difference between the court ordered obligation and the amount withheld by the employer directly to the state disbursement unit. If the Respondent fails to do so, he/she may be subject to assessment of interest. The Respondent may avoid these additional costs by making current support payments each month. If another state takes jurisdiction and obtains a new order, Nevada interest will only be calculated to the date of the new order and will be enforced.

NOTICE: Pursuant to NRS 125B.145 and federal law, EITHER parent, the legal guardian, and the Division of Welfare and Supportive Services, where there is an assignment of support rights to the State, has the right to request a review of the support provision of this order at least every three (3) years to determine if modification is appropriate; an application for this purpose may be obtained from D.A. Family Support at 1900 E. Flamingo Rd., Suite 100, Las Vegas, Nevada 89119-5168.

NOTICE: Objections/Appeals are governed by EDCR1.40(e) and (f). You have ten (10) days from receipt of this Master's Recommendation to serve and file written objections to it. A failure to file and serve written objections will result in a final Order/Judgment being ordered by District Court.

NOTICE: Appeal from a Final Judgment by the Court is governed by NRAP 4 and must be filed within 30 days of written Notice of Entry of Judgment.

NOTICE: Respondent is responsible for notifying the District Attorney, Family Support Division, of any change of address, change of employment, health insurance coverage, change of custody, or any order relative to child support within ten (10) days of such change.

NOTICE: If you want to adjust the amount of child support established in this order, you **MUST** file a motion to modify the order with or submit a stipulation to the court. If a motion to modify the order is not filed or a stipulation is not submitted, the child support obligation established in this order will continue until such time as all children who are the subject of this order reach 18 years of age or, if the youngest child who is subject to this order is still in high school when he or she reaches 18 years of age, when the child graduates from high school or reaches 19 years of age, whichever comes first. Unless the parties agree otherwise in a stipulation, any modification made pursuant to a motion to modify the order will be effective as of the date the motion was filed.

Respondent to bring new financial statement and proof of income next date.

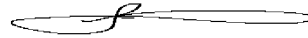
This order does not stay collection of support arrears by execution or any other means allowed by law.

MISCELLANEOUS FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS:

Last payment (involuntary) received 08/13/20.

Respondent testified that he is not paying child support because he believes that Petitioner has committed fraud on him. He is further concerned that any child support payment will be used by Petitioner to gamble. Respondent testified that he is able to give his children payments directly through the use of a credit card, but not able to make Court Ordered child support payments. Respondent asserts he is COVID positive and, therefore, has been unable to work for the last four weeks. DAFS to send a Medical Assessment Form to Respondent. Respondent is to return that form to DAFS at least 30 days prior to the next hearing. If Respondent is medically unable to work, the Court will consider this at the next hearing. Respondent has not made a voluntary payment in seven years. The Court concludes that the failure to pay is willful.

NEXT HEARING DATE IS December 9, 2021 at 1:30 PM in Courtroom 1 in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.

DATED: JANUARY 04, 2021


MASTER

USJR DISPOSITIONS

- ☐ - Settled/Withdrawn w/Judicial Conference/Hearing
☐ - Involuntary (Statutory) Dismissal
☐ - Dismissed / Want of Prosecution
☐ - Transferred to Another Jurisdiction
☐ - Other Manner of Dispo
☐ - Close Case

Respondent/Respondent's Attorney
Receipt of this document is
acknowledged by my signature.

ORDER/JUDGMENT

☒ The Clerk of the Court having reviewed the District Court's file and having determined that no objection has been filed within the ten day objection period, **the Master's Recommendation is hereby deemed approved by the District Court pursuant to NRS 425.3844.** The affixing of the Clerk of the Court's file stamp to this Master's Recommendation signifies that the ten-day objection period has expired without an objection having been filed and that the District Court deems the Master's Recommendation to be approved as an **ORDER/JUDGMENT** of the District Court, effective with the file stamp date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this Order/Judgment.**


☐ The District Court, having reviewed the above and foregoing Master's Recommendation, and having received and considered the objection thereto, as well as any other papers, testimony and argument related thereto and good cause appearing,

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS affirmed and adopted as an **ORDER/JUDGMENT** of the District Court this _____ day of _____, 20____.

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS NOT affirmed and adopted this _____ day of _____, 20____ and this matter is remanded to Child Support Court on _____, 20____ at _____ M.

District Court Judge, Family Division

STEVEN B. WOLFSON, Clark County District Attorney
 Nevada Bar No. 001565

1 By: 
2 **DEPUTY DISTRICT ATTORNEY**
3 **FAMILY SUPPORT DIVISION**
4 **1900 East Flamingo Road, Suite 100**
5 **Las Vegas, Nevada 89119-5168**



NEJ
Steven B. Wolfson, District Attorney
Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 - TTY and/or other relay services: 711
DAFSLegalGroup@ClarkCountyDA.com
294910200A

DISTRICT COURT
CLARK COUNTY, NEVADA

PATRICIA FOLEY)
)
) Case no. R-11-162425-R
Petitioner,)
) Dept. no. CHILD SUPPORT
vs.)
)
)
MICHAEL FOLEY)
)
)
)
Respondent,)

NOTICE OF ENTRY OF ORDER/JUDGMENT

To: MICHAEL FOLEY, Respondent or Respondent's Attorney
To: PATRICIA FOLEY, Petitioner or Petitioner's Attorney

Please take notice that the enclosed Order/Judgment against respondent
MICHAEL ANTHONY FOLEY was entered in the above-entitled matter on January 04,
2021

Steven B. Wolfson, District Attorney, Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 -TTY and/or other relay services: 711

1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The foregoing Notice of Entry of Order/Judgment was served upon MICHAEL
4 ANTHONY FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

5 MICHAEL ANTHONY FOLEY
6 PO BOX 777972
7 HENDERSON, NV 89077-7972
8

9 on February 01, 2021.
10

11 /s/ D Carper
12 Employee, District Attorney's Office
13 Family Support Division
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1 CERT

Case no. R-11-162425-R

2 CERTIFICATE OF MAILING

3 The foregoing Notice of Entry of Order/Judgment was served upon PATRICIA
4 FOLEY by mailing a copy thereof, first class mail, postage prepaid to:

5 PATRICIA FOLEY
6 8937 AUSTIN RIDGE AVE
7 LAS VEGAS, NV 89178
8

9 on February 01, 2021.

10 /s/ D Carper
11 Employee, District Attorney's Office
12 Family Support Division
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Steven B. Wolfson, District Attorney, Nevada Bar No. 001565
Family Support Division
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200 –TTY and/or other relay services: 711

MRAO
STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar No. 001565
FAMILY SUPPORT DIVISION
1900 East Flamingo Road, Suite 100
Las Vegas, Nevada 89119-5168
(702) 671-9200
TTY and/or other relay services: 711
294910200A

Electronically Filed
1/26/2021 10:30 AM
Steven D. Grierson
CLERK OF THE COURT



District Court
CLARK COUNTY, NEVADA

PATRICIA FOLEY,

Petitioner,

Case No. **R-11-162425-R**

vs.

Department No. **CHILD SUPPORT**

MICHAEL FOLEY,

Respondent.

MASTER'S RECOMMENDATION

This matter having been heard on **JANUARY 04, 2021** before the undersigned Hearing Master, having considered all the evidence and having been fully advised in the premises, hereby makes the following Findings and Recommendations:

Parties present: ☒ Respondent ☐ Respondent's attorney ☒ Petitioner ☐ Petitioner's attorney

☐ PATERNITY ☒ PATERNITY PREVIOUSLY DECIDED

☒ FINANCIALS: ☐ CONTINUE PRIOR ORDERS (NO CHANGE TO PRIOR FINANCIAL ORDERS).

Basis for adjustment from state formula: _____

Respondent is to pay current support for the child(ren), Elizabeth Foley.

CHILD SUPPORT

Respondent is to pay monthly:

\$729.00 child support

\$79.00 medical support

spousal support

25.00 arrears payment

☒ ARREARAGES ☐ ARREARAGES NOT ADDRESSED AT THIS HEARING

Arrears/Obligation period is _____ through 11/30/20.

Arrears, interest and penalty calculated through 11/30/20 by audit. For accounting purposes next payment due 12/1/20.

child support arrearage of	<u>\$80,743.64</u>	plus interest of	<u>\$26,185.58</u>	penalty of	<u>\$8,274.12</u>
medical support arrearage of	<u>\$8,058.00</u>	plus interest of	<u>\$2,205.60</u>	penalty of	<u>\$718.90</u>
spousal support arrearage of	_____	plus interest of	_____		
medical expense arrearage of	_____				
genetic test costs of	_____				
total arrearages of	<u>\$88,801.64</u>	total interest	<u>\$28,391.18</u>	total penalty	<u>\$8,993.02</u>

GRAND TOTAL (arrearages + interest + penalty) = **\$126,185.84**

☐ The total arrears are hereby confirmed.

☒ The total arrears, interest and penalties are reduced to judgment. This supersedes prior Nevada judgments, if any, awarded under this case number. Interest will be assessed on all unpaid child support balances for cases with a Nevada controlling order pursuant to NRS 99.040.

☐ Arrears of \$_____ subject to modification until _____, and arrears of \$_____ reduced to judgment.

☒ Arrears listed above are reduced to judgment. This supersedes prior Nevada judgments, if any, awarded under this case number.

☐

\$ 833.00

TOTAL monthly payment is due on the 1st day of each month, and continues thereafter until said child(ren) reach majority, become emancipated or further order of the Court.

Respondent's **INCOME SHALL BE WITHHELD** for the payment of support.

☐ Good cause to stay income withholding is based on:_____. Said withholding shall be postponed until Respondent becomes delinquent in an amount equal to 30 days support.

☐ ENFORCEMENT OF CONTROLLING ORDER: The registered order from _____, dated _____, #_____, is hereby confirmed and is the controlling order for the following reasons: ☐ only order _____.

☐ ESTABLISHMENT OF CONTROLLING ORDER: This is the first order establishing a child support obligation for this noncustodial parent for the child(ren) listed in this order who reside(s) with this custodian.

☒ Health insurance coverage for the minor child(ren) herein:

☐ Respondent to provide: ☒ Petitioner to provide: ☐ Both Parties to provide:

☒ if available through employer. ☐ shall provide per court order.

☒ Ordered Party(ies) to provide proof of said insurance to the District Attorney's Office, Family Support Division within 90 days of today's date.

Under the Affordable Care Act, Medicaid is acceptable coverage.

☒ CONTEMPT OF COURT ☐ NOT A SHOW CAUSE HEARING

☐ **RESPONDENT ORDERED TO SHOW CAUSE CONCERNING CONTEMPT.**

☒ **ORDER TO SHOW CAUSE CONTINUED TO NEXT COURT DATE.**

☒ Respondent is hereby found in Contempt of Court and sentenced to 25 days in the Clark County Detention Center; this sentence shall be stayed until the next court date.

☒ The following sentence(s) shall be stayed/continued to the next court date unless imposed or vacated today:

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☐ Respondent may be released from the above sentence immediately upon payment of \$_____ to be released to Petitioner as child support.

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☐ **BENCH WARRANT PREVIOUSLY ISSUED IS HEREBY** ☐ QUASHED. ☐ CONTINUED.

☐ MODIFICATION OF PRIOR ORDER:

☐ SUSPENSION OF LICENSES:

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Respondent to bring new financial statement and proof of income next date.

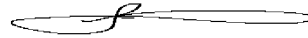
This order does not stay collection of support arrears by execution or any other means allowed by law.

MISCELLANEOUS FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS:

Last payment (involuntary) received 08/13/20.

Respondent testified that he is not paying child support because he believes that Petitioner has committed fraud on him. He is further concerned that any child support payment will be used by Petitioner to gamble. Respondent testified that he is able to give his children payments directly through the use of a credit card, but not able to make Court Ordered child support payments. Respondent asserts he is COVID positive and, therefore, has been unable to work for the last four weeks. DAFS to send a Medical Assessment Form to Respondent. Respondent is to return that form to DAFS at least 30 days prior to the next hearing. If Respondent is medically unable to work, the Court will consider this at the next hearing. Respondent has not made a voluntary payment in seven years. The Court concludes that the failure to pay is willful.

NEXT HEARING DATE IS December 9, 2021 at 1:30 PM in Courtroom 1 in Child Support Court at Child Support Center of Southern Nevada, 1900 East Flamingo Road, Las Vegas, Nevada, for further proceedings.

DATED: JANUARY 04, 2021


MASTER

USJR DISPOSITIONS

- ☐ - Settled/Withdrawn w/Judicial Conference/Hearing
☐ - Involuntary (Statutory) Dismissal
☐ - Dismissed / Want of Prosecution
☐ - Transferred to Another Jurisdiction
☐ - Other Manner of Dispo
☐ - Close Case

Respondent/Respondent's Attorney
 Receipt of this document is
 acknowledged by my signature.

ORDER/JUDGMENT

☒ The Clerk of the Court having reviewed the District Court's file and having determined that no objection has been filed within the ten day objection period, **the Master's Recommendation is hereby deemed approved by the District Court pursuant to NRS 425.3844.** The affixing of the Clerk of the Court's file stamp to this Master's Recommendation signifies that the ten-day objection period has expired without an objection having been filed and that the District Court deems the Master's Recommendation to be approved as an **ORDER/JUDGMENT** of the District Court, effective with the file stamp date, without need of a District Court Judge's signature affixed hereto. **The parties are ordered to comply with this Order/Judgment.**


☐ The District Court, having reviewed the above and foregoing Master's Recommendation, and having received and considered the objection thereto, as well as any other papers, testimony and argument related thereto and good cause appearing,

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS affirmed and adopted as an **ORDER/JUDGMENT** of the District Court this _____ day of _____, 20____.

☐ **IT IS HEREBY ORDERED** that the Master's Recommendation IS NOT affirmed and adopted this _____ day of _____, 20____ and this matter is remanded to Child Support Court on _____, 20____ at _____ M.

 District Court Judge, Family Division

STEVEN B. WOLFSON, Clark County District Attorney
 Nevada Bar No. 001565

1 By: 
2 **DEPUTY DISTRICT ATTORNEY**
3 **FAMILY SUPPORT DIVISION**
4 **1900 East Flamingo Road, Suite 100**
5 **Las Vegas, Nevada 89119-5168**
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1 **NOAS**
2 MICHAEL FOLEY
3 209 S. Stephanie St. Ste B-191
4 Henderson, NV 89012
5 Telephone: (702) 771-9725
6 Respondant in Proper Person

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 PATRICIA FOLEY
11
12 Petitioner,
13
14 vs.
15 MICHAEL FOLEY,
16 Respondent.

Case No. R-11-162425-R
Related Case:D-08-403071
Dept. No. "Child Support" ("C")

17 **NOTICE OF APPEAL**

18
19 The Respondent hereby appeals the following orders/judgments:
20 The ORDER filed on January 26, 2021 (noticed by mail on February 3, 2021),
21 sentencing the Respondent to 25 days in jail.

22
23 DATED this 25th day of February, 2021.

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26 /s/ Michael Foley /
27 Michael Foley, Respondent in Proper Person
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing NOTICE OF APPEAL was mailed first class via the U.S. Postal Service on February 25, 2021 to the following:

Patricia Foley
8937 Austin Ridge Avenue
Las Vegas, Nevada 89178

DATED this 25th day of February, 2021.

/s/ Michael Foley /
Michael Foley, Respondent in Proper Person



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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 PATRICIA FOLEY,

10 Plaintiff(s)

11 vs.

12 MICHAEL A. FOLEY,

13 Defendant(s),
14

Case No: R-11-162425-R

Dept No: X

15
16 **CASE APPEAL STATEMENT**
17

18 1. Appellant(s): Michael Foley

19 2. Judge: Unsigned

20 3. Appellant(s): Michael Foley

21 Counsel:

22 Michael Foley
23 209 S. Stephanie St., Ste. B-191
24 Henderson, NV 89012

25 4. Respondent (s): District Attorney - Family Support

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 1900 E. Flamingo Rd., Suite 100
Las Vegas, NV 89119-5168

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5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis: Yes, July 14, 2015
Expired
Appellant Filed Application to Proceed in Forma Pauperis: Yes,
Date Application(s) filed: May 11, /2020
9. Date Commenced in District Court: May 9, 2011
10. Brief Description of the Nature of the Action: DOMESTIC - Miscellaneous
Type of Judgment or Order Being Appealed: Misc. Order
11. Previous Appeal: Yes
Supreme Court Docket Number(s): 69997, 80958
12. Case involves Child Custody and/or Visitation: N/A
Appeal involves Child Custody and/or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 1 day of March 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Michael Foley

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

April 24, 2012

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

April 24, 2012 3:25 PM Order to Show Cause

HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Gloria Mackaly

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, present

Public by DAFS, Other, present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney, Ed Ewert, Present.

Both Parties Present and Sworn.

COURT FINDS, Matter on for Order to Show Cause (OSC). DA reported that Respondent was paying through a wage withholding. The last payment was received October 2011. Respondent testified that was when he received his last pay. He lost his job in November. Respondent is currently working through a temporary service doing telephone surveys. Respondent earns \$5.75 per hour. Pay stub provided showing 9 hours worked. When asked if Respondent considered modifying Order he stated he was told by Family Court there would not be any more Orders. Respondent is provided a modification packet this date. Respondent addressed issues unrelated to this case. DA is requesting OSC continue. Respondent states he has been looking for employment. Respondent further states his sporadic employment history is causing his biggest problem to obtain employment as well as his inability to renew his real estate license until arrears are paid. DA seeking review in 90 -120 days. Petitioner states Respondent is suing her and has spent \$10,000 on attorney fees that could have been

PRINT DATE:	04/08/2021	Page 1 of 39	Minutes Date:	April 24, 2012
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

paid on the child. Petitioner also claims Respondent is hiding money. She is to bring proof next date.

MASTER RECOMMENDED, ARREARS through March 31, 2012 are \$13,711.22 (not including Penalty and Interest). Respondent shall PAY \$700 per month TEMPORARY CURRENT SUPPORT. Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date.

MISCELLANEOUS; Last payment was wage withholding received October 11, 2011. Respondent was unemployed and started a new job this week at \$9 per hour at 20 hours per week. He is working through a TEMP agency. Respondent was given a MOD packet today. He can pay a minimum of \$325 per month to avoid contempt beginning May 1, 2012. Respondent to bring a paystub next court date. Both parties are on notice of possible modification effective April 1, 2012, to be considered next date. Petitioner to bring health insurance information she provides for children next date, and any other employment information she has about Respondent.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

August 28, 2012

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

**August 28, 2012 9:00 AM Motion for Review and
Adjustment of Child
Support**

HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Melinda White

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- DEPUTY DA: GERARD COSTANTIAN

Petitioner Sworn and Testified.

COURT FINDS: Today's hearing is a motion for a Review and Adjustment of Child Support. DA reported this is the Respondent's request. DA advised the Respondent is currently working through a temporary service, he earns \$9.00 per hour at 20 hours per week. The Petitioner provided her most recent paystub today in Open Court regarding the health insurance cost for just the minor child, the cost is \$157.00 per month and one half equals \$78.54 per month. The Petitioner requested to be notified once the Respondent has been arrested.

MASTER RECOMMENDED. Respondent shall PAY \$700.00 per month TEMPORARY CURRENT SUPPORT \$79.00 per month MEDICAL SUPPORT and \$25.00 per month TEMPORARY on

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R-11-162425-R

ARREARS for a TOTAL monthly PAYMENT OF \$804.00.

PETITIONER SHALL PROVIDE HEALTH INSURANCE for the minor child(ren), if available, through employer and PROOF of INSURANCE to DA within 90 days.

ORDER TO SHOW CAUSE, CONTINUED. Respondent found in CONTEMPT and SENTENCED to 5 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date. PRIOR CONTEMPT SENTENCE STAYED. BENCH WARRANT, NO BAIL. RESPONDENT shall be RELEASED upon PAYMENT of \$500.00, which sum shall be RELEASED to PETITIONER as CHILD SUPPORT.

MISCELLANEOUS RECOMMENDED ORDERS: Respondent failed to appear. His request to modify is hereby DENIED, for failure to provide proof of income and hours worked. He can re-new his request at a later date. Respondent is to contribute to Petitioner's cost, at \$79.00 per month, beginning April 1, 2012. Respondent has failed to pay minimum amount requested to avoid contempt of court of \$325.00 per month.

INTERIM CONDITIONS:

FUTURE HEARINGS: Aug 28, 2012 9:00AM Motion for Review and Adjustment of Child Support
Greystone Courtroom #1 Teuton, Sylvia

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

October 30, 2013

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

October 30, 2013 1:15 PM In Custody Hearing

HEARD BY: Davis, James

COURTROOM: Greystone Courtroom #1

COURT CLERK: Mark Fernandez

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Edward Ewert

Respondent, who participated via video conference from the Clark County Detention Center (CCDC), was sworn-in and testified.

The DDA informed the Court that Respondent has a parallel Family Court case, D-08-403071-D, wherein Petitioner is pursuing an Order to Show Cause against Respondent as well. Upon DDA inquiry, Respondent testified that he was arrested on Sunday, October 27, 2013. Respondent also testified that he has over \$80.00 on the books. The DDA noted that Respondent's last payment was on July 12, 2013 through a wage withholding. Respondent then presented testimony regarding his employment situation. Respondent testified that he can accrue \$200.00 to be released from custody.

Upon DDA inquiry, Respondent clarified that his last paycheck was approximately four (4) to six (6) weeks ago through a temporary agency. Respondent testified that he conducts side-jobs through a private party for income. Respondent estimated that he earns between \$100.00 and \$150.00 each

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week. Respondent also testified that he submits direct payments to Petitioner. The Court instructed Respondent to refrain from submitting direct payments to Petitioner.

Respondent testified that he did not qualify for unemployment insurance benefits (UIB). Upon viewing Respondent's employment history, the DDA encouraged Respondent to still apply. The Court IMPOSED a SENTENCE and encouraged Respondent to apply for a modification. The Court also ORDERED Respondent to submit \$500.00 at the next hearing.

MASTER RECOMMENDED; SENTENCE of 5 days is to be IMPOSED per PREVIOUS ORDER.

Respondent may be RELEASED from CUSTODY on November 04, 2013 or immediately upon PAYMENT of \$300.00, which shall be RELEASED to PETITIONER as CHILD SUPPORT.

Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

February 19, 2014

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

**February 19, 2014 9:00 AM Order to Show Cause -
Pay or Stay**

HEARD BY: Lok, Merle K.

COURTROOM: Greystone Courtroom #1

COURT CLERK: Cherisse Lamb

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, present

Public by DAFS, Other, present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy DA: V. Monet Woods

Petitioner Sworn and Testified.

Today's hearing is a Pay or Stay for \$500.00. The DA reported the Respondent was in custody last date. The Respondent's last payment was July 12, 2013 when the income withholding ended and \$28.00 was paid that date. The DA requested a Bench Warrant in the amount of \$804.00. The Petitioner noted the parties have a hearing on February 26 in Family Court.

MASTER RECOMMENDED, Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date.

BENCH WARRANT, NO BAIL. RESPONDENT shall be RELEASED upon PAYMENT of \$804.00, which sum shall be RELEASED to PETITIONER as CHILD SUPPORT.

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R-11-162425-R

BENCH WARRANT

INTERIM CONDITIONS:

FUTURE HEARINGS: Feb 19, 2014 9:00AM Order to Show Cause - Pay or Stay
Greystone Courtroom #1 Lok, Merle K.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

August 08, 2014

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

August 08, 2014 1:15 PM In Custody Hearing

HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Cherisse Lamb

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy DA: Alec Raphael

No Parties Present.

Today's hearing is an In-Custody Review. The Clark County Detention Center (CCDC) Correctional Officer advised the Respondent was transported to their North Valley Complex and is not present for today's hearing.

MASTER RECOMMENDED, matter CONTINUED.

INTERIM CONDITIONS:

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R-11-162425-R

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

August 11, 2014

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

August 11, 2014 1:15 PM In Custody Hearing

HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Jeanette Bergren

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Viveca M. Woods

Attorney Aurora Maskall bar #6410 was present for the Respondent in an unbundled capacity.

Respondent was sworn and testified via Video Conference from Clark County Detention Center (CCDC).

Court noted Respondent MISSED court on February 19, 2014. DDA advised Respondent was present in custody at the October 30, 2013 Hearing and given the February 2014 date. Payment history since November reported. Respondent was to bring \$500.00 at the February date. Bench Warrant was \$804.00. Counsel advised she has taken this case Pro-Bono. Respondent owns his own business and his income fluctuates. Respondent stated he earns \$800.00 to \$1,000.00 per month. There was a colloquy regarding possible Modification and proof of income. DDA further advised Respondent was ARRESTED August 6, 2014. DDA requested half of the Bench Warrant as a release amount. Counsel requested Respondent be released. Statements made by DDA regarding an involuntary

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payment.

MASTER RECOMMENDED, Respondent shall PAY \$300.00 per month TEMPORARY CURRENT SUPPORT \$79.00 per month TEMPORARY MEDICAL SUPPORT and \$ 25.00 per month TEMPORARY on ARREARS for a TOTAL monthly PAYMENT OF \$404.00 EFFECTIVE August 1, 2014. PRIOR STAYED CONTEMPT SENTENCE of five (5) days ISSUED September 19, 2014 shall be IMPOSED with the remaining seventy (70) days STAYED. Respondent shall be RELEASED from CUSTODY on August 16, 2014 or immediately upon PAYMENT of \$200.00. Respondent is to bring 2012 and 2013 Internal Revenue Services (IRS) tax returns, and profit and loss statement. District Attorney Family Support (DAFS) is to request updated Health Insurance information and to be addressed next court date.

INTERIM CONDITIONS:

FUTURE HEARINGS: Aug 11, 2014 1:15PM In Custody Hearing
Greystone Courtroom #1 Teuton, Sylvia

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

December 09, 2014

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

**December 09, 2014 9:15 AM Motion for Review and
Adjustment of Child
Support**

HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Maria Chavez

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Alec Raphael

Petitioner sworn and testified

Court noted Respondent responded for request to Modify and had to be in District Court.
Respondent

Upon Court's inquiry, DDA reported Respondent's unbundled attorney withdrew. This Modification was initiated by the Court. Respondent is self-employed. He filed a response yesterday Pro-Per and requested a continuance. DDA further reported Respondent did self-report his Gross Monthly Income (GMI). DDA has no opposition to continue this hearing.

Upon Court's inquiry, Petitioner testified Respondent posted his place of employment in computer

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repairs on Craigslist. Petitioner has printed copy to provide to DA's office today. Court printed out a copy of Respondent's response for Petitioner in OPEN COURT for her to review.

DDA stated Respondent is under an order to show cause and requested a finding of contempt and a bench warrant. Court FINDS, DDA's request is hereby DENIED. MATTER CONTINUED as he has a documented appearance if US District Court on another matter scheduled for today at 10:00 AM. Respondent is ADMONISHED to pay monthly or face imposition of CONTEMPT. Respondent is self-employed. He is to bring copies of filed tax returns next court date for years 2012 and 2013 per NRS 125B.080.

MASTER RECOMMENDED, Matter SET for REVIEW and ADJUSTMENT.

INTERIM CONDITIONS:

FUTURE HEARINGS: Dec 09, 2014 9:15AM Motion for Review and Adjustment of Child Support
Greystone Courtroom #1 Teuton, Sylvia

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

January 28, 2015

R-11-162425-R	Patricia Foley, Petitioner(s).
	vs.
	Michael A Foley, Respondent(s).

January 28, 2015	1:45 PM	Motion for Review and Adjustment of Child Support
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HEARD BY: Davis, James

COURTROOM: Greystone Courtroom #1

COURT CLERK: Maria Chavez

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Alec Raphael

Petitioner Sworn and Testified.

DDA reported this is a Review and Adjustment and Enforcement Review hearing. DDA reviewed case.

After statements, DDA reported Respondent Gross Monthly Income (GMI) is \$2,512.95. Court calculated 29% of GMI to be \$729.00.

Upon DDA's inquiry, Petitioner testified her monthly health insurance cost has remained the same since last hearing. DDA requested Medical support payment of \$79.00 per month continue. DDA requested Modification to be August 1, 2014.

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DDA further reported Respondent has self-reported his income of \$2,521.95 and has not made a payment since his jail release payment in August 13, 2014. DDA further requested a bench warrant and for future return date of February 18, 2015, be vacated.

MASTER RECOMMENDED, Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date.
BENCH WARRANT, NO BAIL. RESPONDENT shall be RELEASED upon PAYMENT of \$1,000.00, which sum shall be RELEASED to PETITIONER as CHILD SUPPORT.

REVIEW Hearing of February 18, 2015 is hereby VACATED.

INTERIM CONDITIONS:

FUTURE HEARINGS: Jan 28, 2015 1:45PM Motion for Review and Adjustment of Child Support
R162425 02/18/2015 @ 2.15 PM CR#1
Greystone Courtroom #1 Davis, James

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

April 15, 2015

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

April 15, 2015 1:15 PM In Custody Hearing

HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Keyla Anderson

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Patricia Ross

Respondent, In-Custody, sworn and testified. Respondent participated via video conference from the Clark County Detention Center (CCDC).

DDA stated Respondent failed to appear to his January 28, 2015 hearing, and a Bench Warrant was issued for \$1,000.00. DDA advised Respondent was arrested April 09, 2015. DDA reported Respondent's last payment was August 2014 for \$200.00. Upon inquiry of the Court, Respondent requested appointed counsel for himself. Respondent stated it was unlawful to detain him and made several arguments on why he should not be in jail. DDA noted Respondent has a business. The Court address all of the Respondent's arguments and denied request for appointed counsel.

MASTER RECOMMENDED: Respondent shall PAY \$729.00 per month TEMPORARY CURRENT SUPPORT and \$79.00 per month MEDICAL SUPPORT and \$25.00 per month on ARREARS for a TOTAL MONTHLY PAYMENT of \$833.00.

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ORDER TO SHOW CAUSE, CONTINUED. PRIOR CONTEMPT SENTENCES ISSUED May 15, 2012 shall be SERVED as follows: 19 Days IMPOSED 1 Day STAYED. PRIOR CONTEMPT SENTENCES STAYED.

Respondent may be RELEASED from CUSTODY on May 04, 2015 or immediately upon PAYMENT of \$900.00, which shall be RELEASED to PETITIONER as CHILD SUPPORT.

MISCELLANEOUS RECOMMENDED ORDERS: Respondent must bring or have paid \$1,666.00.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA	COURT MINUTES	June 17, 2015
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R-11-162425-R	Patricia Foley, Petitioner(s). vs. Michael A Foley, Respondent(s).
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June 17, 2015	9:00 AM	Order to Show Cause - Pay or Stay
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HEARD BY: Conant, Lynn	COURTROOM: Greystone Courtroom #1
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COURT CLERK: Cherisse Lamb

PARTIES:

Elizabeth Foley, Subject Minor, not present	
Michael Foley, Respondent, not present	Pro Se
Michael Foley, Subject Minor, not present	
Patricia Foley, Petitioner, not present	
Public by DAFS, Other, present	Steven Wolfson, Attorney, not present
Therese Foley, Subject Minor, not present	

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Patti Ross

No Parties Present.

Today's hearing is a Pay or Stay for \$1,666.00. The DDA reviewed the case. The Respondent has made no payments. The DDA requested a finding of Contempt and a Bench Warrant in the amount of \$2,000.00.

MASTER RECOMMENDED, Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center for FAILURE TO APPEAR AND PAY. SENTENCE STAYED until next court date.

BENCH WARRANT, NO BAIL. RESPONDENT shall be RELEASED upon PAYMENT of \$2,000.00, which sum shall be RELEASED to PETITIONER as CHILD SUPPORT.

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R-11-162425-R

BENCH WARRANT

INTERIM CONDITIONS:

FUTURE HEARINGS: Jun 17, 2015 9:00AM Order to Show Cause - Pay or Stay
Greystone Courtroom #1 Conant, Lynn

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

November 16, 2015

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

November 16, 2015 1:15 PM In Custody Hearing

HEARD BY: Lok, Merle K. Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Keyla Anderson

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Edward Ewert

Respondent, in custody, sworn and testified. Respondent participated via video conference from the Clark County Detention Center (CCDC).

DDA stated Respondent failed to appear for his June 17, 2015 hearing and a Bench Warrant was issued for \$2,000.00. DDA advised Respondent was arrested November 12, 2015. DDA reported Respondent's last payment was August 2014 for \$200.00 jail release. DDA noted \$4,165.00 has come due. Upon inquiry of the Court, Respondent testified he last worked last week. Respondent stated when he is working he earns \$275.00 per week. Respondent stated he has \$119.00 on his books.

MASTER RECOMMENDED: PRIOR CONTEMPT SENTENCE ISSUED November 21, 2013 shall be SERVED as follows: 10 Days IMPOSED.

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R-11-162425-R

Respondent may be RELEASED from CUSTODY on November 22, 2015 or immediately upon PAYMENT of \$2,000.00, which shall be RELEASED to PETITIONER as CHILD SUPPORT.

MISCELLANEOUS RECOMMENDED ORDERS: Respondent is to pay \$833.00 for the December payment next date to avoid Contempt.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA	COURT MINUTES	January 15, 2016
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R-11-162425-R	Patricia Foley, Petitioner(s). vs. Michael A Foley, Respondent(s).
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January 15, 2016 8:30 AM AM Pay Stays

HEARD BY: Teuton, Sylvia **COURTROOM:** Greystone Courtroom #1

COURT CLERK: Toni Meza

PARTIES:

Elizabeth Foley, Subject Minor, not present	
Michael Foley, Respondent, not present	Pro Se
Michael Foley, Subject Minor, not present	
Patricia Foley, Petitioner, not present	
Public by DAFS, Other, not present	Steven Wolfson, Attorney, not present
Therese Foley, Subject Minor, not present	

JOURNAL ENTRIES

- Deputy District Attorney (DDA), Edward Ewert, present.

No parties present.

DDA reported, objection pending in Family Court, Department C, on 1/20/2016 at 10 a.m.

MASTER RECOMMENDED, MATTER CONTINUED.

INTERIM CONDITIONS:

FUTURE HEARINGS: Jan 15, 2016 8:30AM AM Pay Stays
RESPONDENT TO PAY \$833.00; R162425 01/20/16 @ 10:00 AM
Greystone Courtroom #1 Teuton, Sylvia

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA	COURT MINUTES	January 20, 2016
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R-11-162425-R	Patricia Foley, Petitioner(s). vs. Michael A Foley, Respondent(s).
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January 20, 2016 10:00 AM Objection - UIFSA

HEARD BY: Burton, Rebecca L.

COURTROOM: Courtroom 08

COURT CLERK: Neida Parker

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- OBJECTION - UIFSA

Deputy District Attorney (DDA), Robert Gardner, bar number 6983, present and participated TELEPHONICALLY.

Court reviewed the case.

Court NOTED, Respondent's non-appearance for today's hearing.

Arguments by DDA.

COURT ORDERED, based on the Points and Authorities set forth in the District Attorney's Opposition to Respondent's Objection filed on December 8, 2015, shall be ADOPTED. Furthermore, Respondent's Objections filed on November 24, 2015, and November 26, 2015, shall be DENIED.

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R-11-162425-R

DDA, Gardner shall prepare the Order from today s hearing.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

May 17, 2016

R-11-162425-R	Patricia Foley, Petitioner(s).
	vs.
	Michael A Foley, Respondent(s).

May 17, 2016	9:00 AM	Motion for Review and Adjustment of Child Support
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HEARD BY: Teuton, Sylvia

COURTROOM: Greystone Courtroom #1

COURT CLERK: Keyla Anderson

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Karen Cliffe

No Parties Present.

DDA stated Respondent is not paying and does not receive State assistance. DDA requested Modification Denied.

MASTER RECOMMENDED, ARREARS are \$57,168.39 (including INTERESTS and PENALTIES) through January 31, 2016 and REDUCED to JUDGMENT.

Petitioner shall PROVIDE HEALTH INSURANCE for the minor child(ren), if available.

PRIOR CONTEMPT SENTENCES STAYED.

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MODIFICATION DENIED.

MISCELLANEOUS RECOMMENDED ORDERS: Last payment-August 2014. Respondent's request to modify is hereby DENIED for his failure to appear today and provide proof of income and 2015 tax returns as previously ordered.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA	COURT MINUTES	July 13, 2016
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R-11-162425-R	Patricia Foley, Petitioner(s). vs. Michael A Foley, Respondent(s).
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July 13, 2016	2:15 PM	Review - HM
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HEARD BY: Yug, Elliot	COURTROOM: Greystone Courtroom #1
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COURT CLERK: Maria Chavez

PARTIES:

Elizabeth Foley, Subject Minor, not present	
Michael Foley, Respondent, not present	Pro Se
Michael Foley, Subject Minor, not present	
Patricia Foley, Petitioner, not present	
Public by DAFS, Other, present	Steven Wolfson, Attorney, not present
Therese Foley, Subject Minor, not present	

JOURNAL ENTRIES

- **These Minutes were typed by Courtroom Clerk trainee, Nidia Fuentes**

Deputy District Attorney (DDA): Karen Cliffe

No Parties Present.

COURT FINDS Respondent's last PAYMENT was in 2014.

MASTER RECOMMENDED. ORDER TO SHOW CAUSE, CONTINUED. Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date. PRIOR CONTEMPT SENTENCES STAYED. BENCH WARRANT, NO BAIL. RESPONDENT shall be RELEASED upon PAYMENT of \$2000.00, which sum shall be RELEASED to PETITIONER as CHILD SUPPORT.

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INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

August 31, 2016

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

August 31, 2016 10:00 AM Objection - UIFSA

HEARD BY: Burton, Rebecca L.

COURTROOM: Courtroom 08

COURT CLERK: Neida Parker

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, not present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- OBJECTION - UIFSA

There being no appearances, matter was taken OFF CALENDAR.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA	COURT MINUTES	January 17, 2019
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R-11-162425-R	Patricia Foley, Petitioner(s). vs. Michael A Foley, Respondent(s).
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January 17, 2019 10:00 AM Hearing

HEARD BY: Burton, Rebecca L.

COURTROOM: Courtroom 08

COURT CLERK: Diane Ford

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, present

Public by DAFS, Other, not present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- HEARING RE: REMAND FROM SUPREME COURT

Attorney Abraham Smith, Bar No. 13250, appeared with Respondent.

This matter heard simultaneously with D-08-403071-D, please refer to the minutes in that case.

COURT ORDERED matter OFF CALENDAR as the Remittitur has not been received.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

December 06, 2019

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

December 06, 2019 9:30 AM Hearing

HEARD BY: Henry, Jennifer

COURTROOM: Greystone Courtroom #1

COURT CLERK: Nidia Fuentes

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, not present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Karen Cliffe

No parties present.

DDA reported today's hearing is a Order for Remand from Department C filed October 18, 2019.
Respondent receives Medicaid.

COURT FINDS, on December 5, 2019, Respondent filed an "Objection" which the Court believes is a misnomer and Respondent intended Department C to hear a motion which is really meant to be a Motion for Reconsideration as to which department and judicial officer should be hearing the case (HM v. District Judge). District Attorney's assessment of the document entitled "Objection" is also that is something that should be addressed by the District Court judge prior to the UIFSA court holding any hearing on the merits of this case. Court contacted Dept. C for a court date for Respondent's "Objection" to be addressed. The date for this matter to be addressed has been set for February 3, 2020 at 9:00 AM in Dept C, located at 601 N. Pecos Road, Las Vegas, NV 89101.

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MASTER RECOMMENDED, DAFS to send a Notice Of Hearing and mailing to the parties with regards to this "Objection" being heard by Dept C. Until such time as there is further direction by Dept C., this court will take the matter off calendar. Dept C is requested to set an appropriate date and time for the next hearing at CSCSN (1900 E. Flamingo Road) location.

Matter OFF CALENDAR.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

February 03, 2020

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

February 03, 2020	9:00 AM	Objection
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HEARD BY: Burton, Rebecca L.

COURTROOM: Courtroom 08

COURT CLERK: Diane Ford

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, not present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, present

Public by DAFS, Other, not present Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- OBJECTION

Deputy District Attorney Robert Gardner, Bar No. 6982, appeared telephonically for the State of Nevada.

Court noted this matter had been on Appeal for a number of years and the Appeal was finally completed.

Court noted the Orders from the Supreme Court on the record. On October 28, 2019, this Court its Order After Remand and noted on the record what was ordered in that Order. Court noted the documentation the Respondent filed after the Order After Remand, and further noted the Respondent had not filed a Financial Disclosure Form (FDF) nor any verification of income.

Court reviewed the history of the parties and the pleadings on file.

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COURT FINDS that it has subject matter jurisdiction over this case, personal jurisdiction over the parties, and child custody subject matter jurisdiction over the minor child(ren).

Court further noted none of the Respondent's document had been served upon the District Attorney's Office as there was no proof of service filed with the court.

Court clarified its Order After Remand.

COURT ORDERED the following:

1. Respondent's Joinder to Objection filed on December 5, 2019 shall be STRICKEN.
2. Respondent's Joinder to Objection filed on December 5, 2019 shall be STRICKEN.
3. Respondent's Joinder to Objection filed on December 5, 2019 shall be STRICKEN.
4. Respondent was admonished to not talk to the minor child about Court issues and/or adult issues under EDCR 5.301.
5. Respondent's Motion for Reconsideration is DENIED.
6. Respondent shall file a Financial Disclosure Form (FDF), attach his last three pay stubs or verification of income, and file proof of service.
7. Respondent's Motion to Appoint Counsel is DENIED, WITHOUT PREJUDICE.
8. Respondent's Objection is DENIED, WITHOUT PREJUDICE.
9. A hearing shall be SET in front of the Hearing Master to address the contempt for child support.
10. Attorney Gardner shall prepare the Order by February 18, 2020.

MATTER RECALLED. Petitioner not present.

Court recalled this matter to verify that the Notice of Hearing was sent to the Respondent at the address listed in Odyssey and to an address on Naples Drive in Las Vegas, Nevada.

INTERIM CONDITIONS:

FUTURE HEARINGS: Feb 03, 2020 9:00AM Objection

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Courtroom 08 Burton, Rebecca L.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DA - UIFSA

COURT MINUTES

January 04, 2021

R-11-162425-R Patricia Foley, Petitioner(s).
vs.
Michael A Foley, Respondent(s).

January 04, 2021 2:45 PM Review - HM

HEARD BY: Norheim, Jon

COURTROOM: Greystone Courtroom #1

COURT CLERK: Maria Chavez

PARTIES:

Elizabeth Foley, Subject Minor, not present

Michael Foley, Respondent, present Pro Se

Michael Foley, Subject Minor, not present

Patricia Foley, Petitioner, present

Public by DAFS, Other, present

Steven Wolfson, Attorney, not present

Therese Foley, Subject Minor, not present

JOURNAL ENTRIES

- Deputy District Attorney (DDA): Jeffrey Messmore appeared via Blue Jeans. Parties participated via Blue Jeans.

Parties sworn and testified.

DDA reported this is a continued show cause hearing. An amended Objection was filed in 4/2020. Objection was denied and Family Court directed to re-notice hearing through District Attorney Family Support (DAFS). Last payment was involuntary on 8/13/2020. Last voluntary payment was in 2013. Arrears through 11/30/2020 are \$126,185.84. Respondent stated he tested positive for Covid-19 last (3)three weeks and is unable to work at this time. Respondent does freelance as tech assistance. He indicated Petitioner committed fraud and he is disputing arrears judgment.

Court FINDS Respondent has made no PAYMENTS in seven years. Court concludes FAILURE to PAY is WILLFUL. Respondent found in CONTEMPT and SENTENCED to 25 DAYS in the Clark County Detention Center. SENTENCE STAYED until next court date.

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MASTER RECOMMENDED ARREARS are REDUCED to JUDGMENT. DAFS to send Respondent a Medical Assessment Form and Respondent to have it completed and returned to DAFS 30 days prior to next hearing.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated March 30, 2021, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises three volumes with pages numbered 1 through 685.

PATRICIA FOLEY,

Plaintiff(s),

vs.

MICHAEL A. FOLEY,

Defendant(s),

Case No: R-11-162425-R

Dept. No: X

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 8 day of April 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk