

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROSIE MARTINEZ; AND HENRY
OLIVA,

Appellants,

v.

IGNACIO AVILA, JR.,

Respondent.

Electronically Filed
Oct 14 2021 05:21 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No.: 83023

District Court No.: D-15-515892-C

**APPEAL FROM FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDER**

Eighth Judicial District Court of the State of Nevada

In and for the County of Clark

THE HONORABLE NADIN CUTTER

DISTRICT COURT JUDGE

RESPONDENT'S APPENDIX – VOL. 1

Emily McFarling, Esq.

Nevada Bar Number 8567

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Attorney for Respondent, Ignacio Avila jr.

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1-2	04/16/2021	Trial Exhibit 7 – communication between the parties (Ignacio and Rosie)	RA000224-293
2	05/28/2021	Notice of Appeal	RA000294-305

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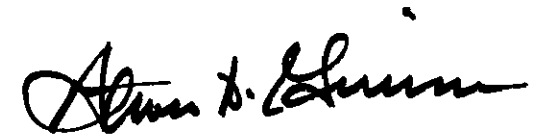
CERTIFICATE OF SERVICE

I, an employee of McFarling Law Group, hereby certify that on the 14th day of October, 2021, I served a true and correct copy of this Respondent's Appendix as follows:

☒ via the Supreme Court's electronic filing and service system (eFlex):

Fred C. Page, Esq.
Fpage@pagelawoffices.com

/s/ Alex Aguilar
Alex Aguilar



CLERK OF THE COURT

AFF
GHANDI DEETER LAW OFFICES
NEDDA GHANDI, ESQ.
Nevada Bar No. 11137
Email: nedda@ghandilaw.com
LAURA A. DEETER, ESQ.
Nevada Bar No. 10562
Email: laura@ghandilaw.com
707 S. 10th Street
Las Vegas, Nevada 89101
Telephone: (702) 878-1115
Facsimile: (702) 447-9995
Attorneys for Plaintiff

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

IGNACIO AVILA, JR.,

Plaintiff,

vs.

ROSIE ELENA MARTINEZ,

Defendant.

CASE NO.: D-15-515892-C

DEPT. NO.: L

AFFIDAVIT OF SERVICE

See attached Affidavit of Service.

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Attorney or Party without Attorney: NEDDA GHANDI, ESQ. NBN 11137 GHANDI DEETER LAW OFFICES 707 SOUTH TENTH STREET LAS VEGAS, NV 89101 Telephone No: 702-878-1115				For Court Use Only	
Attorney for: Plaintiff				Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA					
Plaintiff: IGNACIO AVILA, JR. Defendant: ROSIE ELENA MARTINEZ					
AFFIDAVIT OF SERVICE		Hearing Date:	Time:	Dept/Div:	Case Number: D-15-515892-C

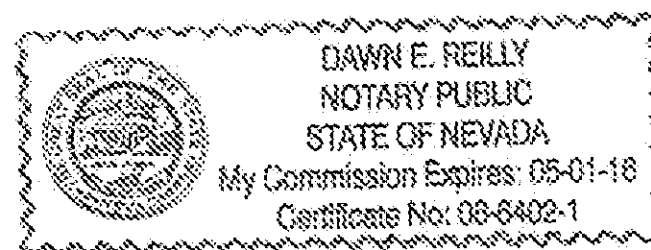
1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS; COMPLAINT FOR CUSTODY, VISITATION AND CHILD SUPPORT; JOINT PRELIMINARY INJUNCTION
3. a. Party served: ROSIE ELENA MARTINEZ
 b. Person served: HENRY MARTINEZ, as a person of suitable age and discretion residing at the defendant's usual place of abode located at the address listed in item 4.
4. Address where the party was served: 5729 AWAKENING STREET
 NORTH LAS VEGAS, NV 89081
5. I served the party:
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Tue., Jun. 16, 2015 (2) at: 8:07PM
7. Person Who Served Papers:
 - a. DEANNE R. BELTRAN (R-067346)
 - b. FIRST LEGAL INVESTIGATIONS
 NEVADA P/PS LICENSE #1452
 704 S. 6TH STREET
 LAS VEGAS, NV 89101
 - c. 702-671-4002

Fee for Service:

I Declare under penalty of perjury under the laws of the State of NEVADA that the foregoing is true and correct.

6/24/15
 (Date)

[Signature]
 (Signature)



8. STATE OF NEVADA, COUNTY OF Clark
 Subscribed and sworn to (or affirmed) before me on this 24 day of June 15 by DEANNE R. BELTRAN (R-0)
 proved to me on the basis of satisfactory evidence to be the person who appeared before me.

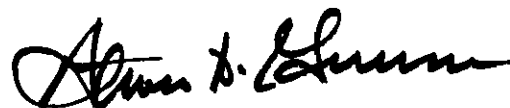
Tue, Jun. 23, 2015

AFFIDAVIT OF SERVICE

(Notary Signature)

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RA000002



CLERK OF THE COURT

ACDAS
STEINBERG LAW GROUP
BRIAN J. STEINBERG, ESQ.
Nevada Bar No. 5787
GAYLE NATHAN, ESQ.
Nevada Bar No. 4917
4270 S. Decatur Blvd., Suite B10
Las Vegas, Nevada 89103
Telephone: (702) 384-9664
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Attorney for Defendant

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

IGNACIO AVILA, JR.,

Plaintiff,

vs.

ROSIE ELENA MARTINEZ,

Defendant.

CASE NO: D-15-515892-C
DEPT NO: L

ANSWER TO COMPLAINT FOR CUSTODY AND COUNTERCLAIM

COMES NOW, the Defendant, ROSIE ELENA MARTINEZ, by and through his attorney of record, GAYLE NATHAN, ESQ. of the STEINBERG LAW GROUP, and files this Answer to the Complaint for Custody filed by the Plaintiff, and alleges as follows:

I.

Unless otherwise admitted, qualified or explained, Defendant denies each and every thing matter and allegation contained in Plaintiff's Complaint for Custody.

II.

The Defendant admits Paragraphs I, II, VI, and VII, of the Plaintiff's Complaint for Custody.

1 **III.**

2 The Defendant denies Paragraphs III, IV, V and VIII of the Plaintiff's Complaint for
3 Custody.

4 **WHEREFORE**, the Defendant prays that the Plaintiff take nothing by virtue of his
5 Complaint for Custody on file herein.

6 **COUNTERCLAIM FOR CUSTODY**

7 **COMES NOW**, the Defendant/Counterclaimant, **ROSIE ELENA MARTINEZ**, by
8 and through her attorney of record, **GAYLE NATHAN, ESQ.**, of the **STEINBERG LAW**
9 **GROUP** and as and for his Counterclaim For Custody against the Plaintiff/Counterdefendant
10 states and alleges as follows:

11 **I.**

12 That the Defendant/Counterclaimant is and for at least six weeks prior to the
13 commencement of this action, has been a bona fide resident of Clark County, Nevada.

14 **II.**

15 That the Defendant/Counterclaimant and Plaintiff/Counterdefendant were never
16 married and had only a very brief relationship.

17 **III.**

18 That there is one (1) minor child born who is the issue of this custody action, to wit:
19 **JAZLYNN OLIVA**, born 10/25/2013, further referred to as "the minor child." There is no
20 presumption of paternity, therefore Defendant/Counterclaimant asks for a paternity test. That
21 in the event paternity is confirmed, both parties are fit and proper persons to be awarded Joint
22 Legal Custody and the Defendant/Counterclaimant should be awarded Primary Physical
23 Custody of the minor child with a designated visitation to Plaintiff/Counterdefendant. That it
24 is in the best interests of the minor child to have Defendant/Counterclaimant awarded primary
25 physical custody based upon Plaintiff/Counterdefendant's absence from the minor child's life
26 for almost the first year of life; siblings in the Defendant/Counterclaimant's residence who are
27 close in age to the minor child and who all have a strong bond; the
28 Defendant/Counterclaimant's ability to be home with her children; the
Plaintiff/Counterdefendant's unreasonable and harassing conduct during this litigation; and
for other reasons subject to proof at trial. Alternatively, if the Court deems it in the best

1 interest of the minor child, Defendant/Counterclaimant asks for an award of joint physical
2 custody.

3
4 **IV.**

5 That the Plaintiff/Counterdefendant pay the Defendant/Counterclaimant child support
6 pursuant to NRS 125B.070 consistent with her request for Primary Physical Custody of the
7 minor child.

8 **V.**

9 That Defendant/Counterclaimant is in agreement that the party most capable provide
10 the insurance for the minor child and that both parties be ordered to equally (50/50) split the
11 monthly premium and any and all un-reimbursed, out-of-pocket expenses incurred on behalf
12 of the minor child, including, but not limited to, co-pays and deductibles relating to medical,
13 dental, orthodontia or optical expenses, psychological and prescription expenses, which are
14 not covered under such insurance policy using the 30/30 day rule.

15 **VI.**

16 That the Defendant/Counterclaimant receive the income tax benefits each and every
17 year for the parties' minor child.

18 **VII.**

19 There are child support arrears going back to the birth of the minor child which
20 Plaintiff/Counterdefendant should be ordered to pay.

21 **VIII.**

22 There are medical bills for the pregnancy and birth of the minor child for which the
23 Plaintiff/Counterdefendant is responsible and a judgment should issue for said costs.

24 **IX.**

25 That the Defendant/Counterclaimant be awarded attorney's fees from the
26 Plaintiff/Counterdefendant.

1 **WHEREFORE**, Defendant/Counterclaimant prays for judgment as follows:

2 1. That a paternity test be performed to confirm paternity;

3 2. In the event that paternity is confirmed, both parties be awarded Joint Legal
4 Custody and that the Defendant/Counterclaimant be awarded Primary Physical Custody of the
5 minor child with weekly visitation to Plaintiff/Counterdefendant with a shared holiday plan.
6 Alternatively, if the Court deems it in the best interest of the minor child,
7 Defendant/Counterclaimant asks for an award of joint physical custody.

8 3. That the Plaintiff/Counterdefendant be ordered to pay the Defendant child
9 support pursuant to NRS 125B.070;

10 4. The party most capable provide the insurance for the minor child and that both
11 parties be ordered to equally (50/50) split the monthly premium and any and all un-
12 reimbursed, out-of-pocket expenses incurred on behalf of the minor child, including, but not
13 limited to, co-pays and deductibles relating to medical, dental, orthodontia or optical
14 expenses, psychological and prescription expenses, which are not covered under such
insurance policy using the 30/30 day rule;

15 5. That the Defendant/Counterclaimant be entitled to declare the minor child on
16 her income tax returns each year;

17 6. That child support arrears be established and reduced to judgement;

18 7. That Plaintiff/Counterdefendant's costs from medical bills for the pregnancy
19 and birth of the minor child be established and reduced to judgement;

20 8. That in the event paternity is confirmed, the child's birth certificate be
21 amended accordingly; and, the child's name be changed to JAZLYNN ROSE MARTINEZ-
22 AVILA.

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1
2 9. That the Defendant/Counterclaimant be awarded attorney's fees from the
3 Plaintiff/Counterdefendant; and

4 10. For such other further relief as the Court deems just and proper in the premises.

5 **WHEREFORE**, Defendant prays that this Court award judgment in her favor.

6 **DATED** this 23 day of July, 2015.

7 **STEINBERG LAW GROUP**

8
9 **BRIAN J. STEINBERG, ESQ.**

10 Nevada Bar No. 5787

11 **GAYLE NATHAN, ESQ.**

12 Nevada Bar No. 4917

13 4270 S. Decatur Blvd., Suite B10

14 Las Vegas, Nevada 89103

15 Telephone: (702) 384-9664

16 Facsimile: (702) 384-9668

17 Email: brian@steinberglawgroup.com

18 Email: gayle@steinberglawgroup.com

19 Attorney for Defendant/Counterclaimant
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VERIFICATION

STATE OF NEVADA

COUNTY OF CLARK

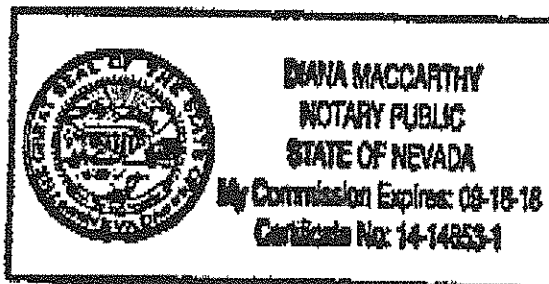
} ss

ROSIE ELENA MARTINEZ, being first duly sworn, deposes and says:

That she is the Defendant/Counterclaimant in the above-entitled action; that she has read the foregoing **ANSWER TO COMPLAINT FOR CUSTODY AND COUNTERCLAIM** and knows the contents thereof; that the same is true and correct except for those matters alleged upon information and belief, and as to those matters, she believes them to be true.

Rosie Martinez
ROSIE ELENA MARTINEZ

Subscribed and sworn to before me
this 23^d day of July, 2015.



NOTARY PUBLIC in and for said County and State

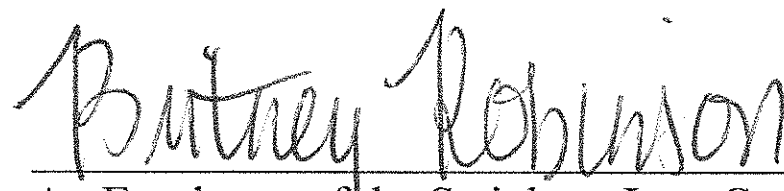
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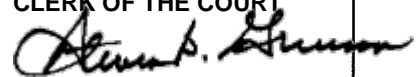
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Steinberg Law Group and that on July 23, 2015, pursuant to N.R.C.P. 5(b)(2)(D), and EDCR 8.05, a true and correct copy of the Answer to Complaint for Custody and Counterclaim was served on Plaintiff by:

- ☒ U.S. Mail, First Class, postage prepaid to the person(s) identified below;
- ☐ Via Facsimile at the number(s) identified below:
- ☐ Via Electronic mail to the person(s) identified below:
- ☐ Via Electronic mail utilizing the Odyssey E-file and Serve system to the person(s) identified below as follows:

Nedda Ghandi, Esq.
707 S. 10th Street
Las Vegas, NV 89101
Attorney for Plaintiff


An Employee of the Steinberg Law Group



MOT

AREZOU H. PIROOZI, ESQ.

NEVADA BAR# 10187

PIROOZI LAW GROUP, PLLC.

509 SOUTH SIXTH STREET

LAS VEGAS, NV 89101

TEL: (702) 260-1010

FAX: (702) 364-2010

EMAIL: apiroozi@piroozilawgroup.com

Attorney for Plaintiff, Ignacio Avila, Jr.

**DISTRICT COURT,
FAMILY DIVISION
CLARK COUNTY, NEVADA**

IGNACIO AVILA, JR.

Plaintiff,

vs.

ROSIE ELENA MARTINEZ,

Defendant.

CASE NO: D-15-515892-C

DEPT. NO: L

Oral Argument Requested

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT A HEARING PRIOR TO THE SCHEDULED HEARING DATE.

VERIFIED MOTION TO AMEND THE COMPLAINT FOR CUSTODY, TO ESTABLISH JOINT LEGAL AND JOINT PHYSICAL CUSTODY, TO SET ASIDE THE CUSTODY DECREE, TO MODIFY CUSTODY, FOR CHILD SUPPORT, AND FOR ATTORNEY'S FEES AND COSTS.

1 COMES NOW, Plaintiff, IGNACIO AVILA, JR. ("Ignacio"), by and through his
2 attorney of record, AREZOU H. PIROOZI, ESQ., of PIROOZI LAW GROUP, PLLC.,
3 and hereby files this Verified Motion to Amend the Complaint for Custody, To Establish
4 Joint Legal and Joint Physical Custody, To Set Aside the Custody Decree, To Modify
5 Custody, For Child Support, And for Attorney's Fees and Costs.
6

7 The Plaintiff prays for the following relief:
8

9 1. For an Order that the Court grant leave to amend the Plaintiff's Complaint
10 for Custody to reflect the existence and paternity of an additional child who is the issue
11 of the parties, to wit; Alan Oliva, born October 18, 2011.
12

13 2. For an Order setting aside the Custody Decree;
14

15 3. For an Order that the parties share joint legal and joint physical custody of
16 the minor children, modifying the current custody Order for the minor child Jazlynn Rose
17 Martinez Avila;
18

19 4. For an Order that the child, Alan Oliva, have his name changed to Alan Avila;
20

21 5. For an Order that the birth certificate of the child, Alan Oliva, be amended
22 by adding the Plaintiff's name as the father of the child;
23

24 6. For an Order that the parties pay child support pursuant to NRS 125C.070,
25 and Wright v. Osburn, 114 Nev. 1367, 70 P.2d 1071 (1998);
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27 ///

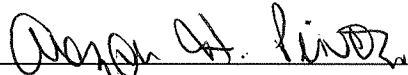
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1 7. For an Order that the Defendant reimburse the Plaintiff for the attorney's fees
2 she had to expend for having to file this Opposition with the Court, pursuant to NRS
3 18.010; NRS 22.100, and EDCR 5.11; and
4

5 8. For such other relief as this Court deems just and proper in the premises.

6 **DATED** this 3rd day of October, 2017.

Respectfully Submitted by:

7
8
9 
10 **AREZOU H. PIROOZI, ESQ.**
11 NEVADA BAR# 10187
12 **PIROOZI LAW GROUP, PLLC.**
13 509 SOUTH SIXTH STREET
14 LAS VEGAS, NV 89101
15 TEL: (702) 260-1010
16 FAX: (702) 364-2010
17 EMAIL: apiroozi@piroozilawgroup.com
18 Attorney for Plaintiff, Ignacio Avila, Jr.

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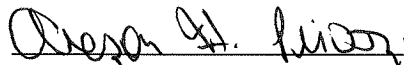
NOTICE OF MOTION

TO: ROSIE ELENA MARTINEZ, Defendant;

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing before the above-entitled court on the 25 day of January, ~~2017~~, 2018, at the hour of 9:00 o'clock Am. of said day, in Department L of said Court.

DATED this 21st day of October, 2017.

Respectfully Submitted by:


AREZOU H. PIROOZI, ESQ.
NEVADA BAR# 10187
PIROOZI LAW GROUP, PLLC.
509 SOUTH SIXTH STREET
LAS VEGAS, NV 89101
TEL: (702) 260-1010
FAX: (702) 364-2010
EMAIL: apiroozi@piroozilawgroup.com
Attorney for Plaintiff, IGNACIO AVILA, JR.

POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS/RELEVANT PROCEDURAL HISTORY

A. INTRODUCTION

The parties were never married. There are two minor children the issue of the relationship, to wit: Alan Oliva, born October 18, 2011, and Jazlynn Rose Martinez Avila, born October 25, 2013. A Custody Decree was filed on July 16, 2016, granting the parties

1 joint legal custody of Jazlynn, and granting Rosie primary physical custody of Jazlynn.
2 Custody of Alan was not at issue or litigated at the time, because Ignacio did not know
3 that Alan was his child. He only found out recently, on January 20, 2017, that Alan was
4 his son. A First Amended Custody Decree was filed on March 1, 2017, reflecting that
5 Jazlynn's Birth Certificate needed to be corrected.
6

7
8 **B. ROSIE TOLD IGNACIO THAT ALAN WAS NOT HIS CHILD.**

9 During the parties' relationship, Rosie did not date Ignacio exclusively. At the time
10 Alan was conceived, it was possible that either Ignacio or another person named Henry
11 Oliva had fathered the child. Both during Rosie's pregnancy, and after the child had been
12 born, Ignacio asked Rosie if Alan was his child.
13

14 At first Rosie was equivocal, telling Ignacio that she was not sure, but that she did
15 not think Ignacio was Alan's father. Ignacio asked Rosie if she would agree to a DNA test.
16 Rosie would agree, but not make the child available for the test. Eventually, Rosie told
17 Ignacio that she was certain that he was not Alan's father. Ignacio, not believing that Rosie
18 would lie to him about something so important, took her at her word.
19
20

21
22 **C. IGNACIO ONLY LEARNED THAT HE WAS ALAN'S FATHER**
23 **BECAUSE OF THE RESULTS OF A DNA TEST HE RECEIVED ON**
24 **JANUARY 20, 2017.**

25 After Jazlynn was born, and the Court's custody order, Ignacio exercised his
26 visitation with her. When he would visit, he would often take both Jazlynn and Alan with
27 him, exercising visitation with both children. Ignacio did this, with Rosie's permission,
28

1 so that the children would not have to be separated, and so that Rosie would not need to
2 find a sitter for Alan.

3 Over time, Ignacio saw that Alan resembled him. Ignacio's family, as Alan grew
4 older, told Ignacio that he and Alan looked alike, and that they believed that, regardless
5 of what Rosie had told him, Alan was his child. Ignacio began to doubt that Rosie had
6 been truthful with him regarding Alan. He took it upon himself in January 2017 to take a
7 saliva sample from Alan, while he was visiting with the children at McDonald's, to use in
8 a DNA test. He received the results of the DNA test on January 20, 2017, confirming that
9 he was Alan's natural father. **See Exhibit 1, Paternity test results.** The results of this test,
10 and Rosie's previous refusal to make Alan available for DNA tests, show that she knew
11 that Ignacio either was, or reasonably could have been Alan's father. Thus, Rosie
12 committed a fraud upon the Court by not allowing the Court to litigate the real issues in
13 this case: custody of two children, not one.

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19 **D. IF INGNACIO HAD KNOWN THAT HE WAS THE FATHER OF**
20 **BOTH CHILDREN, HE WOULD NOT HAVE STIPULATED TO ROSIE**
21 **HAVING PRIMARY PHYISCAL CUSTODY OF JAZLYNN.**

22 The Custody Decree between the parties was stipulated by the parties, with the
23 Court affirming and ratifying their agreement. A compelling and important reason for
24 Ignacio agreeing that Rosie receive primary physical custody of Jazlynn was that Ignacio
25 realized that Jazlynn had a brother, and did not want to keep the siblings separated for
26 extended periods. Of course, Ignacio did not know that Jazlynn's sibling, Alan, was also
27 his child. Thus, he believed, at the time, based on the incorrect information given to him
28

1 by Rosie, that it was in Jazlynn's best interest that Rosie be granted primary physical
2 custody, in large part because he believed that if he exercised joint custody, there would
3 be extended periods where the children would be in separate households. Knowing that
4 the children were close in age and would have a close bond, he chose the visitation
5 arrangement he thought best under the circumstances.
6

7 II.

8 ARGUMENT

9 Ignacio hereby incorporates the facts and analysis from section I of this Motion.
10

11 **A. IGNACIO SHOULD BE ALLOWED TO AMEND HIS COMPLAINT** 12 **FOR CUSTODY.**

13
14 Ignacio is asking the Court of leave to amend the Complaint for Custody, Visitation,
15 and Child Support he filed on June 3, 2015, to reflect that there is another child the issue
16 of the parties, Alan Avila, and to reflect any changes attendant to that fact. The Court may
17 grant Ignacio leave amend, and should do so freely when justice requires. **EDCR 15(a).**
18

19 In this case, justice requires that the Complaint accurately reflect the existence of
20 two children who are the issue of the parties.
21

22 **B. THE CUSTODY ORDER SHOULD BE SET ASIDE PURSUANT TO** 23 **NRCP 60(b)(3).**

24 This Court has the authority to set aside the Custody Decree on the basis of fraud,
25 either intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party.
26 **NRCP 60(b)(3).** Though **NRCP 60(b)** imposes a six-month limitation on filing for
27 relief from a judgement, that six-month limitation does not apply when there has been
28

1 fraud upon the Court. **Savage v. Salzmann**, 88 Nev. 193, 195, 495 P.2d 367, 368
2 (1972). A fraud on the Court occurs when there is, “such conduct as prevents a real trial
3 upon the issues involved.” **Id.**, 88 Nev. at 195, 495 P.2d at 368.
4

5 In this case, Rosie, by not being truthful about the probability that Ignacio was the
6 father of both children, not just Jazlynn, committed a fraud on the Court. Her conduct
7 prevented a real trial, or any real litigation, upon the issues involved. For example, with
8 Ignacio being the father of both children, the Court not properly take into consideration
9 the ability of the child (Jazlynn) to maintain a relationship with her sibling, as the Court
10 must pursuant to **NRS 125C.0035(4)(i)**. The Court, and Ignacio, viewed the siblings as
11 having been from different parents; thus, time apart for the siblings was something that
12 needed to be considered. If the Court had known there were two children, the Court
13 would have moved forward towards trial considering different factual circumstances,
14 setting a different tone, and different set of evidentiary needs, for the parties to properly
15 litigate, and/or negotiate the case. If Ignacio had known the children would not have to
16 spend time away from each other, he would not have agreed to the current parenting
17 plan.
18
19
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21
22

23 In addition, if it was known that there were two children at issue, other factors
24 pursuant to **NRS 125C.0035(4)** could have been characterized differently for the Court.
25 Rosie’s not being truthful with the Court and with Ignacio about him likely being Alan’s
26 father changed the whole tenor of the litigation, preventing a real trial upon the issues
27 involved. Thus, the Custody Decree should be set aside.
28

1 **C. EVEN IF THE COURT CHOOSES NOT TO SET ASIDE THE**
2 **DECREE OF CUSTODY, THERE IS A BASIS TO MODIFY CUSTODY**
3 **BASED ON A SUBSTANTIAL CHANGE IN CIRCUMSTANCES, AND**
4 **THE BESTS INTERESTS OF THE CHILDREN.**

5 To modify custody from one party having primary physical custody to both
6 parties sharing joint physical custody, the applicable standard is set out in the *Ellis*
7 decision, in which the Nevada Supreme Court revised the *Murphy* test and held that a
8 district court may modify primary physical custody of a minor child when, since the last
9 custodial order, (1) there has been a substantial change in circumstances affecting the
10 welfare of the child, and (2) the modification serves the best interest of the child. **Ellis v.**
11 **Carucci, 123 Nev. 145, 147, 161 P.3d 239, 240 (2007).**
12

13
14 In this case, the fact that Ignacio is that father of both Jazlynn and Alan
15 constitutes a substantial change in circumstances affecting the welfare of the children.
16 Jazlynn will now know, and both parties should cooperate in informing her, that Ignacio
17 is both her and Alan's father. This fundamentally changes how all the parties interact,
18 and fundamentally changes the relationship between the children and the person
19 currently living with Rosie, whom Rosie has held out to be Alan's father. Thus, there
20 has been a substantial change in circumstances.
21
22

23
24 To determine the best interests of the child, the Court must consider the non-
25 exhaustive list of factors provided in **NRS 125C.0035(4)**. Those factors are:

26 ///
27
28

1 **(a) The wishes of the child if the child is of sufficient age and capacity to form an**
2 **intelligent preference as to his or her custody;**

3 In this case, Alan is five (5) years old, and Jazlynn is three (3) years old. Therefore,
4 the children are not of sufficient age and capacity to form an intelligent preference.

5
6 **(b) Any nomination by a parent or guardian for the child;**

7 This factor is not applicable in this case.

8 **(c) Which parent is more likely to allow the child to have frequent associations and a**
9 **continuing relationship with the non-custodial parent;**

10 Ignacio is the parent is more likely to allow the child to have frequent associations
11 and a continuing relationship with the non-custodial parent. Rosie, by not being truthful
12 with Ignacio, nor with the Court, has demonstrated that she is less likely to allow Ignacio
13 to have a continuing relationship with the children. Rosie did allow Ignacio to take both
14 children on many of the visitations; however, Rosie did not have to pay for a sitter, and it
15 had the benefit of keeping the children together. It was not done to make sure Ignacio
16 could maintain a proper relationship with the children.
17
18
19

20 **(d) The level of conflict between the parents;**

21 The level of conflict between the parents is low. They do not argue or cause conflict
22 with each other, even though Rosie has not been honest with Ignacio.
23

24 **(e) The ability of the parents to cooperate to meet the needs of the child;**

25 The parents are able to cooperate to meet the needs of the children. Ignacio has
26 been able to visit with Jazlynn, and spend time with Alan, though has been unable to bond
27
28

1 with Alan as a parent. If the Court grants the parties joint physical custody of the children,
2 the parties are likely to cooperate to meet the needs of the children.

3 **(f) The mental and physical health of the parents;**

4 Ignacio is in good physical and mental health. To the best of his knowledge, Rosie
5 is in good physical and mental health.
6

7 **(g) The physical, developmental and emotional needs of the child;**

8 The physical, developmental, and emotion needs of the child are best met if the
9 parties are granted joint physical custody of the children. It is Nevada State policy that
10 minor children have frequent associations and a continuing relationship with both parents
11 after the parents have ended their relationship, become separated or dissolved their
12 marriage. **NRS 125C.001(1)**. If joint custody is granted, both Ignacio and Rosie can
13 maintain a time share that allows for proper time and bonding with both parents, which is
14 best for the physical, developmental, and emotional needs of the children.
15
16
17
18

19 **(h) The nature of the relationship of the child with each parent;**

20 Ignacio has a loving and caring relationship with Jazlynn. He also has a close
21 relationship with Alan. Given his young age, Ignacio should be afforded the chance to
22 convert that close bond to that of a close parental bond. To the best of Ignacio's
23 knowledge, Rosie has a good relationship with both children.
24

25 **(i) The ability of the child to maintain a relationship with any sibling;**

26 A joint custody arrangement will allow the children to maintain their relationship.
27
28

1 **(j) Any history of parental abuse or neglect of the child or a sibling of the child;**

2 There is no issue of abuse or neglect.

3
4 **(k) Whether either parent or any other person seeking custody has engaged in an act**
5 **of domestic violence against the child, a parent of the child or any other person**
6 **residing with the child;**

7 N/A.

8 **(l) Whether either parent or any other person seeking custody has committed any**
9 **act of abduction against the child or any other child;**

10 N/A

11
12 The facts of this case strongly indicate that joint custody of both children, both
13 legal and physical, should be granted to the parties.

14
15 Rosie's fraud upon the Court, and upon Ignacio, almost resulted in Ignacio never
16 knowing his son. Because Ignacio loves Jazlynn, he did not want her to spend extended
17 time away from her brother, which helped him in his decision to allow Rosie primary
18 physical custody of Jazlynn. If he had known Alan was also his child, he would not
19 have agreed to the previous custody arrangement. The Court could not have a real trial,
20 nor could it properly guide litigation, upon the issues involved in the case, because it
21 was given a false set of facts to consider. In addition, the fact that Ignacio is Alan's
22 father constitutes a substantial change in Jazlynn's circumstances.

23
24 Keeping the children together, and allowing two fit parents to share joint custody
25 of the children is in the children's best interests.
26
27
28

D. ALAN'S LAST NAME SHOULD BE CHANGED TO REFLECT IGNACIO'S LAST NAME, AVILA, AND ALAN'S BIRTH CERTIFICATE SHOULD BE AMENDED.

Because Ignacio is the biological father of the child, Alan Oliva, the child's last name should be changed to reflect Ignacio's last name, Avila. Thus, the Court should order the child's name to be changed to Alan Avila. In addition, the child's birth certificate should be amended accordingly, and Ignacio should be listed as the father on the birth certificate.

III.

ATTORNEY'S FEES

A. IGNACIO SHOULD BE AWARDED ATTORNEY'S FEES AND COSTS.

NRS 18.010 Award of attorney's fees.

1. The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.

2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:

(a) When he has not recovered more than \$20,000; or

(b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

1 3. In awarding attorney's fees, the court may pronounce its decision on the
2 fees at the conclusion of the trial or special proceeding without written
3 motion and with or without presentation of additional evidence.

4 2. Subsections 2 and 3 do not apply to any action arising out of a written
5 instrument or agreement which entitles the prevailing party to an award
6 of reasonable attorney's fees.

7 Ignacio has unnecessarily incurred substantial fees to bring forward this Motion,
8 and Defendant should be ordered to pay those fees. The reasonableness of counsel's fees
9 are assessed in light of the factors recited in Brunzell v. Golden Gate National Bank, 85
10 Nev. 345, 455 P.2d 31 (1969) and Miller v. Wilfong, 121 Nev. 619, 119 P.3d 727 (2005).

11 The factors include:

12 Qualities of the advocate;

- 13 1. Character of the work to be done;
14 2. Work actually performed by the lawyer; and
15 3. The result.
16

17 Attorney Piroozi has been practicing for eleven (11) years. She has built a name
18 and reputation in the community for attempting to resolve matters in the best interest of
19 the minor children. Attorney Piroozi has litigated matters in State court, Federal court and
20 before the U.S. court of Appeals.
21

22
23 ///

24 ///

25 ///

26
27 ///

1 IV.

2 CONCLUSION

3 The Plaintiff prays for the following relief:

4
5 1. For an Order that the Court grant leave to amend the Plaintiff's Complaint
6 for Custody to reflect the existence and paternity of an additional child who is the issue
7 of the parties, to wit; Alan Oliva, born October 18, 2011.
8

9 2. For an Order setting aside the Custody Decree;

10 3. For an Order that the parties share joint legal and joint physical custody of
11 the minor children, modifying the current custody Order for the minor child Jazlynn Rose
12 Martinez Avila;
13

14 4. For an Order that the child, Alan Oliva, have his name changed to Alan Avila;
15

16 5. For an Order that the birth certificate of the child, Alan Oliva, be amended
17 by adding the Plaintiff's name as the father of the child;
18

19 6. For an Order that the parties pay child support pursuant to NRS 125C.070,
20 and Wright v. Osburn, 114 Nev. 1367, 70 P.2d 1071 (1998);
21

22 ///

23 ///

24 ///

25 ///

26 ///

1 7. For an Order that the Defendant reimburse the Plaintiff for the attorney's fees
2 she had to expend for having to file this Opposition with the Court, pursuant to NRS
3 18.010; NRS 22.100, and EDCR 5.11; and
4

5 8. For such other relief as this Court deems just and proper in the premises.

6 **DATED** this 2nd day of October, 2017.

Respectfully Submitted by:

7
8
9 

10 **AREZOU H. PIROOZI, ESQ.**

11 NEVADA BAR# 10187

12 **PIROOZI LAW GROUP, PLLC.**

13 509 SOUTH SIXTH STREET

14 LAS VEGAS, NV 89101

15 TEL: (702) 260-1010

16 FAX: (702) 364-2010

17 EMAIL: apiroozi@piroozilawgroup.com

18 Attorney for Plaintiff, Ignacio Avila, Jr.
19
20
21
22
23
24
25
26
27
28

VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

IGNACIO AVILA, JR., being first duly sworn, deposes and says:

That he is the Defendant in the above-entitled action; that he has read the foregoing

VERIFIED MOTION AMEND THE COMPLAINT FOR CUSTODY, TO


ESTABLISH JOINT LEGAL AND PRIMARY PHYSICAL CUSTODY, TO SET

ASIDE THE CUSTODY DECREE, TO MODIFY CUSTODY, FOR CHILD

SUPPORT, AND FOR ATTORNEY'S FEES AND COSTS and know the contents

thereof; the same is true of his own knowledge except as to those matters therein stated

on information and belief and, as to those matters, he believes them to be true.



IGNACIO AVILA, JR.

SUBSCRIBED and SWORN to before me
this 14th day of July, 2017



NOTARY PUBLIC in and for said
County and State

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Ignacio Avila, Jr.

Plaintiff/Petitioner

Rosie Elena Martinez

Defendant/Respondent

Case No.

D-13-515992-C

Dept.

L.

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

- ☒ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.
-OR-
☐ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
- ☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
 - ☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
 - ☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
 - ☐ Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

- ☒ **\$0** The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:
- ☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.
 - ☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.
- OR-
☐ **\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.
- OR-
☐ **\$57** The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐ \$0 ☒ ~~\$25~~ ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

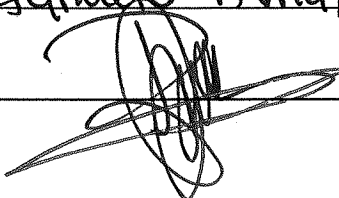
Party filing Motion/Opposition:

Ignacio Avila, Jr.

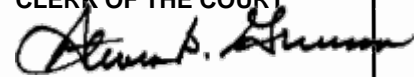
Date

10/31/17

Signature of Party or Preparer



RA000027



1 MAME
2 SHELL L. MERCER, ESQ.
3 Nevada Bar No. 6742
4 **BOWEN LAW OFFICES**
5 9960 W. Cheyenne Ave., Suite 250
6 Las Vegas, Nevada 89129
7 Telephone: (702) 240-5191
8 Facsimile: (702) 240-5797
9 twilcox@lvlawfirm.com
10 Attorneys for Defendant Henry Oliva

11 **DISTRICT COURT, FAMILY DIVISION**
12 **COUNTY OF CLARK**

13 * * *

14 IGNACIO AVILA JR.,

15 Plaintiff,

16 vs.

17 ROSIE MARTINEZ, HENRY OLIVA,

18 Defendants.

19 Case No. D-15-515892-C
20 Dept. T

21 **HEARING REQUESTED**

22 Date: 10/29/20 Time: 10:00am

23 NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS
24 MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE
25 UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN 14 DAYS OF
26 YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN
27 RESPONSE WITH THE CLERK OF THE COURT WITHIN 14 DAYS OF YOUR
RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF
BEING GRANTED BY THE COURT WITHOUT A HEARING PRIOR TO THE
SCHEDULED HEARING DATE.

28 **DEFENDANT HENRY OLIVA'S FIRST AMENDED MOTION TO AMEND**
29 **AN ORDER OR IN THE ALTERNATIVE CORRECT OMISSIONS IN THE**
30 **ORDER**

31 COMES NOW Defendant Henry Oliva, by and through his attorneys, BOWEN
32 LAW OFFICES, and moves this Court for the following Orders pursuant to NRC
33 59:

- 34 1. To Amend an Order or in the alternative to correct omissions in the
35 Order; and

36 ///

37 **RA000028**

BOWEN LAW OFFICES
Conquistador Plaza
9960 W. Cheyenne Ave., Suite 250
Las Vegas, Nevada 89129
702-240-5191 FAX: 702-240-5797

2. For further relief as the Court deems just and proper.

DATED this 15th day of September, 2020.

BOWEN LAW OFFICES

/s/ Shell Mercer

Shell Mercer, Esq.
Nevada Bar No. 6742
Attorneys for Defendant Henry Oliva

MEMORANDUM OF POINTS AND AUTHORITIES

I.

FACTS

This case is somewhat complex factually, procedurally and substantively. The issues are of great importance as they involve the paternity of two children.

On June 23, 2020, the Court held a return hearing regarding:

1. Defendant (Rosie Martinez') Motion and Notice of Motion to Modify Child Support;
2. Plaintiff's Opposition to Motion and Notice of Motion to Modify Child Support and Counter-Motion for Modification of Custody; to Award Plaintiff Primary Physical Custody of the Minor Child Based Upon Changed Circumstances; for Joint Legal Custody to Remain Status Quo; to Set Child Support; to Award Plaintiff the Tax Exemption, for Specific Visitation to Defendant; for Mandatory Mediation; for Attorney's Fees and Costs; and for Other Related Relief in the Family Division; and
3. For Paternity Test Results.

The hearing was held by video-conference in Department L of the Eighth Judicial District Court, County of Clark, the Honorable Senior Judge Gerald Hardcastle presiding. Plaintiff Ignacio Avila, was present by and through his attorney, Arezou H. Piroozi, Esq.; Defendant Rosie Martinez appeared in a pro se manner; and

1 Defendant Henry Oliva was also present by and through his attorney, Shell L.
2 Mercer, Esq.

3 The Court ordered attorney Shell L. Mercer, Counsel for Defendant Henry
4 Oliva, to prepare the Order from the June 23, 2020 video conference hearing. On
5 July 15, 2020, Plaintiff's counsel, Ms. Arezou, emailed Shell Mercer a Proposed
6 Order for the June 23, 2020 hearing. (*See email and attached letter from Arezou*
7 *Piroozi, Esq. to Shell Mercer, Esq., dated July 15, 2020, attached to Appendix as*
8 *Exhibit A.*)

9 On July 20, 2020, Ms. Mercer responded to Ms. Arezou's letter stating that
10 [Ms. Mercer] was ordered by Senior Judge Gerald Hardcastle to prepare the Order
11 for the June 23, 2020 hearing. (*See email and attached letter from Shell Mercer,*
12 *Esq. to Arezou Piroozi, Esq., dated July 20, 2020, attached to Appendix as Exhibit*
13 *B.*) Ms. Mercer attached the Proposed Order that she had prepared as well as the
14 official hearing transcripts that were filed on July 17, 2020. (*Exhibit B.*) In
15 accordance with EDCR 5.522, Ms. Mercer requested a response on or before July
16 27, 2020. (*Exhibit B.*)

17 On July 27, 2020, Ms. Arezou's office acknowledged receipt of Ms.
18 Mercer's proposed order and requested a one-day extension of time in which to
19 respond with changes. (*See email from Alex Gomez, Paralegal, Piroozi Law*
20 *Group to Shell Mercer, Esq., dated July 27, 2020, attached to Appendix as Exhibit*
21 *C.*) Ms. Mercer responded, "Certainly! If you need more time, let me know." (*See*
22 *email from Shell Mercer, Esq. to Arezou Piroozi, Esq., dated July 27, 2020,*
23 *attached to Appendix as Exhibit D.*) Ms. Mercer never heard back from Ms.
24 Piroozi's office regarding the proposed Order.

25 On August 10, 2020, Raelene Jemison, Paralegal for Shell Mercer, Esq.,
26 called Plaintiff's Counsel's Paralegal, Alex Gomez, regarding the status of the
27

1 proposed Order. Alex Gomez informed Raelene Jemison that Plaintiff's would be
2 preparing their own Order regarding the June 23, 2020 hearing. Ms. Piroozi never
3 notified Ms. Mercer that she intended to submit her own order to the Court.

4 On August 10, 2020, Raelene Jemison, Shell Mercer's Paralegal, emailed
5 Defendant Rosie Martinez, the Proposed Order for her signature (*See email from*
6 *Raelene, Paralegal to Shell Mercer, Esq., to Rosie Martinez, dated August 10,*
7 *2020, attached to Appendix as **Exhibit E.***)

8 On August 13, 2020, Plaintiff's counsel, Ms. Piroozi emailed Department T
9 their Proposed Order and courtesy copied Shell Mercer, Esq. (*See emailed letter*
10 *dated August 13, 2020 and proposed order, attached to Appendix as **Exhibit F.***)
11 Plaintiff's proposed Order does not have either of the two Defendants' signatures.

12 In her cover letter to the Court, Ms. Piroozi informed Dept. T that

13 "Ms. Mercer was informed [that upon reviewing Ms.
14 Mercer's Order, Ms. Piroozi observed that the document
15 contained a number of inconsistent findings, argument
16 that transpired, and orders that were delegated], and
17 suggested that we forward competing Orders to the
18 Court."

19 (*Exhibit F.*) This is absolutely false. Ms. Piroozi never notified Ms. Mercer that
20 she intended to submit her own order to the Court or why. Ms. Mercer's paralegal,
21 Raelene, had called Ms. Piroozi's office on August 10, 2020 as a professional
22 courtesy to follow up with them about signing Ms. Mercer's proposed Order.
23 During that call, Raelene was told that they are going to submit their own order
24 but no explanation was ever provided why. Moreover, Ms. Piroozi never contacted
25 Ms. Mercer in an effort to try to discuss revisions to the proposed Order.

26 In addition, the email that Ms. Piroozi attached to her proposed Order (that
27 she submitted to Dept. T on August 13, 2020) was her July 15, 2020 email from
Ms. Piroozi to Ms. Mercer with her original proposed Order attached, *before* Ms.
Mercer had even sent Ms. Piroozi [Ms. Mercer's] proposed order on July 20, 2020.

1 (*Exhibits A & F.*) In other words, Ms. Piroozi submitted her proposed order to the
2 Court without discussing it with Ms. Mercer to try to work out any revisions to
3 Ms. Mercer's proposed order.

4 Upon receipt of Ms. Piroozi's email dated August 13, 2020 (submitting her
5 proposed order to Dept. T), Ms. Mercer did not immediately submit her proposed
6 order to Department T because she was trying to obtain Defendant Rosie
7 Martinez' signature on the proposed order. Pursuant to EDCR 5.522(c), Ms.
8 Mercer knew that she had seven (7) days in which to submit her own proposed
9 order to the Court. However, before Ms. Mercer could submit her own proposed
10 Order to the Court, Plaintiff's proposed Order was signed by the Honorable Lisa
11 Brown and electronically filed by department T just four (4) days later, without
12 either of the two Defendants' signatures. Therefore, the Court should alter or
13 amend the Order entered August 17, 2020, or in the alternative, correct omissions
14 in the Order, pursuant to NRCP 59(e).

15 **II.**

16 **ARGUMENT**

17 **A. PLAINTIFF HAS NOT FILED A NOTICE OF ENTRY OF ORDER.**

18 NRCP 59(e) allows the Court to alter or amend an Order. It provides,

19 (e) Motion to Alter or Amend a Judgment. A motion to
20 alter or amend a judgment must be filed no later than 28
days after service of written notice of entry of judgment.

21 In this case, the Order from the hearing held on June 23, 2020 was entered
22 on August 17, 2020. However, Plaintiff has not filed a Notice of Entry of Order.

23 **B. DESPITE THAT DEFENSE COUNSEL WAS ORDERED BY THE**
24 **COURT TO PREPARE THE WRITTEN ORDER FROM THE JUNE**
25 **23, 2020, PLAINTIFF SUBMITTED A PROPOSED ORDER TO THE**
COURT WITHOUT TRYING TO OBTAIN COUNTERSIGNATURES
OF ALL PARTIES.

26 ///

1 The Court ordered Defendant Oliva's counsel to prepare the order from the
2 June 23, 2020. Ms. Mercer did prepare the proposed order and sent it to Plaintiff's
3 counsel to review and sign. (*Exhibit B.*) Ms. Piroozi's office acknowledged
4 receipt of it and even asked for additional time to review it. (*Exhibit C.*)

5 When Ms. Mercer did not hear from Ms. Piroozi, Raelene, Ms. Mercer's
6 paralegal called to follow up on it and was told that they are going to submit their
7 own order to the Court without any explanation why, without trying to obtain
8 countersignatures of all parties and without trying to reach an agreement regarding
9 the language of the order as required by EDCR 5.522.

10 EDCR 5.522 provides,

11 Rule 5.522. Countersignatures and direct submission of orders.

12 (a) Notwithstanding the directives of any local rule outside of Part
13 V, unless otherwise ordered:

14 (1) The party obtaining an order, judgment, or decree shall
15 have 7 days to prepare it and request the countersignature of the
16 opposing party as to its form and content.

17 (2) The opposing party shall then have 7 days to countersign
18 or otherwise respond.

19 (b) Unless otherwise ordered, if unable to obtain the
20 countersignature of opposing counsel within 7 days, the drafting party
21 may directly submit the proposed order to the court, copied to the
22 opposing party, accompanied by an explanation of the attempts made
23 to obtain the countersignature in substantially the following form:

24 (1) Enclosed please find our proposed Order from the
25 hearing. Despite attempts to prepare a
26 countersigned Order, we were unable to obtain a countersignature.
27 On [date], we sent our proposed Order to opposing counsel for review;
we received no response. Despite a reminder letter on [date], opposing
counsel has not responded. We have attached the relevant
correspondence.

Having reviewed the court minutes and the hearing recording, we
believe the attached proposed Order complies with this court's orders
and so submit it without the signature of opposing counsel.

Or:

(2) Enclosed please find our proposed Order from the
hearing. Despite attempts to prepare a
countersigned Order, we were unable to reach agreement with
opposing counsel. We have attached the relevant correspondence.
Having reviewed the court minutes and the hearing recording, we
believe the attached proposed Order complies with this court's orders
and so submit it without the signature of opposing counsel.

(c) If the parties are unable to agree on the form and content of a proposed order, and the drafting party directly submits a proposed order, the opposing party may submit a proposed alternative form of order, copied to the opposing party, within 7 days of submission of the first proposed order, accompanied by a brief explanation of the reason for the disagreement and the distinction between the proposed orders in substantially the following form:

The opposing party has submitted a proposed Order from the hearing. Having reviewed the court minutes and the hearing recording, we believe our attached proposed Order is more accurate than that of opposing counsel and have included the time indexes for the court's convenience.

Plaintiff's counsel did not respond to Ms. Mercer's proposed order. Rather, she just requested additional time to review it and then submitted her own order to the Court.

C. THE COURT IMPROPERLY SIGNED AND ENTERED PLAINTIFF'S COUNSEL'S PROPOSED ORDER WITHOUT ALLOWING THE REQUISITE 7 DAYS FOR DEFENDANT'S COUNSEL TO SUBMIT A PROPOSED ORDER.

After an attorney submits a proposed order to the Court, EDCR 5.522(c) allows Counsel 7 days in which to submit a competing proposed order. However, in this case, the Court signed and entered the Order before Ms. Mercer was able to submit her competing proposed order. Thus, the Court should alter or amend the Order by substituting the Order with Defendant's counsel's proposed Order. (*See Defendant's proposed Order, attached to Appendix as Exhibit G.*)

D. THIS CASE IS VERY IMPORTANT; IT IS ABOUT PATERNITY OF TWO YOUNG CHILDREN. THE COURT SHOULD SUBSTITUTE DEFENDANT'S PROPOSED ORDER BECAUSE THE COURT MADE SIGNIFICANT FINDINGS AT THE HEARING OF JUNE 23, 2020 THAT WERE NOT CONTAINED IN THE COURT MINUTES AND AS SUCH, WERE NOT CONTAINED IN PLAINTIFF'S PROPOSED ORDER.

Inasmuch as the this case is about paternity of two young children, this case is very important. At the June 23, 2020 hearing, Senior Judge Hardcastle made highly relevant and significant findings that were not contained in the Court's Minutes. The Court record would be incomplete without these findings. Plaintiff's

1 Order that was entered by the Court, merely mirrors the Court's Minutes. Because
2 of the gravity of the pending issues before the Court and the Court's significant
3 findings at the hearing, Defendant ordered the official transcript of the hearing. It
4 was filed on July 17, 2020. The Court's findings were carefully incorporated into
5 Defendant's proposed Order with citations to the official hearing transcript.
6 Accordingly, this Court should substitute Plaintiff's Order with Defendant's Order
7 pursuant to NRCP 59.

8 **III.**

9 **CONCLUSION**

10 Based upon the foregoing, Henry Oliva respectfully requests that this
11 Honorable Court grant Defendant Henry Oliva's Motion to Amend an Order or in
12 the Alternative Correct Omissions in the Order. There is good cause appearing as
13 stated in the body of this Motion.

14 DATED this 15th day of September, 2020

15 **BOWEN LAW OFFICES**

16 */s/ Shell Mercer*

17 _____
18 SHELL L. MERCER, ESQ.,
19 NV Bar 6742
20 ATTORNEYS FOR Defendant Henry Oliva
21
22
23
24
25
26
27

BOWEN LAW OFFICES
Conquistador Plaza
9960 W. Cheyenne Ave., Suite 250
Las Vegas, Nevada 89129
702-240-5191 FAX: 702-240-5797

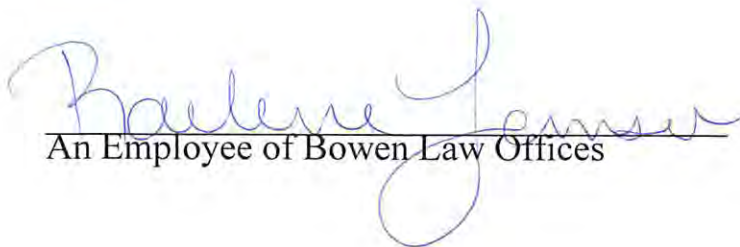
CERTIFICATE OF SERVICE

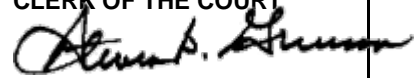
Pursuant to NRCP 5(b) and NEFCR 9, I hereby certify that I am an employee of BOWEN LAW OFFICES and that on the 15th day of September, 2020, I served a true and correct copy of the foregoing **Defendant Henry Oliva's First Amended Motion to Amend an Order or in the Alternative Correct Omissions in the Order** by:

XX Mandatory electronic service through the Eighth Judicial District Court's electronic filing system.

Arezou H. Piroozi, Esq.
PIROOZI LAW GROUP, PLLC.
509 South Sixth Street
Las Vegas, NV 89101
Attorney for Plaintiff

Rosie Martinez
8005 Losee Road Apt. 3018
North Las Vegas, NV 89081
(and email to rose_n_vegas@yahoo.com)
Defendant in Proper Person


An Employee of Bowen Law Offices



1 AACC
2 JEROME BOWEN, ESQ.
Nevada Bar No. 004540
3 THEODORE M. MEDLYN, ESQ.
4 Nevada Bar No. 15284
BOWEN LAW OFFICES
5 9960 W. Cheyenne Ave., Suite 250
6 Las Vegas, Nevada 89129
7 Telephone: (702) 240-5191CC
8 Facsimile: (702) 240-5797
Attorneys for Defendant

9
10 **DISTRICT COURT - FAMILY DIVISION**

11 **CLARK COUNTY, NEVADA**

12 **IGNACIO AVILA JR.,**

13
14 Plaintiff,

15 vs.

16 **ROSIE MARTINEZ, HENRY**
17 **OLIVA,**

18 Defendants.
19

Case No. D-15-515892-C
Dept. T

20
21 **ANSWER AND COUNTERCLAIM FOR CUSTODY**

22 COMES NOW, Defendant, HENRY OLIVA, by and through his counsel of
23 record, BOWEN LAW OFFICES, and hereby answers the Complaint for Custody
24 follows:
25

26 ///

27
28 ///

BOWEN LAW OFFICES
Conquistador Plaza
9960 W. Cheyenne Ave., Suite 250
Las Vegas, Nevada 89129
(702) 240-5191 Fax (702) 240-5797

RA000037

1. This answering Defendant denies each and every allegation contained in the Complaint for Custody on file that is not hereinafter expressly admitted or otherwise pled.

2. Answering paragraphs 1, 2, 3, 6, 7 in the Complaint for Custody , this answering Defendant admits the allegations set forth and contained therein.

3. Answering paragraphs 8 in the Complaint for Custody, this answering Defendant denies the allegations set forth and contained therein.

4. Answering paragraphs 4 and 5 in the Complaint for Custody , this answering Defendant is without sufficient knowledge to admit or deny and, thus, denies the same.

COUNTERCLAIM FOR CUSTODY

COMES NOW, Defendant, Henry Oliva, by and through her attorney of record, BOWEN LAW OFFICES, and hereby complains and alleges as follows:

1. Co-defendant Rosie Martinez and Defendant Henry Oliva were never married but lived together as a couple from approximately 1999 until 2018.

2. During that time, Rosie gave birth to three children, to wit: Henry Oliva, Jr., DOB: 11.22.2007, now almost age 13 years; Alan Oliva, DOB: 10.18.2011, now age 9 years; and Jazlynn Oliva, aka Jazlynn Martinez-Avila, DOB: 10.25.2013, now age 7 years.

3. It is believed that Henry Oliva is identified on the children's original

1 birth certificates. The Court has ordered that the original birth certificates be
2 unsealed, copied and provided to the Court.
3

4 4. On June 3, 2015, Ignacio filed his original Complaint for Custody of
5 Jazlynn Oliva only. He only filed against the child's mother, Rosie Martinez, and
6 he personally served Rosie with process on June 16, 2015. Henry was not made
7 aware of this service or its underlying case by Rosie.
8

9 5. Nothing was filed against Henry Oliva, Jazlynn's presumptive father.
10 Because nothing was filed against Henry and no papers were served on him, Henry
11 had no idea that his "parental rights" as to Jazlynn were going to be effectively
12 terminated without notice or opportunity to be heard.
13
14

15 6. DNA testing confirmed that Ignacio was the *biological* father of
16 Jazlynn and the Court effectively terminated Henry's parental rights and
17 eliminated the only father that the child had ever known without due process to
18 Henry, the child's presumptive father.
19

20 7. Defendant, Henry Oliva, is the presumptive father of Jazlynn and the
21 only father Jazlynn has ever known.
22

23 8. Defendant is the presumptive father of Jazlynn, thus he is entitled to
24 Joint Physical Custody
25

26 **WHEREFORE**, Defendant/Counterclaimant prays as follows:
27

28 1. That Defendant be awarded Joint Legal Custody;

BOWEN LAW OFFICES

Conquistador Plaza
9960 W. Cheyenne Ave., Suite 250
Las Vegas, Nevada 89129
(702) 240-5191 Fax (702) 240-5797

2. That Defendant be awarded Joint Physical Custody;
3. That the Court grant the relief requested in this Counterclaim; and
3. For such other relief as the Court finds to be just and proper.

DATED this 7th day of January, 2021.

BOWEN LAW OFFICES

Teddy Medlyn

THEODORE M. MEDLYN, ESQ.

Nevada Bar No.15284

9960 W. Cheyenne Ave., Suite 250

Las Vegas, Nevada 89129

Attorney for Defendant/Counterclaimant

VERIFICATION

Under penalty of perjury, I declare that I am the Defendant in the above-entitled action; that I have read the foregoing Answer to Complaint for Custody and know the contents thereof; that the pleading is true of my own knowledge, except for those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

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

DATED this 7th day of January, 2021.

/s/ Henry Oliva

HENRY OLIVA

Raelene Jemison

From: hinlook <hinlook@aol.com>
Sent: Thursday, January 7, 2021 10:36 AM
To: Raelene Jemison
Subject: authorization

I, Henry Oliva, have read the Answer and Counterclaim to Complaint for Custody and Answer and Counterclaim to Amended Complaint for Custody and I authorize my attorneys to electronically sign my name.

BOWEN LAW OFFICES
Conquistador Plaza
9960 W. Cheyenne Ave., Suite 250
Las Vegas, Nevada 89129
(702) 240-5191 Fax (702) 240-5797

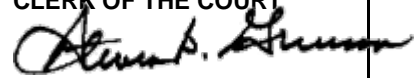
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NEFCR 9, I hereby certify that I am an
employee of BOWEN LAW OFFICES and that on the 7th day of January,
2021, I served a true and correct copy of the foregoing Answer to Complaint for
Custody

XX Mandatory electronic service through the Eighth Judicial District
Court's electronic filing system.

Arezou H. Piroozi, Esq.
PIROOZIA LAW GROUP, PLLC.
509 South Sixth Street
Las Vegas, NV 89101
Attorney for Plaintiff

An Employee of Bowen Law Offices



AACC
JEROME BOWEN, ESQ.
Nevada Bar No. 004540
THEODORE M. MEDLYN, ESQ.
Nevada Bar No. 15284
BOWEN LAW OFFICES
9960 W. Cheyenne Ave., Suite 250
Las Vegas, Nevada 89129
Telephone: (702) 240-5191CC
Facsimile: (702) 240-5797
Attorneys for Defendant

DISTRICT COURT - FAMILY DIVISION

CLARK COUNTY, NEVADA

IGNACIO AVILA JR.,

Plaintiff,

vs.

ROSIE MARTINEZ, HENRY
OLIVA,

Defendants.

Case No. D-15-515892-C
Dept. T

**ANSWER AND COUNTERCLAIM TO AMENDED COMPLAINT FOR
CUSTODY**

COMES NOW, Defendant, HENRY OLIVA, by and through his counsel of
record, BOWEN LAW OFFICES, and hereby answers the First Amended
Complaint for Custody follows:

///

///

RA000044

1 DOB: 10.25.2013, now age 7 years.

2
3 3. It is believed that Henry Oliva is identified on the children's original
4 birth certificates. The Court has ordered that the original birth certificates be
5 unsealed, copied and provided to the Court.

6
7 4. On June 3, 2015, Ignacio filed his original Complaint for Custody of
8 Jazlynn Oliva only. He only filed against the child's mother, Rosie Martinez, and
9 he personally served Rosie with process on June 16, 2015.

10
11 5. Nothing was filed against Henry Oliva, Jazlynn's presumptive father.
12 Because nothing was filed against Henry and no papers were served on him, Henry
13 had no idea that his "parental rights" as to Jazlynn were going to be effectively
14 terminated without notice or opportunity to be heard.

15
16 6. DNA testing confirmed that Ignacio was the *biological* father of
17 Jazlynn and the Court effectively terminated Henry's parental rights and
18 eliminated the only father that the child had ever known without due process to
19 Henry, the child's presumptive father.

20
21
22 7. Defendant, Henry Oliva, is the presumptive father of Alan and the
23 only father Alan has ever known.

24
25 8. Defendant is the presumptive father of Alan, thus he is entitled to
26 Joint Physical Custody

27 ///

1 **WHEREFORE**, Defendant/Counterclaimant prays as follows:
2

- 3 1. That Defendant be awarded Joint Legal Custody;
4 2. That Defendant be awarded Joint Physical Custody;
5 3. That the Court grant the relief requested in this Counterclaim; and
6
7 3. For such other relief as the Court finds to be just and proper.

8 DATED this 7th day of January, 2021.
9

10 **BOWEN LAW OFFICES**

11 *Teddy Medlyn*
12 THEODORE M. MEDLYN, ESQ.
13 Nevada Bar No.15284
14 9960 W. Cheyenne Ave., Suite 250
15 Las Vegas, Nevada 89129
16 Attorney for Defendant/Counterclaimant
17
18
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VERIFICATION

Under penalty of perjury, I declare that I am the Defendant in the above-entitled action; that I have read the foregoing Answer and Counterclaim to Amended Complaint for Custody and know the contents thereof; that the pleading is true of my own knowledge, except for those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

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

DATED this 7th day of January, 2021.

/s/ Henry Oliva

HENRY OLIVA

Raelene Jemison

From: hinlook <hinlook@aol.com>
Sent: Thursday, January 7, 2021 10:36 AM
To: Raelene Jemison
Subject: authorization

I, Henry Oliva, have read the Answer and Counterclaim to Complaint for Custody and Answer and Counterclaim to Amended Complaint for Custody and I authorize my attorneys to electronically sign my name.

BOWEN LAW OFFICES
Conquistador Plaza
9960 W. Cheyenne Ave., Suite 250
Las Vegas, Nevada 89129
(702) 240-5191 Fax (702) 240-5797

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NEFCR 9, I hereby certify that I am an
employee of BOWEN LAW OFFICES and that on the 7th day of January,
2021, I served a true and correct copy of the foregoing Answer to First Amended

Complaint for Custody by:

XX Mandatory electronic service through the Eighth Judicial District
Court's electronic filing system.

Arezou H. Piroozi, Esq.
PIROOZIA LAW GROUP, PLLC.
509 South Sixth Street
Las Vegas, NV 89101
Attorney for Plaintiff

/s/ Raelene Jemison

An Employee of Bowen Law Offices

April 16, 2021

Steven D. Grierson, Clerk of the Court

By: Nicole Hutcherson

NICOLE HUTCHERSON Deputy

OFFM

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADAUgnacio Ariza, Jr.

vs.

Plaintiff,

Case No. D-15-515892-CDepartment TRosie Martinez

Defendant.

ORDER FOR FAMILY MEDIATION
CENTER SERVICES

Pursuant to Nevada Revised Statutes 3.475 and 125.480 IT IS HEREBY ORDERED by the Court that, regarding the child(ren) at issue, the Family Mediation Center (FMC) shall provide:

☒ Mediation. _____☐ Include Safety Protocol☐ Child Interview. Name(s): _____☐ Standard FMC Child Interview Questions

Additional questions/topics:

_____☐ Non-therapeutic Parent/Child Observation. No. of observation sessions: 1 ☐ 2 ☐ _____

Parent and Child Name(s): _____

IT IS FURTHER ORDERED that, if an interpreter is needed, it is the party's responsibility to pay the interpreter at the time services are rendered. The language needed is: ☐ Spanish ☐ Other: _____

☐ Good cause appearing, court interpreter fees waived by the Court.

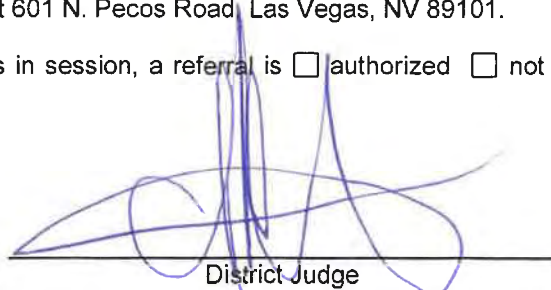
IT IS FURTHER ORDERED that the cost of mediation will be assessed using a sliding scale based on each party's individual financial status.

IT IS FURTHER ORDERED that the parties must report to FMC at 601 N. Pecos Road, Las Vegas, NV 89101.

IT IS FURTHER ORDERED that, if the UNLV Mediation Clinic is in session, a referral is ☐ authorized ☐ not authorized.

DATED this 16th day of April, 2021.

YOUR RETURN COURT DATE IS:

Date: May 26, 2021 Time: 10:00amBar No. of Plaintiff's Attorney: Kimber Laux, Esq.Bar No. of Defendant's Attorney: Pro Se

District Judge

NADIN CUTTER

EXHIBIT 1



Alleged Father: "Henry"

Child: "Alan"

Conclusions of DNA Paternity Test

Based on the genetic testing results obtained by PCR analysis of STR loci, the alleged father, "Henry" is not excluded as the biological father of the child, "Alan". The probability of paternity is 99.9998%. Note: Results from privately collected (not witnessed) cases are for personal knowledge only and cannot be used as legal evidence of parentage or identity. The laboratory is not responsible for any wrongful collection or contamination of the samples, whether accidental or intentional, prior to our acceptance of these samples.

DNA Locus	Child	Alleged Father	Paternity Index
D8S1179	13,14	13,15	0.75
D21S11	29,30	30	2.35
D7S820	10	9,10	1.66
CSF1PO	10,12	12,13	0.78
D3S1358	13,15	13,15	45.76
TH01	7,9.3	7,9	1.11
D13S317	8,12	11,12	0.89
D16S539	9	9,11	4.33
D2S1338	24,25	24,25	4.53



EXHIBIT 2



P.O. Box 2230 Burlington, NC 27216 Telephone: (336) 584-5171 Relationship Report

Account Number: 27400270
JUDGE DAVID GIBSON JR DEPT L
Acct Ref 1: D-15-515892-C
Acct Ref 2:
Acct Ref 3:
LAS VEGAS, NV 89101

LabCorp Case # C1A-026711

<u>Relationship</u>	<u>Party</u>	<u>Race</u>	<u>Date Collected</u>
Child	OLIVA, ALAN S	05J-2029-0	05/15/2020
Alleged Father	AVILA, JR, IGNACIO	048-2030-0 Hispanic	04/06/2020

DNA Analysis

	D3S1358	D7S820	vWA	D12S391	FGA	D8S1179	D21S11	D18S51	D5S818	D13S317
C	15, 16	8, 12	17, 19	17, 21	24	13, 15	29	14, 17	11, 12	9, 12
AF	15	11, 12	17	17, 18	24, 26	13	29	17	11	10, 12
PI	1.25	1.29	4.99		3.23	1.60	4.78	3.37	1.17	1.01

DNA Analysis

	D16S539	TH01	TPOX	CSF1PO	D2S1338	D19S433	D22S1045	D2S441	D10S1248
C	11, 13	7, 9.3	8, 11	11	17, 19	13.2, 14	15, 16	10, 11	13, 15
AF	12, 13	7, 9.3	8, 11	11	19, 22	14, 15	16	10	13, 15
PI	1.99	2.01	1.45	3.45	1.27	0.89	1.37	1.30	2.10

DNA Analysis

	D1S1656	D6S1043	DYS392
C	12, 18	12, 13	11
AF	16, 18	13, 18	11
PI	35.20	2.10	3.39

DO NOT COPY OR RELEASE THIS REPORT TO ANYONE, INCLUDING ALL PARTIES TO THE ACTION. NEVER DISCLOSE TO OR DISCUSS THE CONTENTS OF THIS REPORT WITH ANY MINOR CHILD.

Conclusion:

Combined Paternity Index: 16,838,259 to 1 Probability of Paternity: 99.99% (Prior Probability = 0.5)

The alleged father, IGNACIO AVILA, JR, cannot be excluded as the biological father of the child, ALAN S. OLIVA, since they share genetic markers. Using the above systems, the probability of paternity is 99.99%, as compared to an untested, unrelated man of the Hispanic population.

I, the undersigned, upon being duly sworn on oath, do depose and state that I read the foregoing report on the analysis of specimens from the above named individuals, signed by myself, and under penalties for perjury it is my belief that the facts and results therein are true and correct.


Gary M Stuhlmiller, Ph.D.

DAHPNE B COCHRAN
NOTARY PUBLIC
Alamance County, NC
My Commission Expires 2-1-2023

State of North Carolina
County of Alamance

I, **DAHPNE B COCHRAN**, certify that Gary M Stuhlmiller, Ph.D. personally came before me this day and acknowledged that he (or she) is a person authorized by Laboratory Corporation of America Holdings, a corporation, to execute the foregoing on behalf of the corporation.

21 MAY 2020

Subscribed and sworn to [or affirmed] before me this _____ at Burlington, NC.


Notary Public

Amount Collected	
AMOUNT ENCLOSED \$ <u>30.00</u>	INITIALS _____
AMOUNT RECEIVED \$ <u>30.00</u>	No cash or personal checks
CHECK # <u>6972229166</u>	
INT. <u>Ca</u>	INT. _____ HFP _____

X CODE

60
X0439721 MAY 2020

ETS# - CHILD #1	Place X in Box SPECIMEN ON FILE	LABCORP CASE #	SEND ADDITIONAL RESULTS COPIES TO / SPECIAL INSTRUCTIONS:
ETS# - CHILD #2			
DOCKET / COURT <u>D-15-515892-C</u>			
List all Parties M <u>Rosie Martinez</u> C <u>Alan Olivera</u> C _____ AF _____			

ALL SHADED AREAS **MUST** BE COMPLETED!!

Specimen #	MOTHER		
	Last Name:	First Name:	MI:
	Date of Birth:	SSN:	
	Ethnicity: <input type="checkbox"/> Caucasian <input type="checkbox"/> Black <input type="checkbox"/> Puerto Rican <input type="checkbox"/> Mexican American <input type="checkbox"/> American Indian (Tribe) _____ <input type="checkbox"/> Asian (Specify Country) _____ <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Mix (Specify race and %) _____		
	Blood Transfusion in the past 90 days: <input type="checkbox"/> Yes / <input type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (circle one): <input type="checkbox"/> Yes / <input type="checkbox"/> No		
Y _ L _ B _ C _	Mother's ID # & Type:		
Specimen #	CHILD #1		
	Last Name: <u>Olivera</u>	First Name: <u>Alan</u>	MI: <u>S</u>
	Date of Birth: <u>10/18/11</u>	Sex: <u>M</u>	SSN:
	Blood Transfusion in the past 90 days (check one): <input type="checkbox"/> Yes / <input checked="" type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (check one): <input type="checkbox"/> Yes / <input checked="" type="checkbox"/> No		
Y _ L _ B _ C _	Child's ID # & Type: <u>Court Order Letter</u>		
Specimen #	CHILD #2		
	Last Name:	First Name:	MI:
	Date of Birth:	Sex:	SSN:
	Blood Transfusion in the past 90 days (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No		
Y _ L _ B _ C _	Child's ID # & Type:		
Specimen #	ALLEGED FATHER		
	Last Name:	First Name:	MI:
	Date of Birth:	SSN:	
	Ethnicity: <input type="checkbox"/> Caucasian <input type="checkbox"/> Black <input type="checkbox"/> Puerto Rican <input type="checkbox"/> Mexican American <input type="checkbox"/> American Indian (Tribe) _____ <input type="checkbox"/> Asian (Specify Country) _____ <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Mix (Specify race and %) _____		
	Blood Transfusion in the past 90 days (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No		

RA000056

MLG000003



Rosa Marks 5/15/20

I hereby consent to the determination of parentage of the applicable child(ren), that the results may be stored for possible future use, and may be disclosed to the county child support office who in turn may disclose the results to other case participants, including the child's mother, the child's alleged or presumed father(s), and the child's caretaker(s) (if applicable) or as required by the law or legal process, in connection with the determination of parentage. I hereby consent to the use of the results for any such purpose without requiring further approval from me, and I have initialed the label(s) on the specimen container(s) affirming the container(s) are correctly identified as containing my or my child(ren)'s specimen(s).

I SUBMIT MYSELF FOR SAMPLE COLLECTION AND TESTING FOR PATERNITY EVALUATION.

nt Mother's Name: _____

other's Signature: _____ Date: _____

UBMIT THIS CHILD FOR SAMPLE COLLECTION AND TESTING FOR PATERNITY EVALUATION.

ILD #1: _____

nt Child's Name: Alan Oliva

gnature of Guardian: Rosa Marks Date: 5/15/20

child Over 18: _____

ILD #2: _____

nt Child's Name: _____

gnature of Guardian: _____ Date: _____

child Over 18: _____

ALLEGED FATHER'S PHOTOGRAPH

↑ LIFT HERE ↑

TO ATTACH PHOTO TO FORM PLEASE REMOVE LINER FROM TAPE, AND APPLY PHOTO TO TAPE.

DO NOT PLACE PHOTO BELOW THIS LINE

I hereby consent to procurement of biological samples, photographs, and fingerprints for self in this case, if applicable, and release LabCorp from any liability relating to any representation on my part. I hereby agree to indemnify and hold LabCorp harmless from any losses and expenses as a result of any such misrepresentation. I understand that the biological samples provided will be used for DNA testing and the results may be used in a court of law to assist in the determination of parentage of the applicable child(ren), that the results may be stored for possible future use, and may be disclosed to the county child support office who in turn may disclose the results to other case participants, including the child's mother, the child's alleged or presumed father(s), and the child's caretaker(s) (if applicable) or as required by the law or legal process, in connection with the determination of parentage. I hereby consent to the use of the results for any such purpose without requiring further approval from me, and I have initialed the label(s) on the specimen container(s) confirming the container(s) are correctly identified as containing my specimen(s).

I SUBMIT MYSELF FOR SAMPLE COLLECTION AND TESTING FOR PATERNITY EVALUATION.

Print Alleged Father's Name: _____

Alleged Father's Signature: _____ Date: _____

MOTHER'S THUMB PRINT



CHILD #1'S THUMB PRINT



CHILD #2'S THUMB PRINT



ALLEGED FATHER'S THUMB PRINT



I CERTIFY THAT I COLLECTED AND LABELED A SPECIMEN(S) FROM THE PERSON(S) IDENTIFIED HEREIN.

ADDRESS WHERE SPECIMEN(S) WERE COLLECTED:

653 N. TOWN CENTER DR. #50
Las Vegas NV 89144

SPECIMEN COLLECTOR: Venencia Forno

DATE:

SIGNATURE(S)

WITNESS

HEREBY CERTIFY THAT I PACKAGED AND SEALED THE BOX. NO TAMPERING WITH THE SPECIMENS OCCURRED WHILE THE SPECIMENS WERE IN MY CONTROL. I AFFIRM, UNDER PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATION IS TRUE.

NAME OF PERSON PACKAGING SPECIMENS (PRINT):

Venencia Forno

SIGNATURE:

[Signature]

DATE:

5-15-20

SPECIMEN CONTAINER SEALED YES / NO

LABCORP USE ONLY

SIGNS OF TAMPERING YES / NO

HEREBY CERTIFY THAT I RECEIVED THE SPECIMENS AT LABCORP AND THERE IS NO EVIDENCE THAT THE PACKAGE HAS BEEN OPENED. I AFFIRM, UNDER PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATION IS TRUE.

SIGNATURE:

DATE:

19 MAY 2020 RCVD

RA000057

MLG000004

EIGHT JUDICIAL DISTRICT COURT
FAMILY COURTS & SERVICES CENTER
1061 NORTH PEDES ROAD
LAS VEGAS NEVADA 89110
(702) 455-2785

C1A-026711



Amount Collected	
AMOUNT ENCLOSED \$ 90.00	INITIALS VL
AMOUNT RECEIVED \$ 90.00	No cash or personal checks
CHECK # 0160001376	
INT. _____	INT. _____ HFP _____

X CODE 62 21 MAY 2020

X04397

S# - CHILD #1	Place X in Box SPECIMEN ON FILE	LABCORP CASE #	SEND ADDITIONAL RESULTS COPIES TO / SPECIAL INSTRUCTIONS:
S# - CHILD #2			
CKET / COURT D-15-515892-C			
List all Parties			
M _____			ALL SHADED AREAS MUST BE COMPLETED!!
C _____			
C _____			
F IGNACIO AVILA JR			

Specimen #	MOTHER		
Y _ L _ B _ C _	Last Name:	First Name:	MI:
	Date of Birth:	SSN:	
	Ethnicity: <input type="checkbox"/> Caucasian <input type="checkbox"/> Black <input type="checkbox"/> Puerto Rican <input type="checkbox"/> Mexican American <input type="checkbox"/> American Indian (Tribe) _____		
	<input type="checkbox"/> Asian (Specify Country) _____ <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Mix (Specify race and %) _____		
	Blood Transfusion in the past 90 days: <input type="checkbox"/> Yes / <input type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (circle one): <input type="checkbox"/> Yes / <input type="checkbox"/> No		
Mother's ID # & Type:			
Specimen #	CHILD #1		
Y _ L _ B _ C _	Last Name:	First Name:	MI:
	Date of Birth:	Sex:	SSN:
	Blood Transfusion in the past 90 days (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No		
	Child's ID # & Type:		
	CHILD #2		
Y _ L _ B _ C _	Last Name:	First Name:	MI:
	Date of Birth:	Sex:	SSN:
	Blood Transfusion in the past 90 days (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (check one): <input type="checkbox"/> Yes / <input type="checkbox"/> No		
	Child's ID # & Type:		
	ALLEGED FATHER		
Y _ L _ B _ C _	Last Name: AVILA JR	First Name: IGNACIO	MI:
	Date of Birth: 7/18/1986	SSN:	
	Ethnicity: <input type="checkbox"/> Caucasian <input type="checkbox"/> Black <input type="checkbox"/> Puerto Rican <input type="checkbox"/> Mexican American <input type="checkbox"/> American Indian (Tribe) _____		
	<input type="checkbox"/> Asian (Specify Country) _____ <input type="checkbox"/> Other (Specify) HISPANIC <input type="checkbox"/> Mix (Specify race and %) _____		
	Blood Transfusion in the past 90 days (check one): <input type="checkbox"/> Yes / <input checked="" type="checkbox"/> No Have you ever had a bone marrow/stem cell transplant (check one): <input type="checkbox"/> Yes / <input checked="" type="checkbox"/> No		

048-2030-0
04/08/2020

RA000058

MLG000005

↑ LIFT HERE ↑

TO ATTACH PHOTO TO FORM PLEASE REMOVE LINER FROM TAPE, AND APPLY PHOTO TO TAPE.

DO NOT PLACE PHOTO BELOW THIS LINE

I hereby consent to procurement of biological samples, photographs, and fingerprints for myself and a representative of the minor child in this case, if applicable, and release LabCorp from any liability relating to any misrepresentation on my part. I hereby agree to indemnify and hold LabCorp harmless from any losses and expenses as a result of any such misrepresentation. I understand that the biological samples provided will be used for DNA testing and the results may be used in a court of law to assist in the determination of parentage of the applicable child(ren), that the results may be stored for possible future use, and may be disclosed to the county child support office who in turn may disclose the results to other case participants, including the child's mother, the child's alleged or presumed father(s), and the child's caretaker(s) (if applicable) or as required by the law or legal process, in connection with a determination of parentage. I hereby consent to the use of the results for any such purpose without requiring further approval from me, and I have initialed the label(s) on the specimen container(s) confirming the container(s) are correctly identified as containing my or my child(ren)'s specimen(s).

I SUBMIT MYSELF FOR SAMPLE COLLECTION AND TESTING FOR PATERNITY EVALUATION.

Maternal Name: _____

Other's Signature: _____ Date: _____

I SUBMIT THIS CHILD FOR SAMPLE COLLECTION AND TESTING FOR PATERNITY EVALUATION.

Child #1: _____

Child's Name: _____

Signature of Guardian _____

Child Over 18: _____ Date: _____

Child #2: _____

Child's Name: _____

Signature of Guardian _____

Child Over 18: _____ Date: _____

MOTHER'S THUMB PRINT

()

CHILD #1'S THUMB PRINT

()

CHILD #2'S THUMB PRINT

()

ALLEGED FATHER'S THUMB PRINT

()

I CERTIFY THAT I COLLECTED AND LABELED A SPECIMEN(S) FROM THE PERSON(S) IDENTIFIED HEREIN.

ADDRESS WHERE SPECIMEN(S) WERE COLLECTED.

LabCorp
653 N Town Center Dr #50
Las Vegas NV 89144

SPECIMEN COLLECTOR: VINCE LENTAMO

DATE: 4/6/2020

SIGNATURE(S) [Signature]

WITNESS _____

HEREBY CERTIFY THAT I PACKAGED AND SEALED THE BOX. NO TAMPERING WITH THE SPECIMENS OCCURRED WHILE THE SPECIMENS WERE IN MY CONTROL. I AFFIRM, UNDER PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATION IS TRUE.

NAME OF PERSON PACKAGING SPECIMENS (PRINT): VINCE LENTAMO

SIGNATURE: [Signature]

DATE: 4/6/2020

SPECIMEN CONTAINER SEALED YES / NO

LABCORP USE ONLY

SIGNS OF TAMPERING YES NO

HEREBY CERTIFY THAT I RECEIVED THE SPECIMENS AT LABCORP AND THERE IS NO EVIDENCE THAT THE PACKAGE HAS BEEN OPENED. I AFFIRM, UNDER PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATION IS TRUE.

SIGNATURE: [Signature] DATE: 08 APR 2020 RCVD

RA000059

MLG000006



AVILA JR, IGNACIO

DOB: 7/18/86

child support office who in turn may disclose the results to other case participants, including the child's mother, the child's alleged or presumed father(s), and the child's caretaker(s) (if applicable) or as required by the law or legal process, in connection with the determination of parentage. I hereby consent to the use of the results for any such purpose without requiring further approval from me, and I have initialed the label(s) on the specimen container(s) confirming the container(s) are correctly identified as containing my specimen(s).

I SUBMIT MYSELF FOR SAMPLE COLLECTION AND TESTING FOR PATERNITY EVALUATION.

Print Alleged Father's Name: Ignacio Avila Jr

Alleged Father's Signature: [Signature] Date: 4/6/20

EXHIBIT 5



RA000061

MLG000014



RA000062

MLG000015

Coffeeluvr



Bored.. what to do...

RA000063

MLG000016



RA000064

MLG000017



RA000065

MLG000018



RA000066

MLG000019



RA000067

MLG000020



RA000068

MLG000021



RA000069

MLG000022

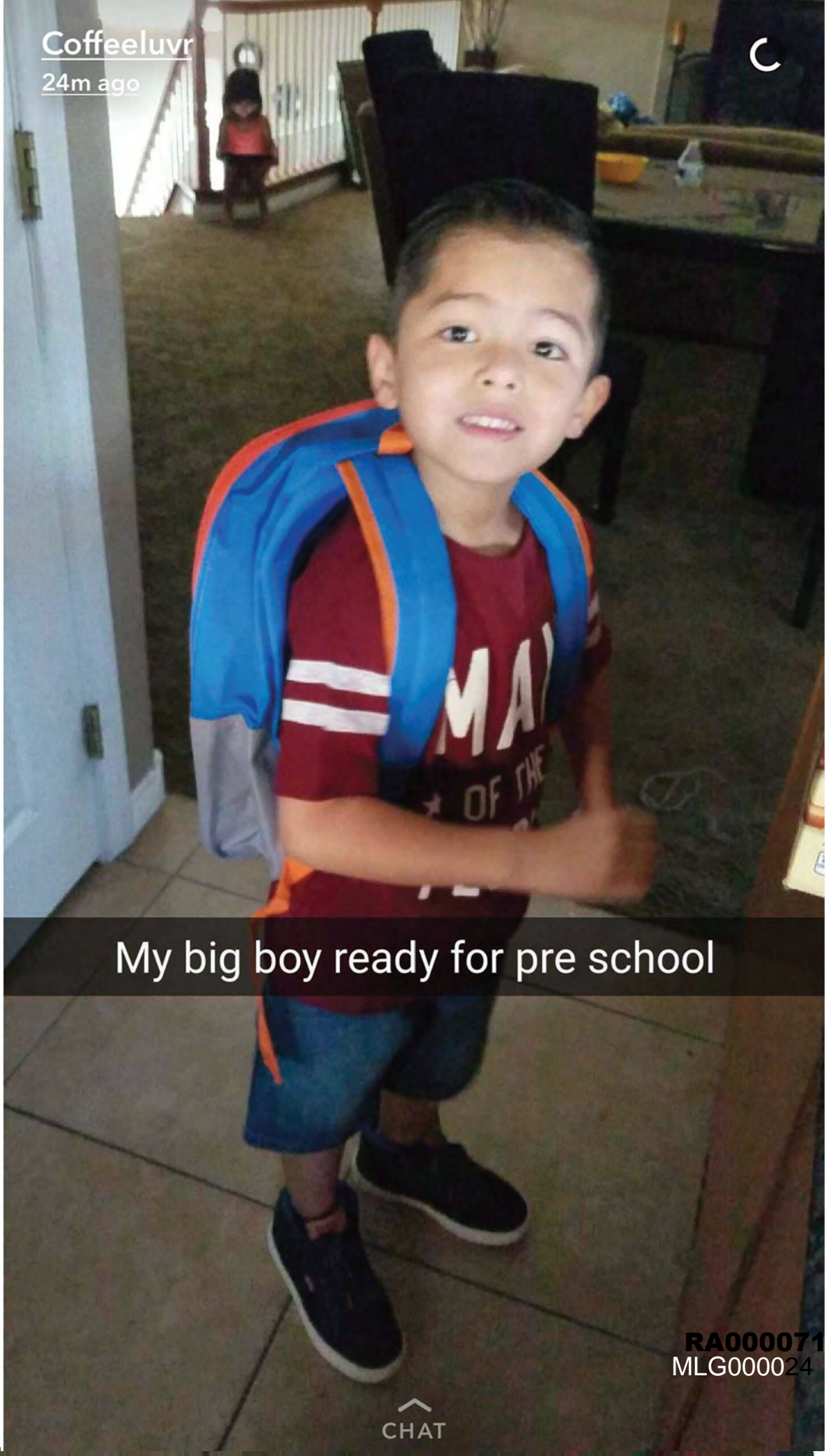


RA000070

MLG000023

Coffeeluvr

24m ago



My big boy ready for pre school

RA000071
MLG000024

CHAT

Coffeeluvr
12h ago



RA000072

MLG000025

CHAT



RA000073

MLG000026



RA000074

MLG000027



RA000075

MLG000028



MLG000029

RA000076



RA000077

MLG000030

Coffeeluvr

22h ago



He stold my pretzel

RA000078

MLG000031

CHAT



RA000079

MLG000032



RA000080

MLG000033



RA000081

MLG000034



RA000082

MLG000035



RA000083

MLG000036



RA000084

MLG000037



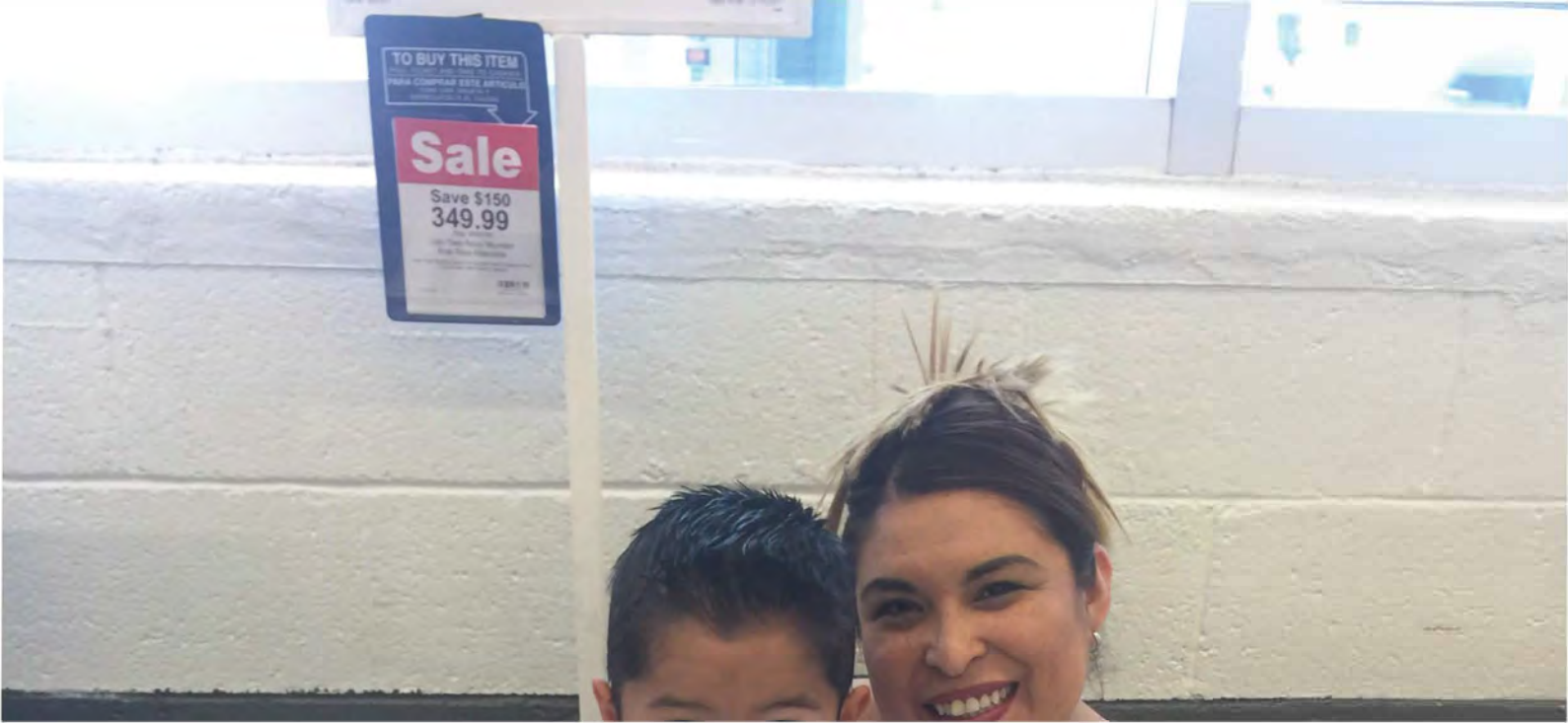
RA000085

MLG000038



RA000086

MLG000039



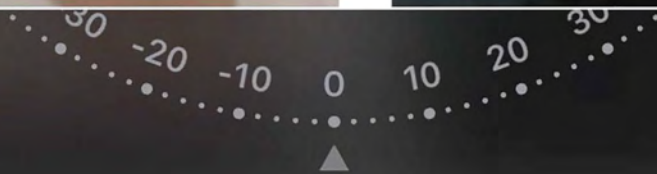
RA000087

MLG000040



RA000088

MLG000041



[RESET](#)



RA000089

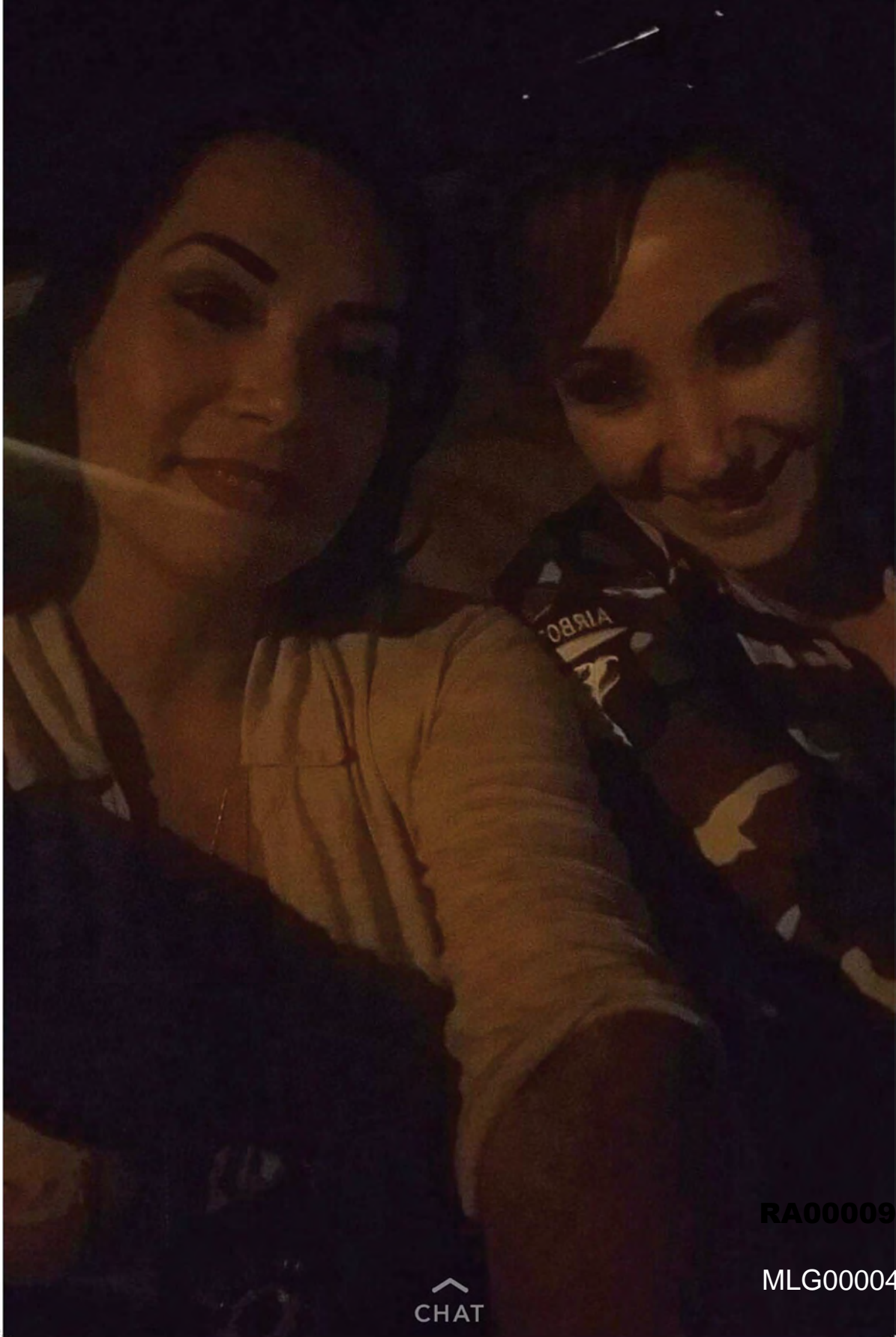
[Cancel](#)



MLG000042
[Done](#)

Coffeeluvr

25m ago



RA000090

MLG000043

CHAT



RA000091

MLG000044



RA000092

MLG000045



6 Likes · 5 Comments

 Like

 Comment

 Share

RA000093



MLG000046





RA000094

MLG000047



WARNING
Child must be properly secured in the car seat.
Failure to do so may result in DEATH or SERIOUS INJURY.
The back seat is the safest place for children 12 and under.

RA000095

MLG000048



RA000096

MLG000049



RA000097

MLG000050



RA000098

MLG000051



RA000099

MLG000052



RA000100

MLG000053



RA000101

MLG000054



RA000102

MLG000055



RA000103

MLG000056



RA000104

MLG000057



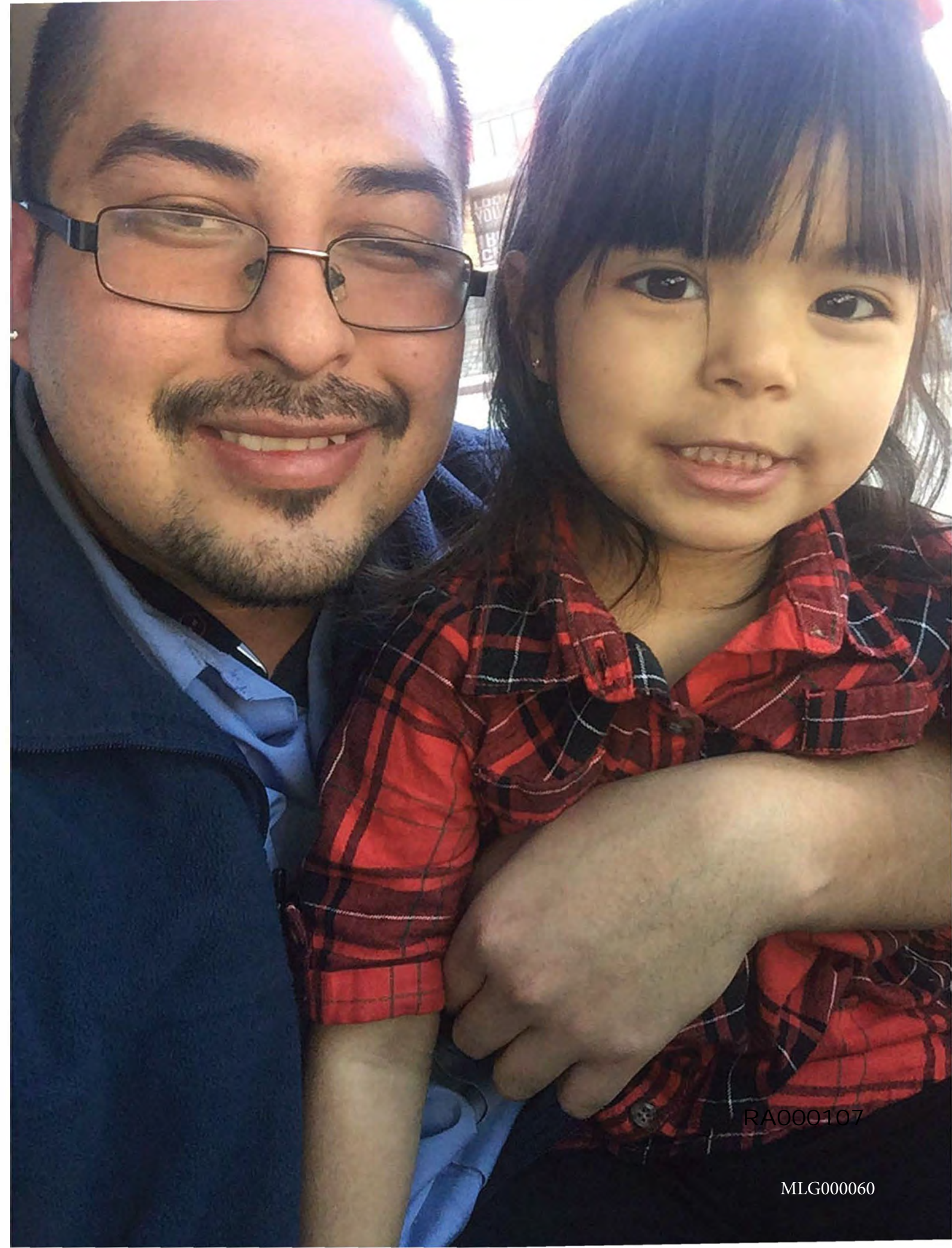
RA000105

MLG000058



RA000106

MLG000059



RA000107

MLG000060



RA000108

MLG000061



RA000109

MLG000062



RA000110

MLG000063

Coffeeluvr

4m ago



My kids luv each other ❤️

RA000111

MLG000064





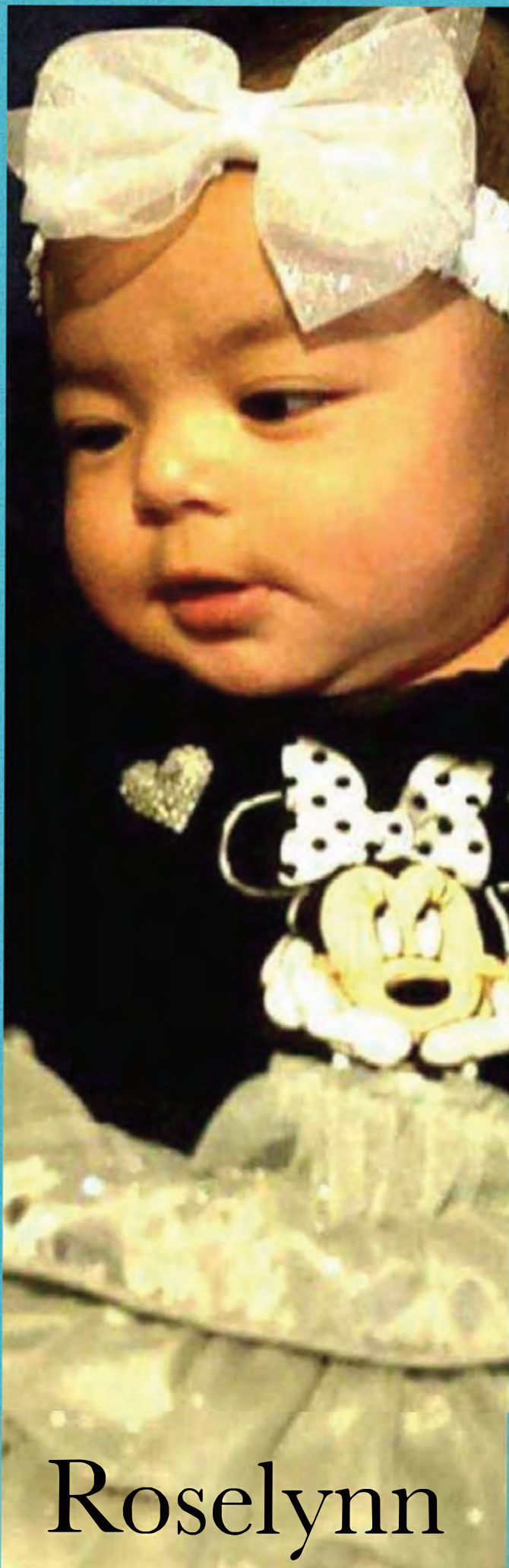
RA000112

MLG000065



RA000113

MLG000066



Roselynn



Alan



RA000114

MLG000067



RA000115

MLG000068

On my therapy luv ❤️

RA000116

MLG000069



Coffeeluvr



COFFEELUVR

TODAY

It's called cicatricure alot of ppl told me it's really good for scars



|Send a chat



Good

O ok

What

Q W E R T Y U I O P

A S D F G H J K L



Z X C V B N M



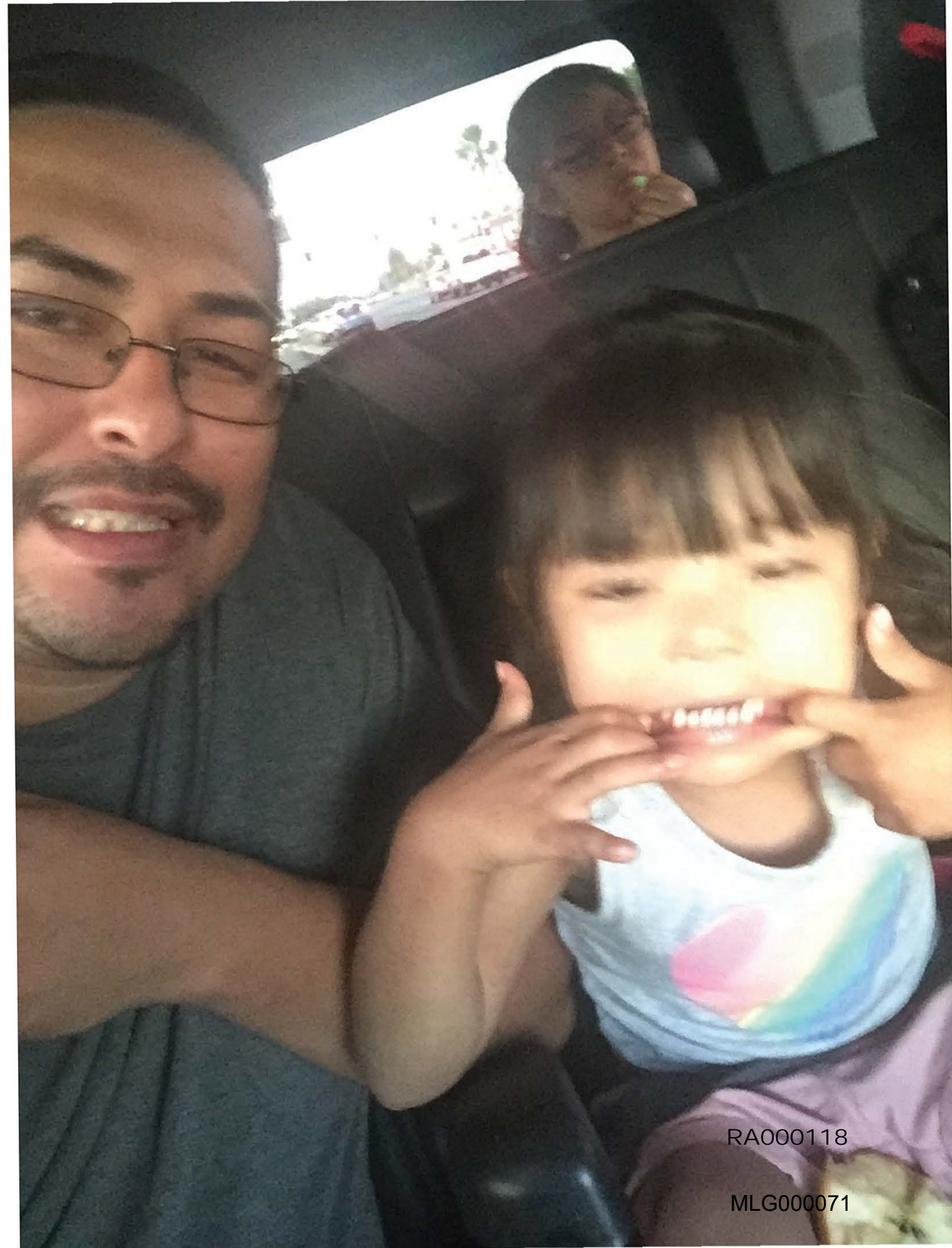
?123

,

EN

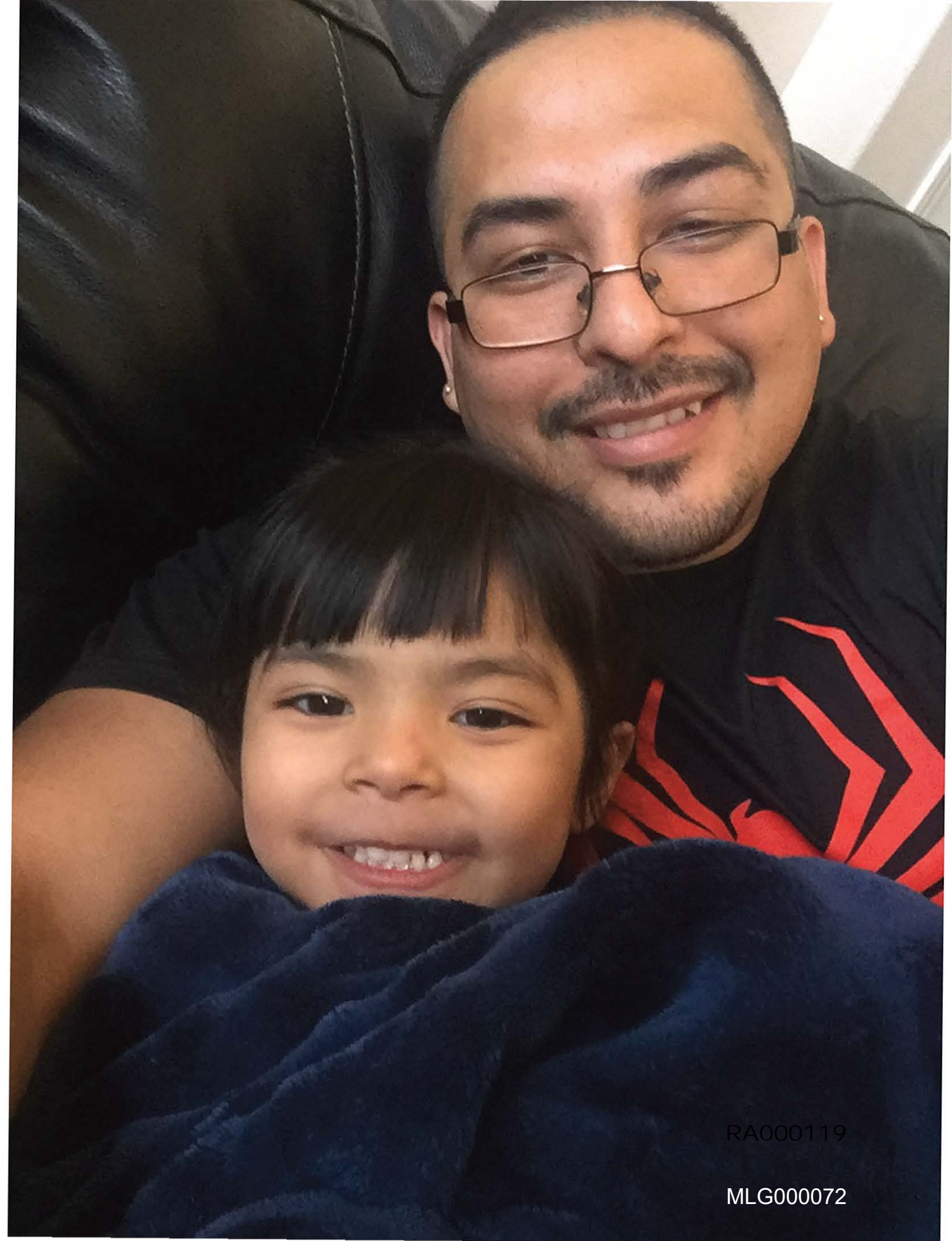
MLG000070
Send

RA000117



RA000118

MLG000071



RA000119

MLG000072



RA000121

MLG000074



RA000122

MLG000075



RA000123

MLG000076



RA000124

MLG000077



RA000125

MLG000078

1

Good morning

RA000126

MLG000079

Coffeeluvr

2m ago

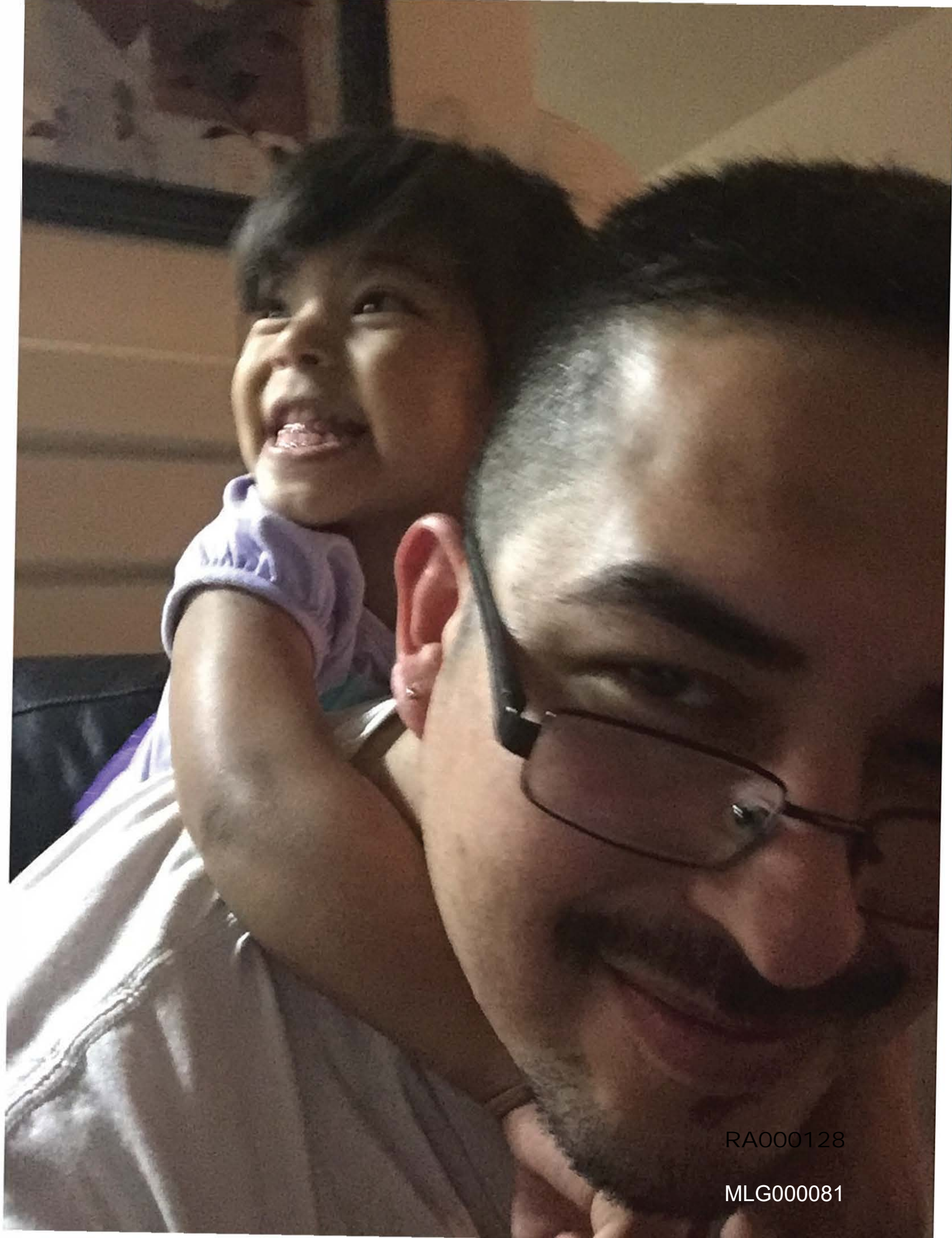


His bday is in 2 days he's getting chocolate wasted already! 😄

RA000127

MLG000080





RA000128

MLG000081



RA000129

MLG000082



RA000130

MLG000083



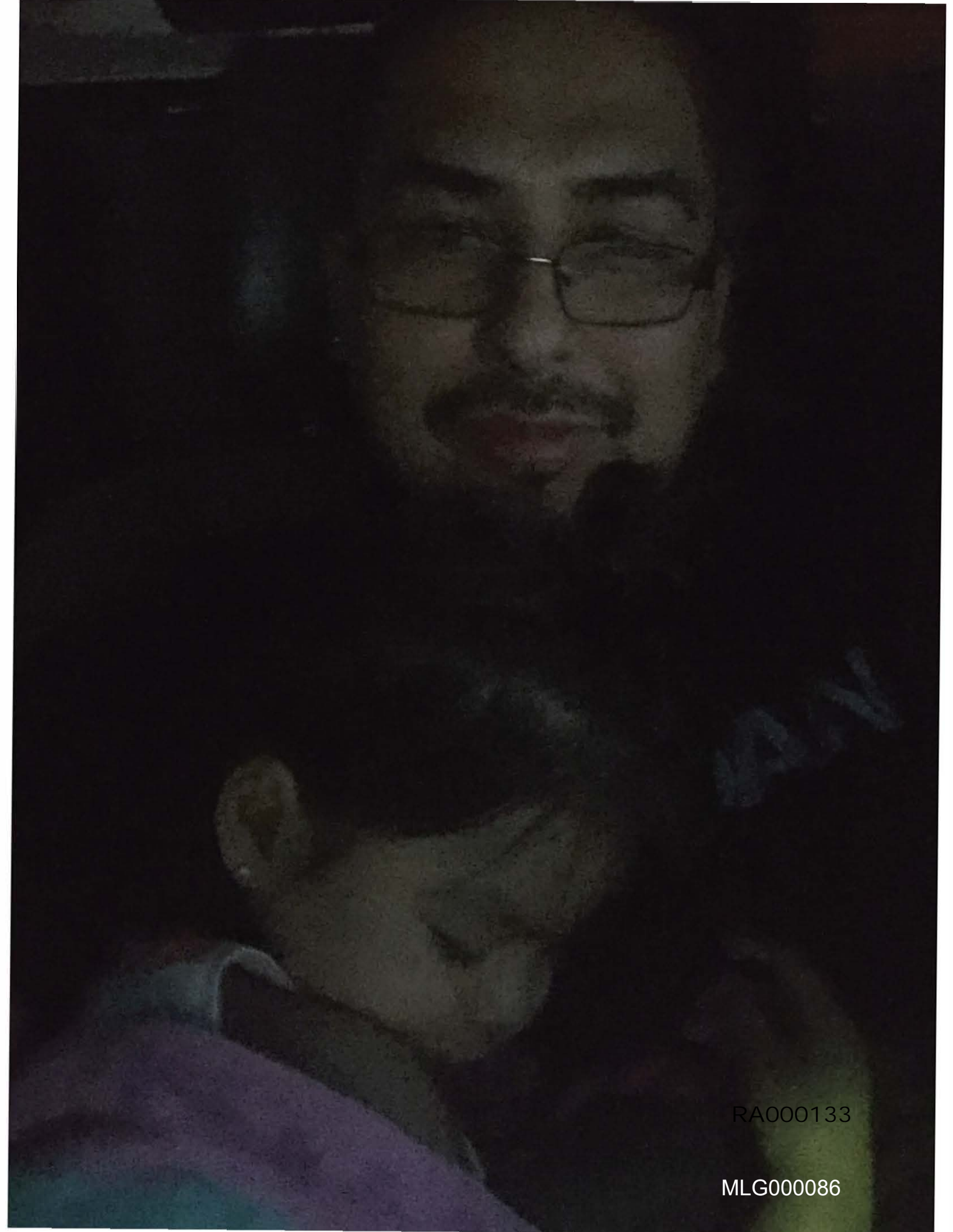
RA000131

MLG000084



RA000132

MLG000085




RA000133

MLG000086



RA000134

MLG000087



Muah!

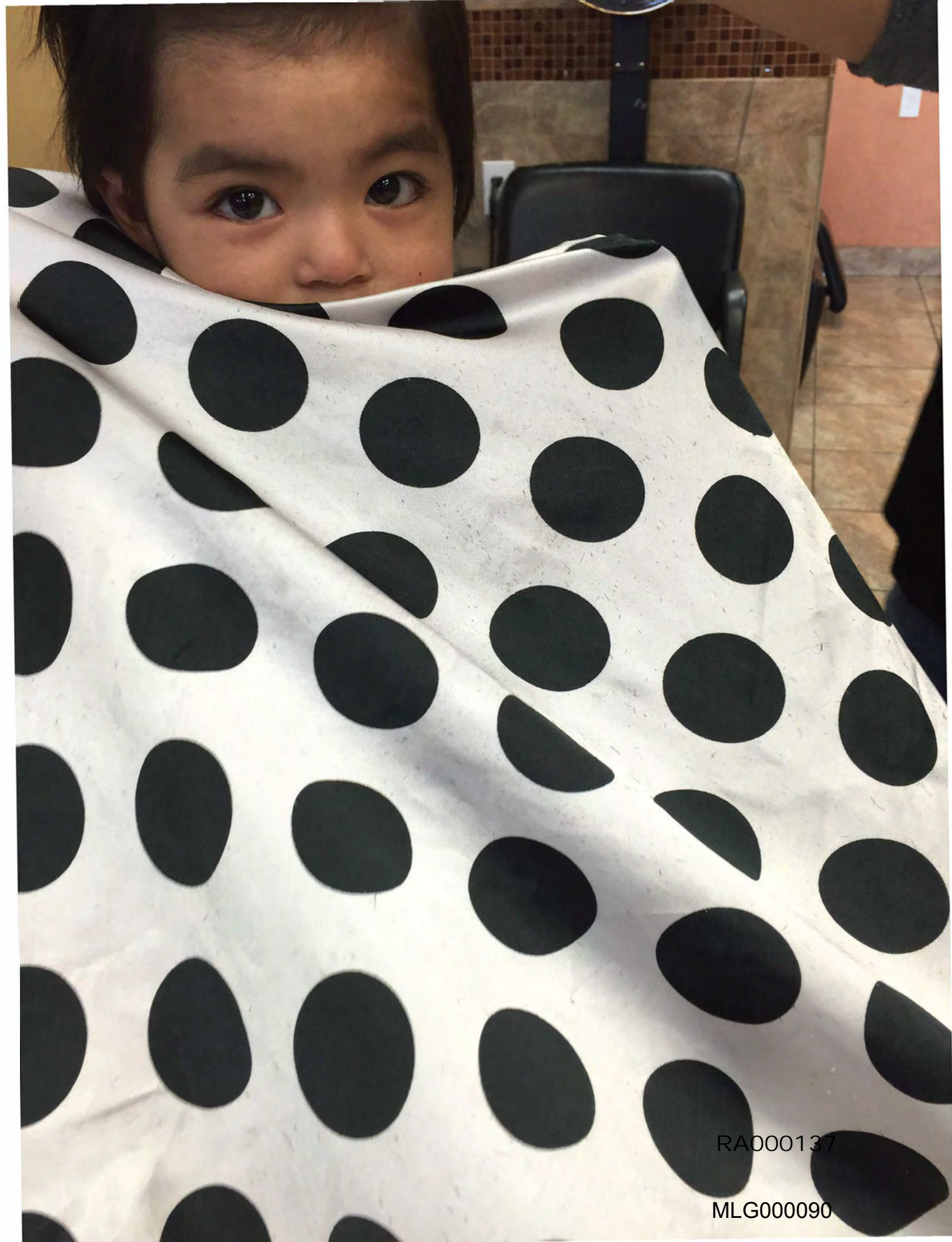
RA000135

MLG000088



RA000136

MLG000089



RA000137

MLG000090

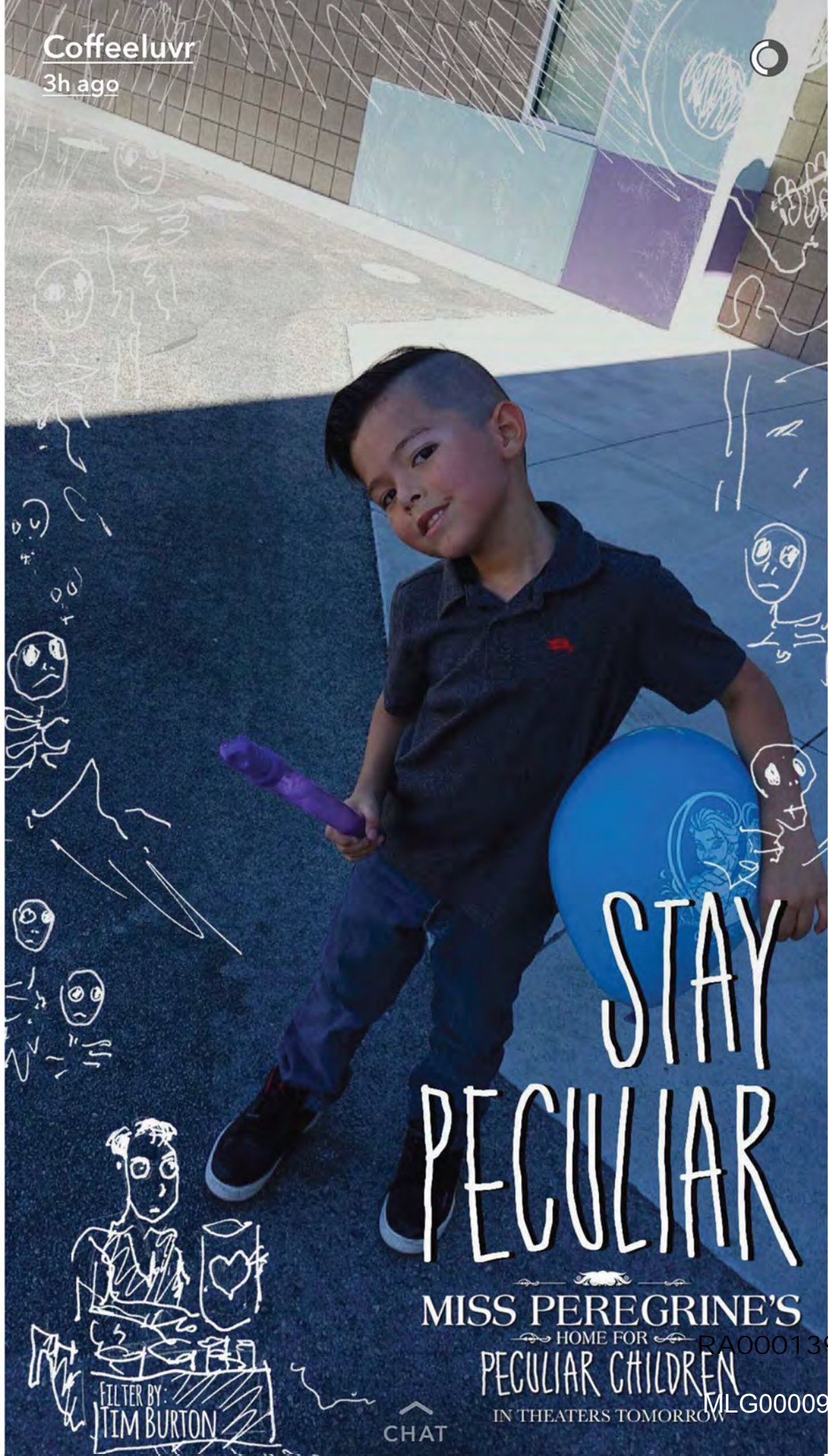


RA000138

MLG000091

Coffeeluvr

3h ago



STAY PECULIAR

MISS PEREGRINE'S

HOME FOR
PECULIAR CHILDREN

IN THEATERS TOMORROW

FILTER BY:
TIM BURTON

CHAT

PA000139

MLG000092



RA000140

MLG000093



RA000141

MLG000094



RA000142

MLG000095



RA000143

MLG000096

Sprint Wi-Fi

3:59 PM

62%



June 30, 2017
12:27 PM

Edit



RA000144

MLG000097



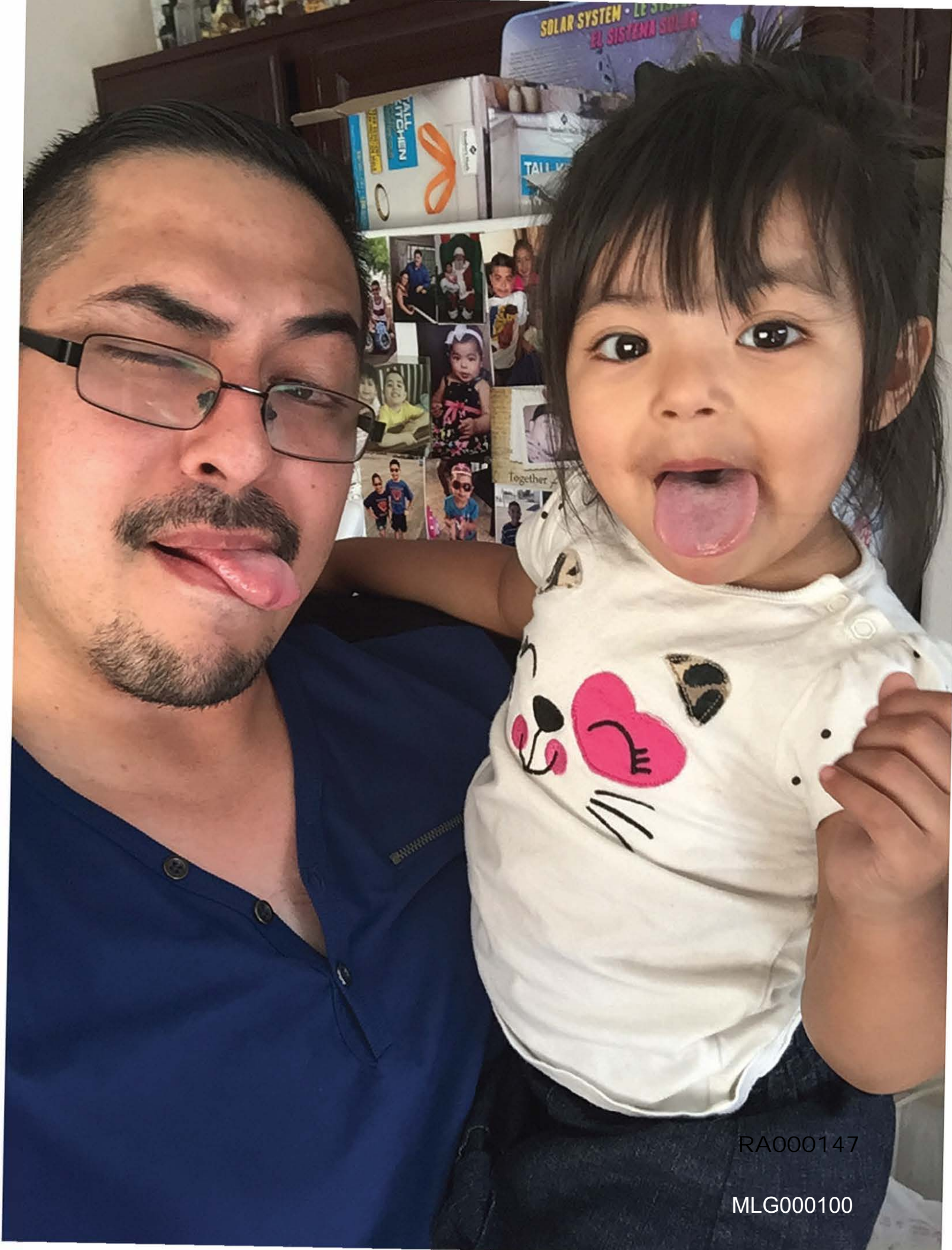
RA000145

MLG000098



RA000146

MLG000099



RA000147

MLG000100



RA000148

MLG000101



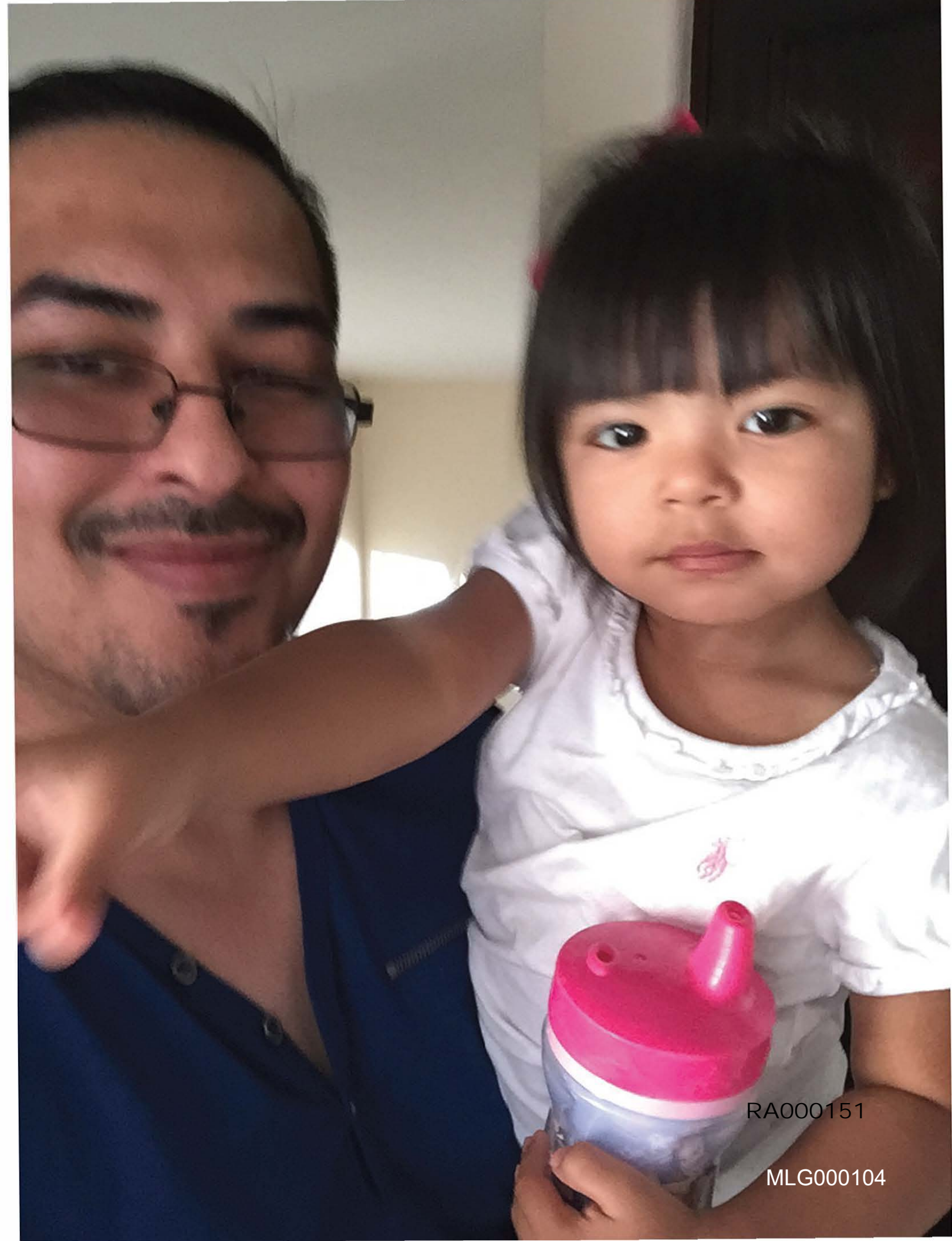
RA000149

MLG000102



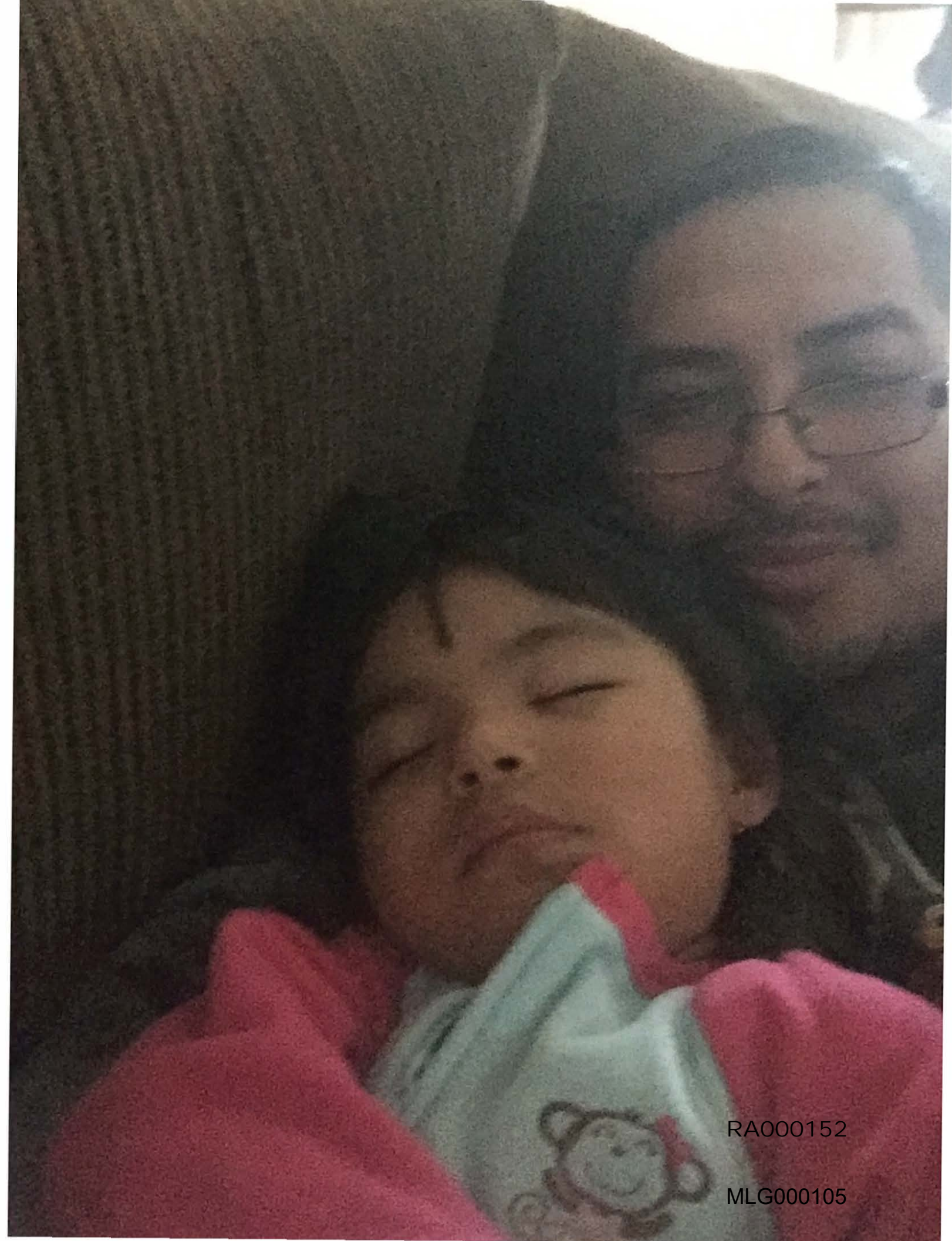
RA000150

MLG000103



RA000151

MLG000104



RA000152

MLG000105



RA000153

MLG000106



RA000154

MLG000107



RA000155

MLG000108



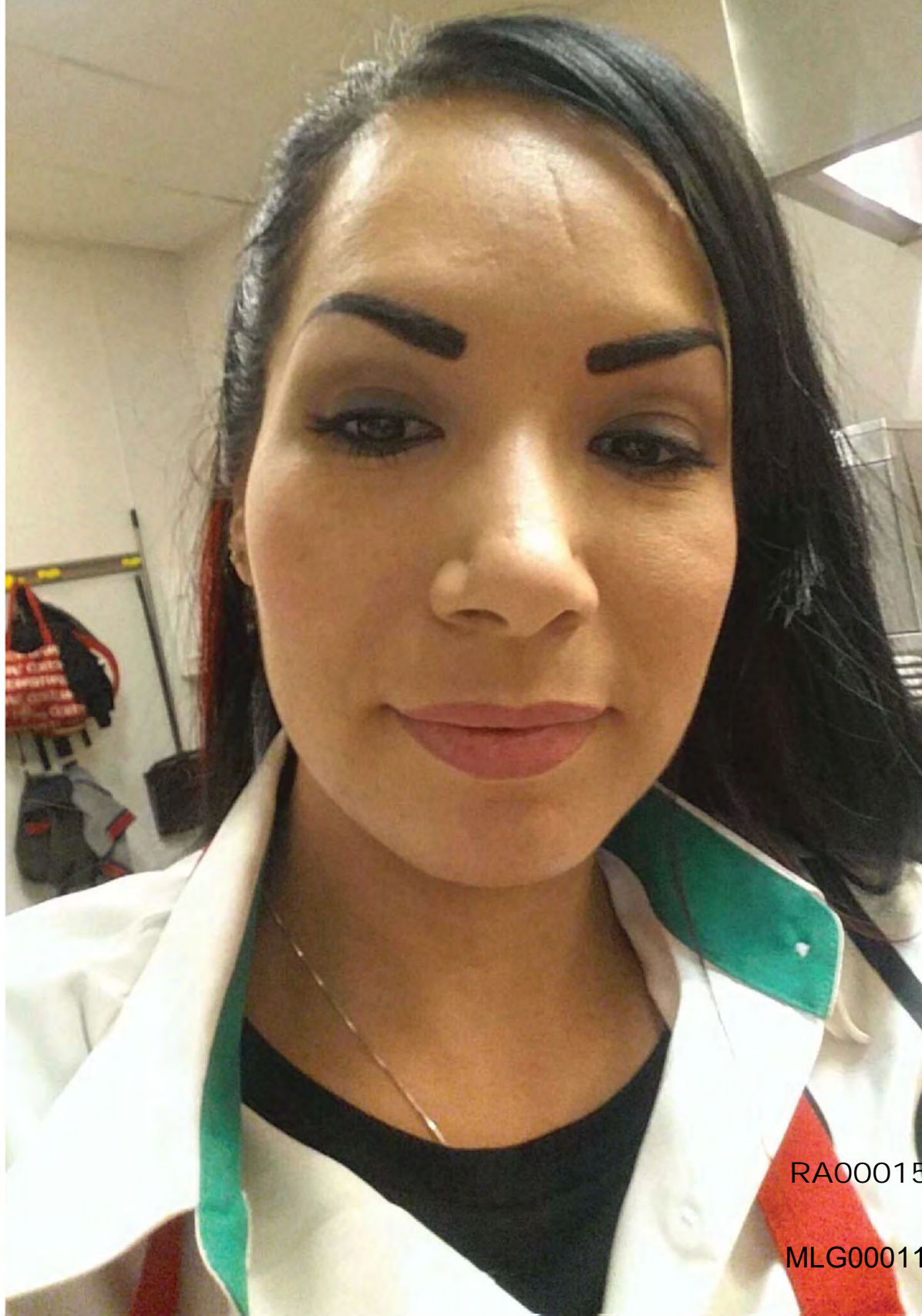
RA000156

MLG000109



RA000157

MLG000110



RA000158

MLG000111



RA000159

MLG000112



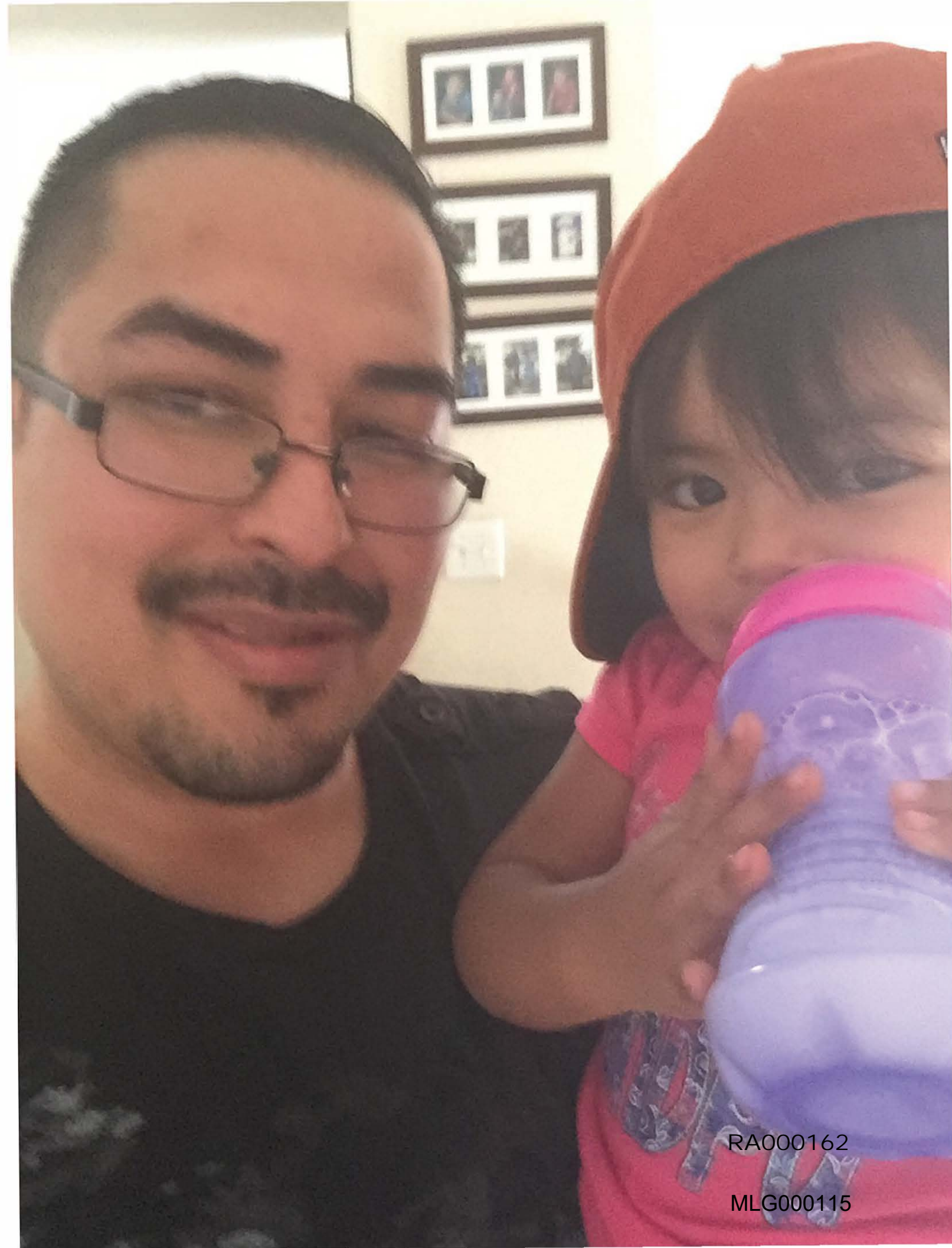
RA000160

MLG000113



RA000161

MLG000114



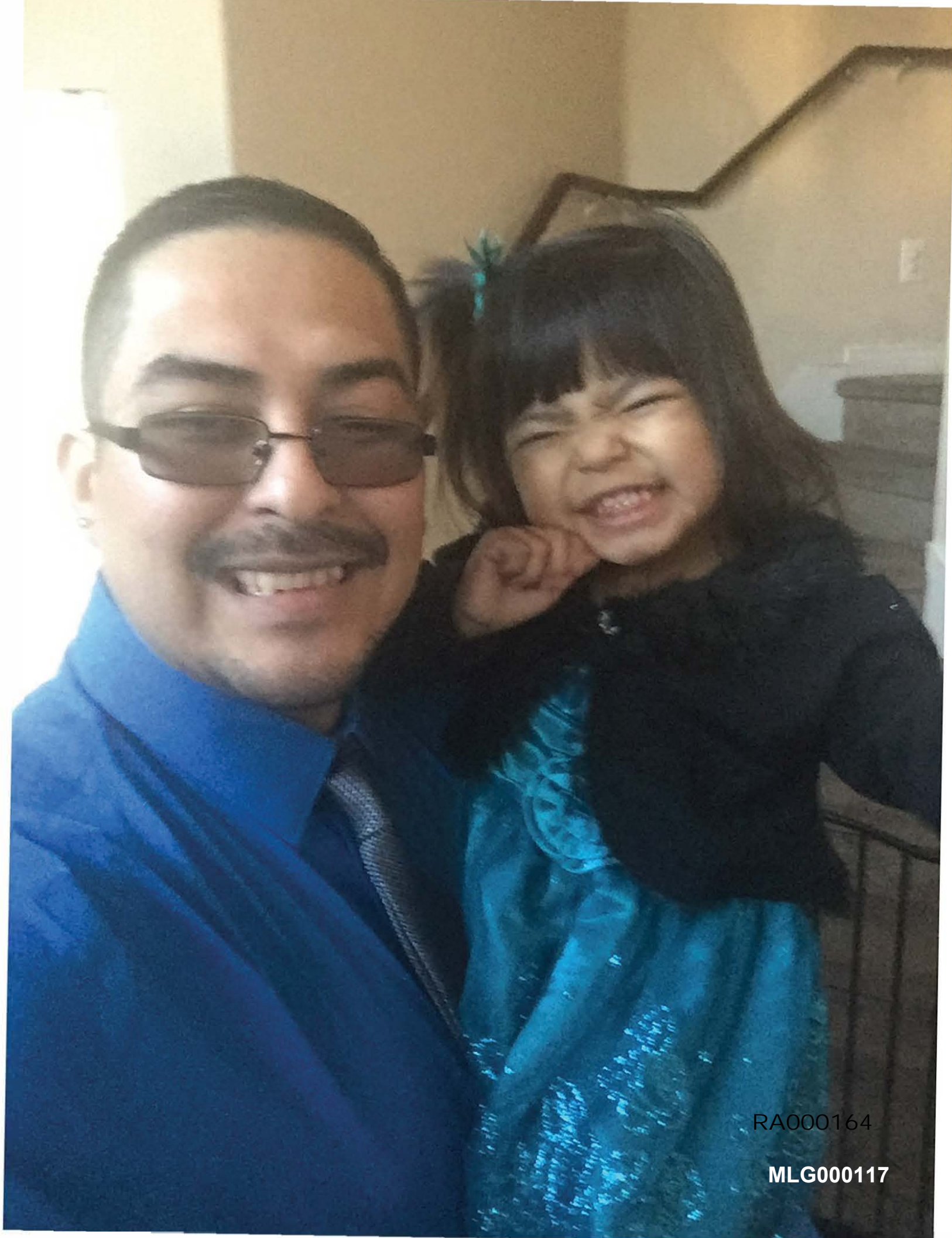
RA000162

MLG000115



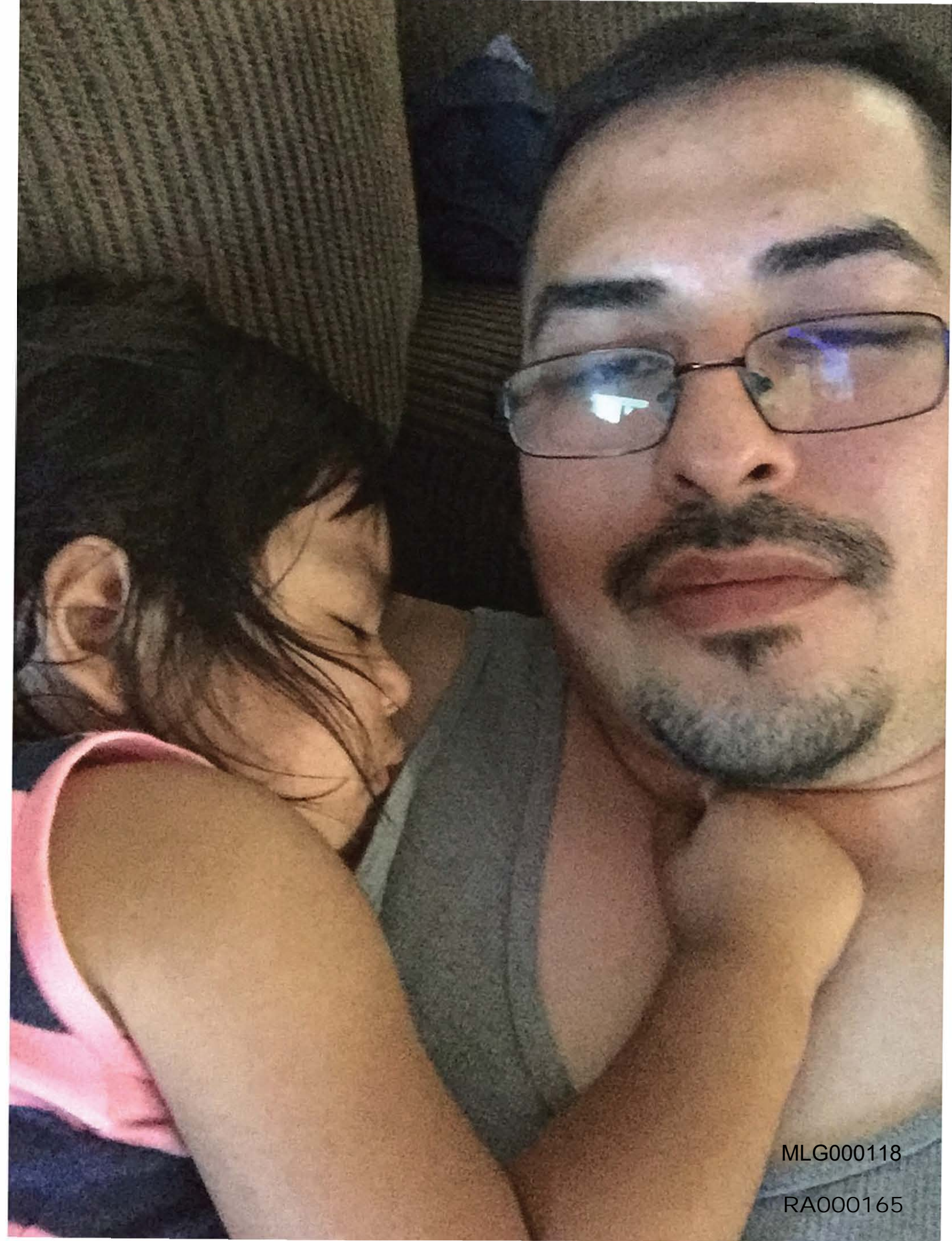
RA000163

MLG000116



RA000164

MLG000117



MLG000118

RA000165



RA000166

MLG000119



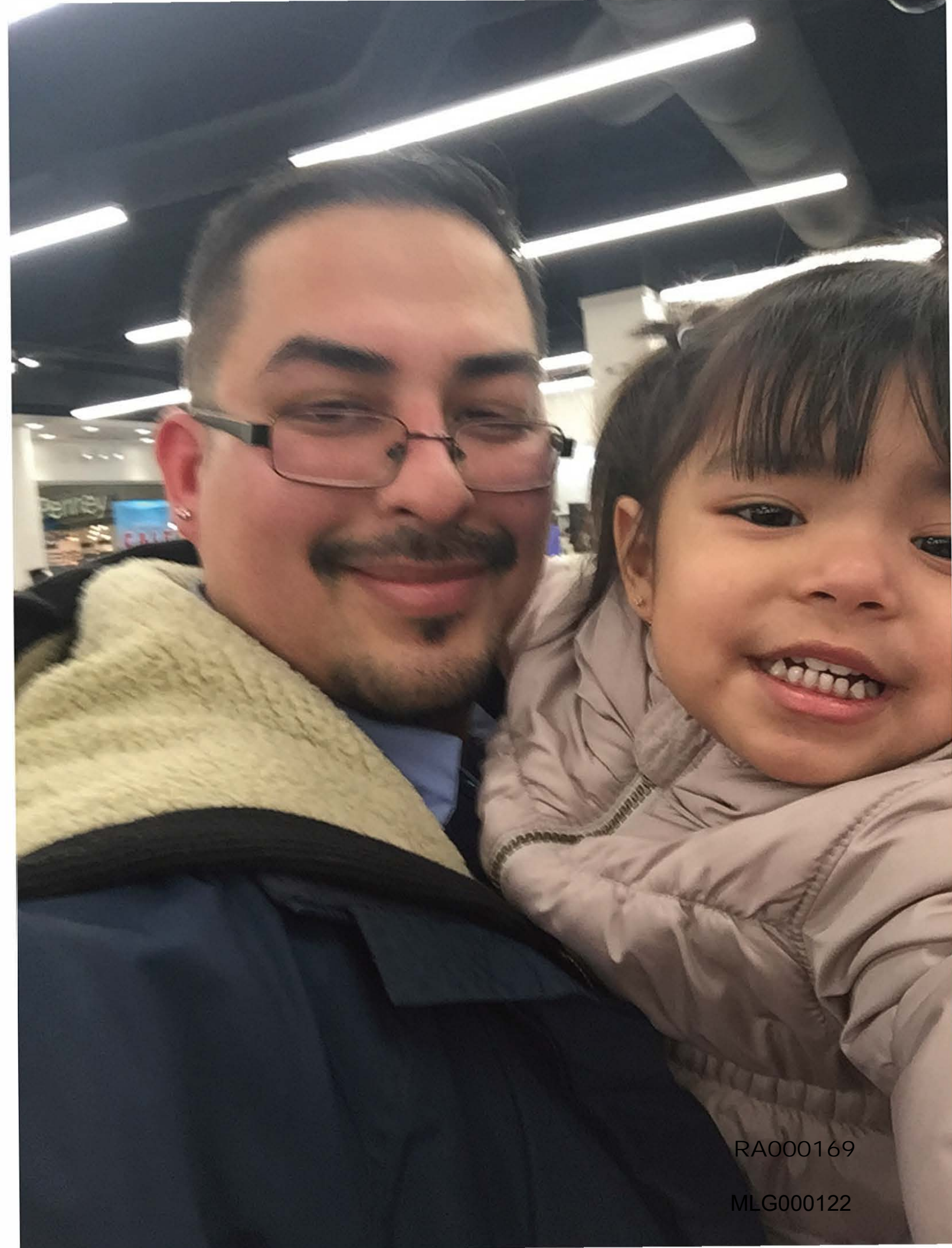
RA000167

MLG000120



RA000168

MLG000121



RA000169

MLG000122



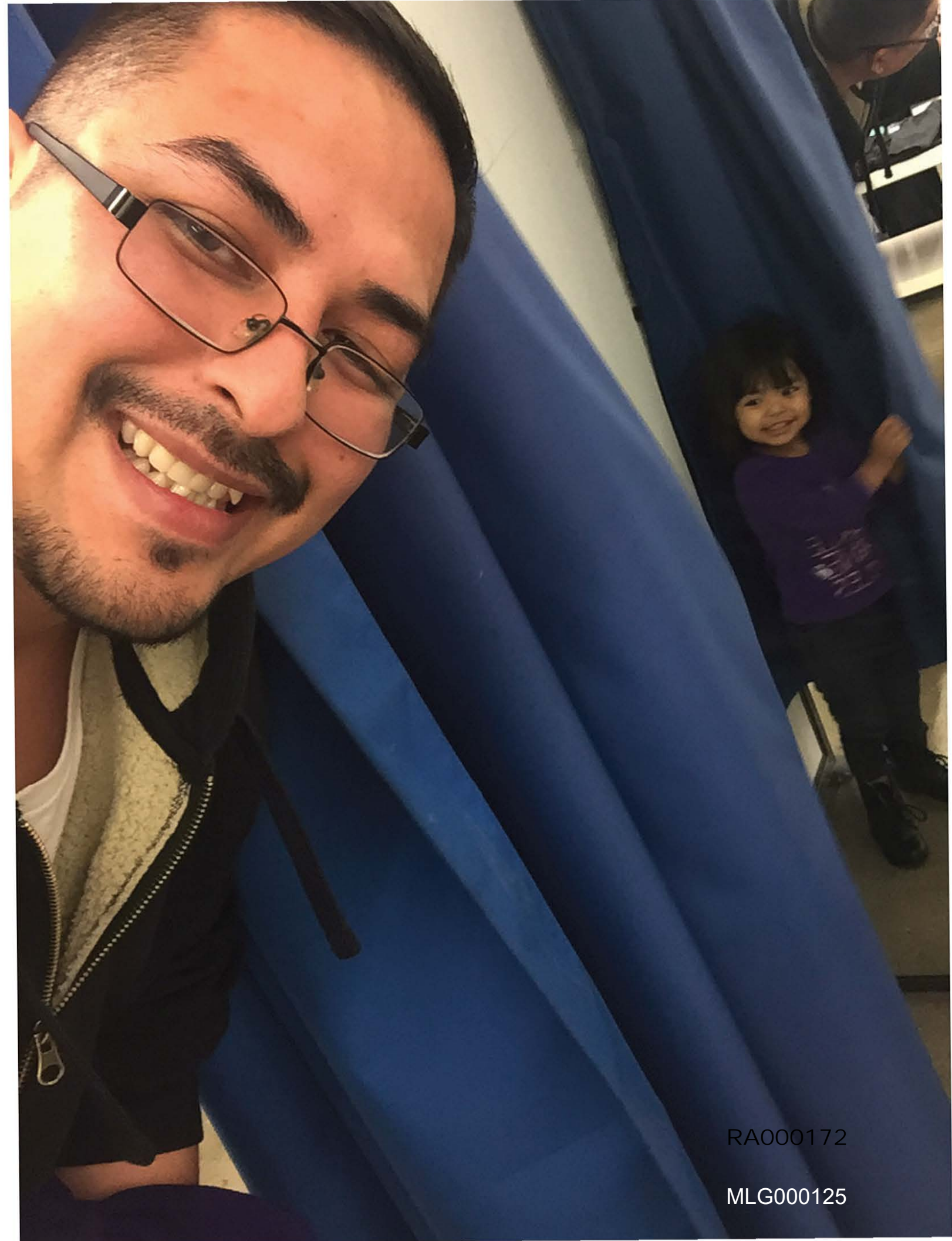
RA000170

MLG000123



RA000171

MLG000124



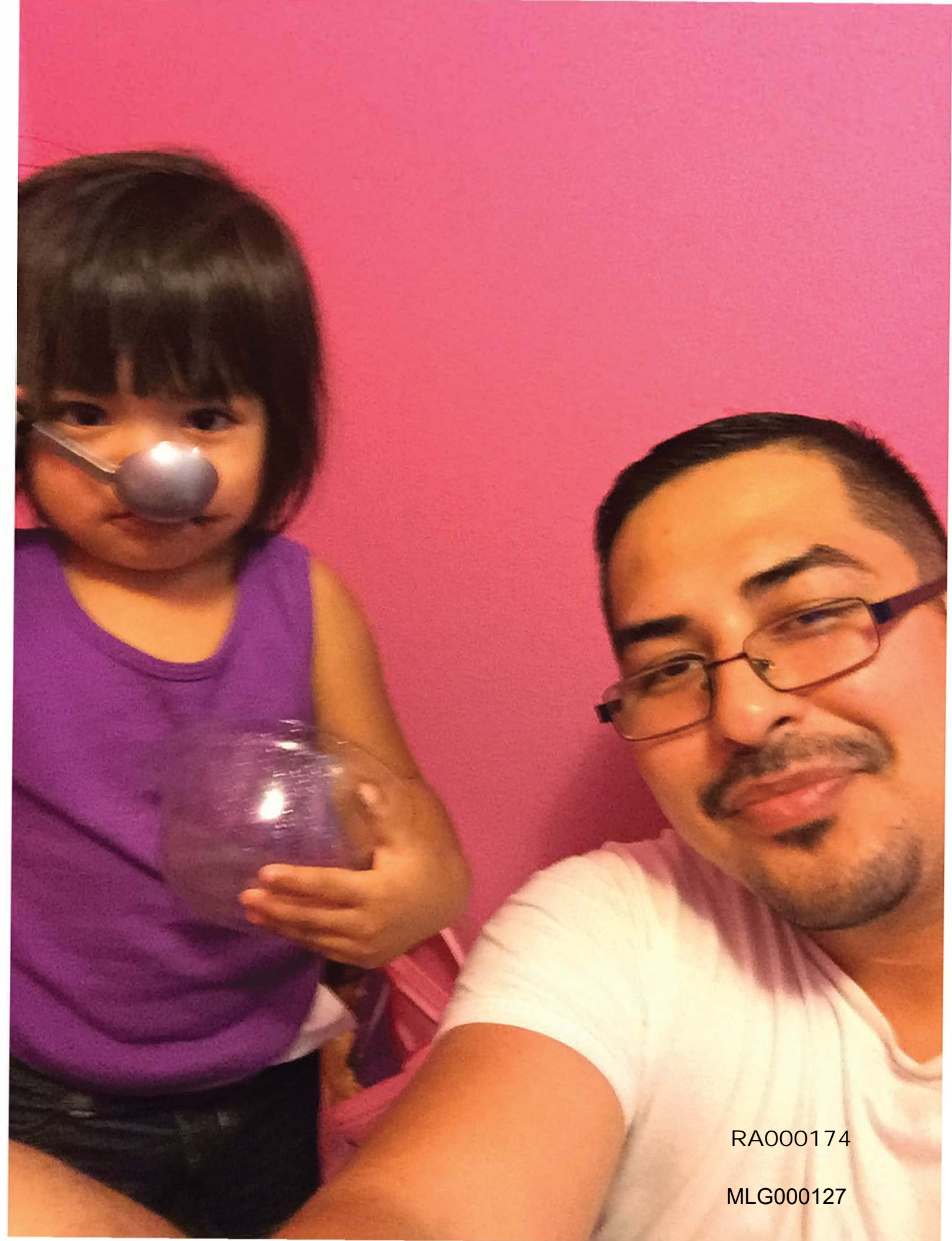
RA000172

MLG000125



RA000173

MLG000126



RA000174

MLG000127



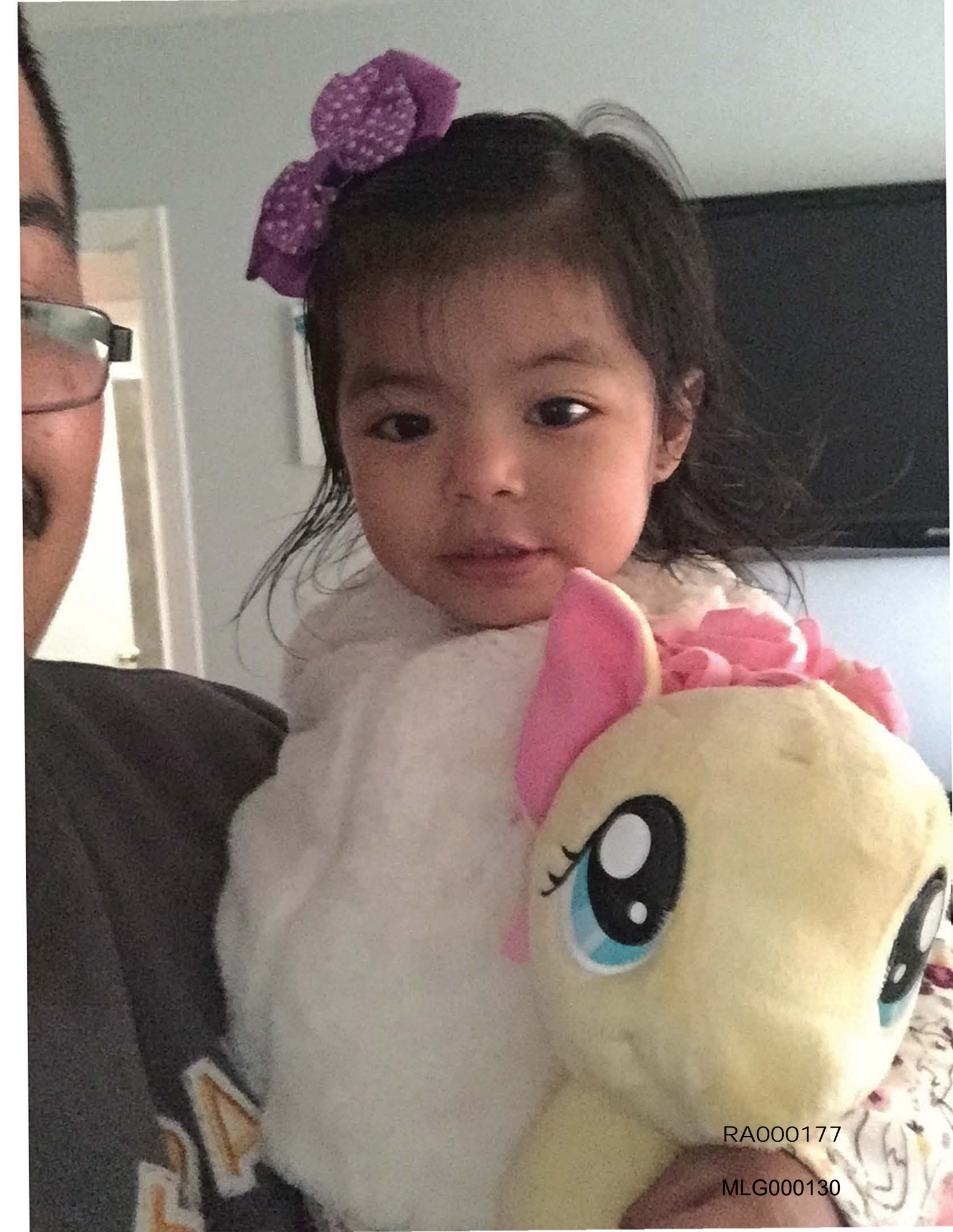
RA000175

MLG000128



RA000176

MLG000129



RA000177

MLG000130



RA000178

MLG000131



RA000179

MLG000132



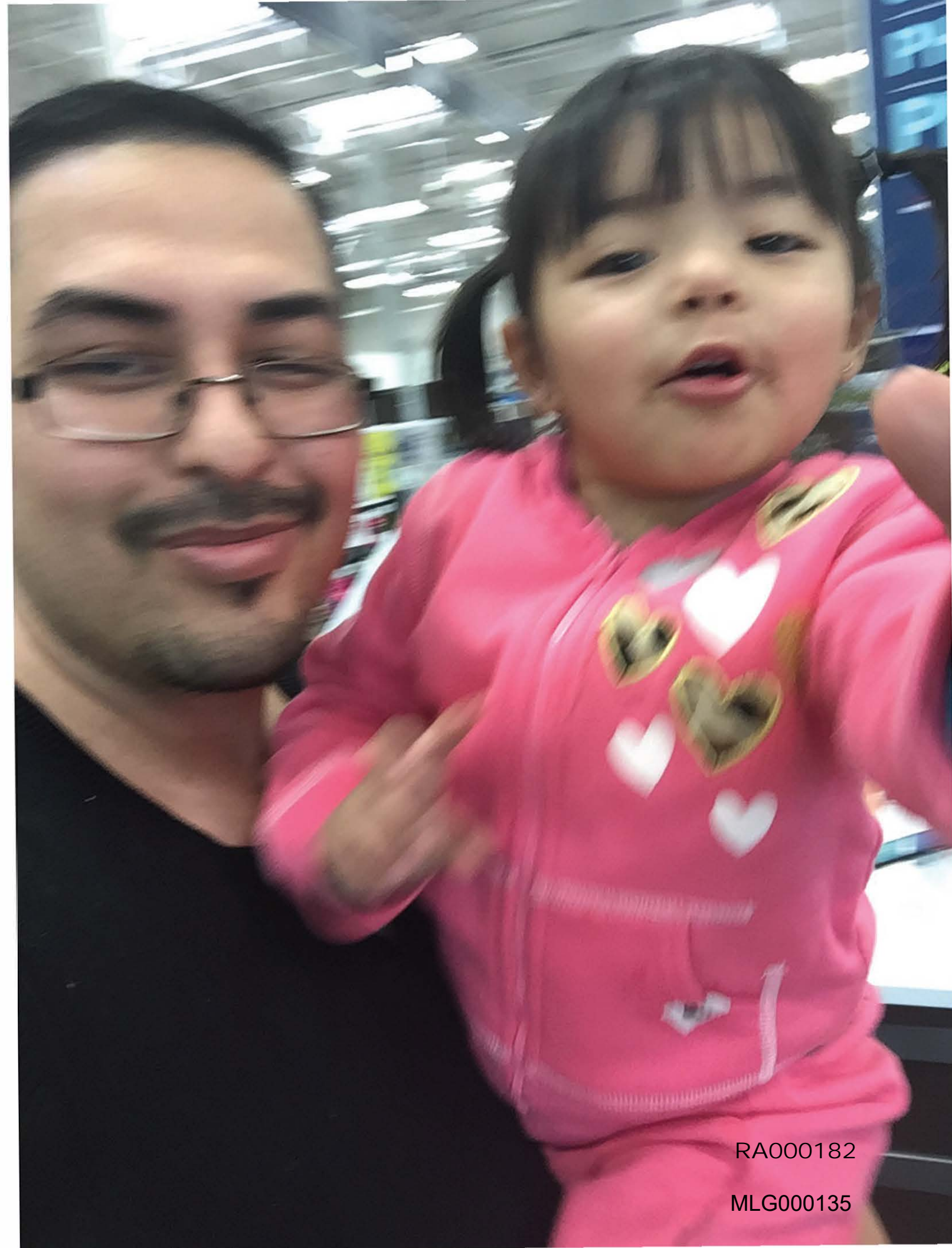
RA000180

MLG000133



RA000181

MLG000134



RA000182

MLG000135



RA000183

MLG000136



MLG000137

RA000184

MLG000137



RA000185

MLG000138

We're still in bed lol

RA000186

MLG000139



RA000187

MLG000140



RA000188

MLG000141



RA000189

MLG000142



RA000190

MLG000143



RA000191

MLG000144



RA000192

MLG000145



RA000193

MLG000146



RA000194

MLG000147



RA000195

MLG000148



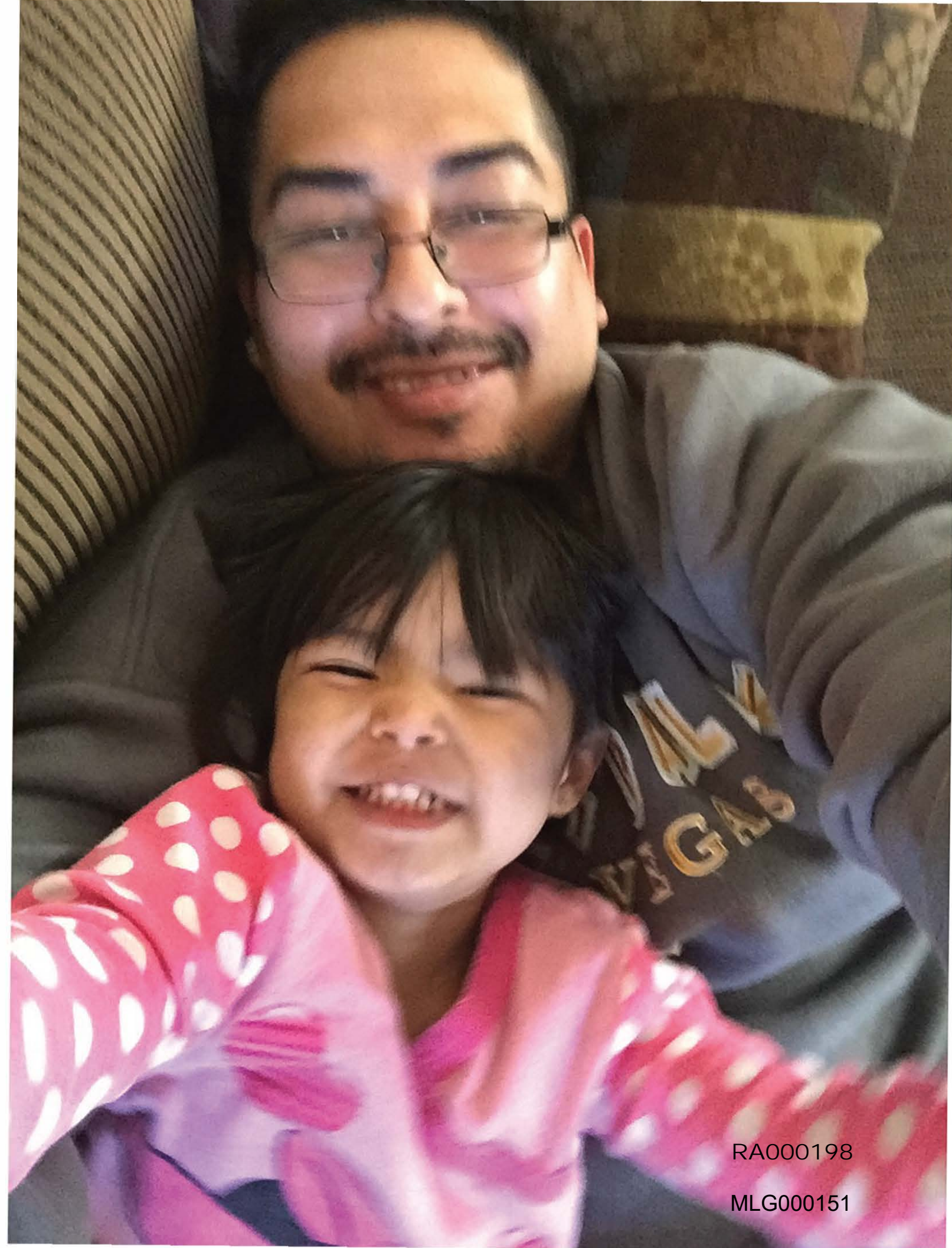
RA000196

MLG000149



RA000197

MLG000150



RA000198

MLG000151



RA000199

MLG000152



RA000200

MLG000153



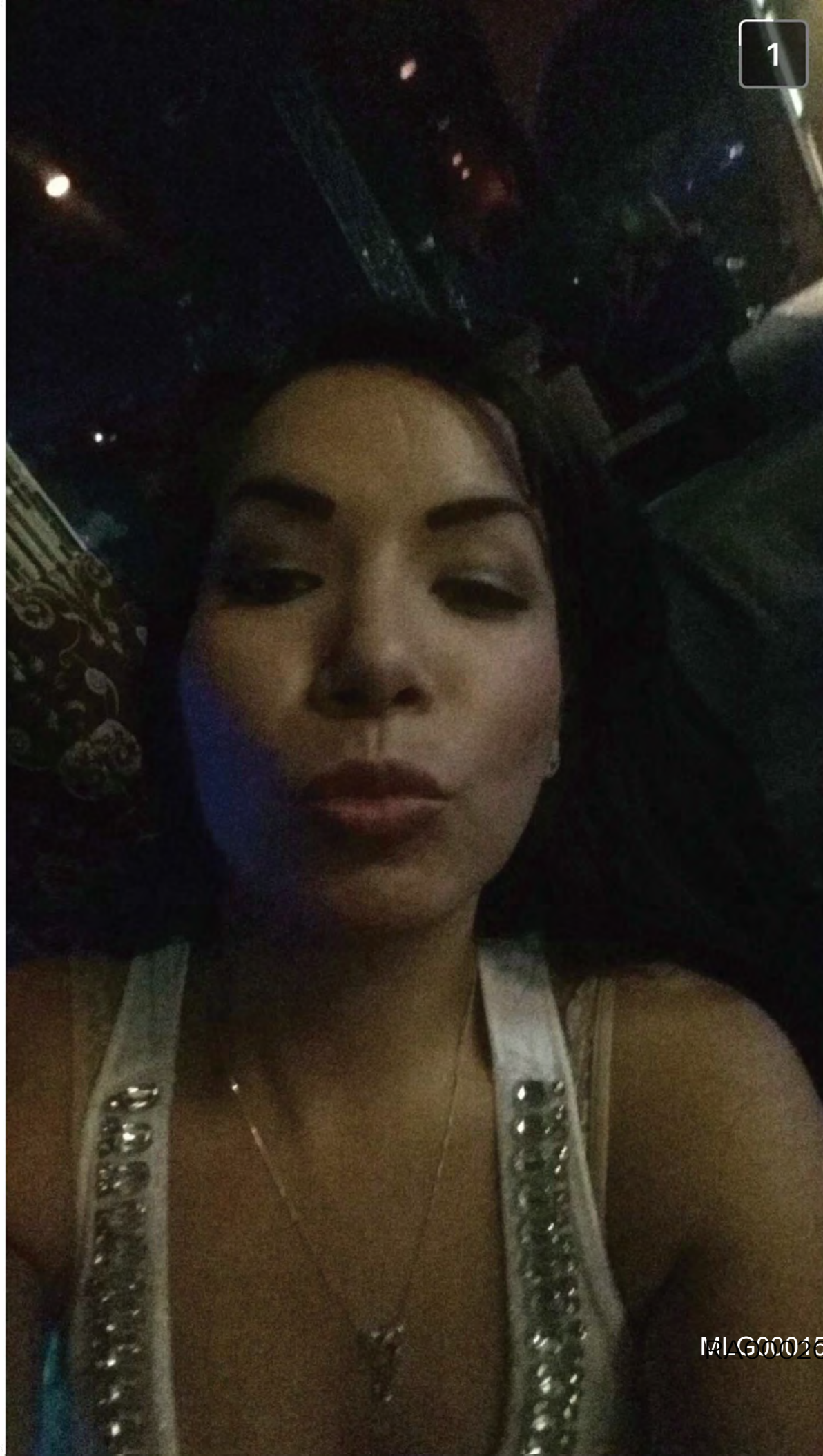
RA000201

MLG000154



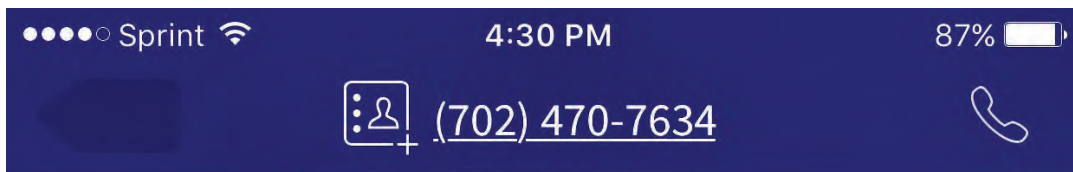
RA000202

MLG000155



MLG000156

EXHIBIT 6



5:20 PM

O idk lol but in sure she has changed alil at least

Call me

6:03 PM

4/15/16

Did u pick up baby on time

1:06 PM

6:09 PM

Yes why

Just

6:10 PM

4/19/16

1:33 PM

Yo

What's up

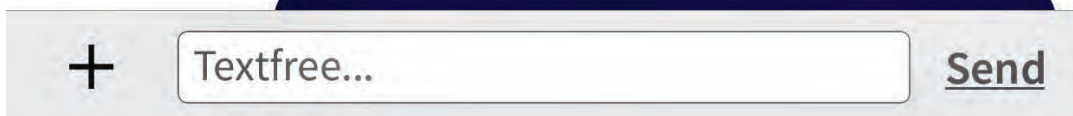
1:34 PM

1:35 PM

Question have you taken a DNA from Alan?

Ya y

1:36 PM

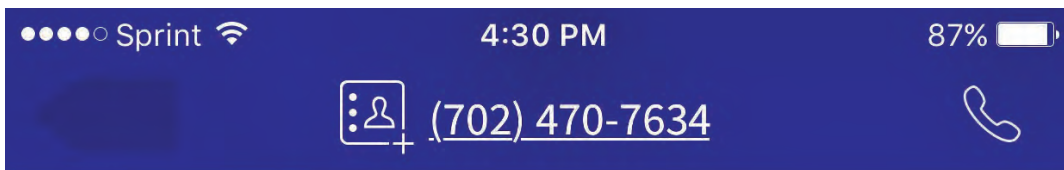


**keep your number
from expiring**

reserve

RA000205

MLG000157



1:38 PM

Is he mine? Be honest because I asked her if she has doubts that he could be mine and she said she didn't know that you took a DNA on all 3 of them

No
When she tell you this

1:43 PM

1:43 PM

Today when I picked up my baby

1:43 PM

No what?

Oh what you tell her

1:43 PM

1:44 PM

I told her in going to do an DNA of Alan this week she said can you just wait alil I said for what because she is stressed out

1:45 PM

When did you take it?

1:47 PM

Can you talk on phone?

1:52 PM

Call me



Textfree...

Send

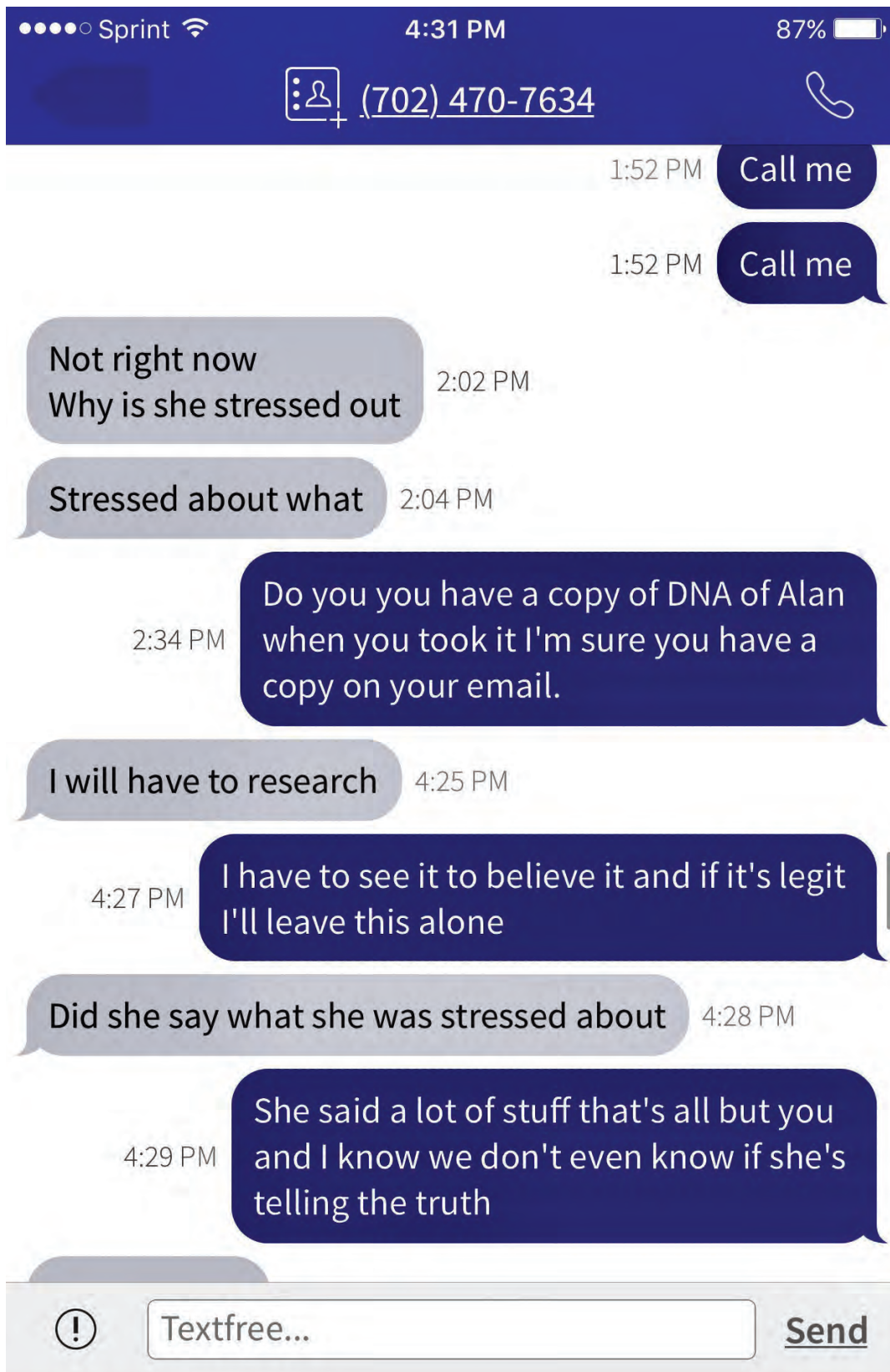


**keep your number
from expiring**

reserve

RA000206

MLG000158

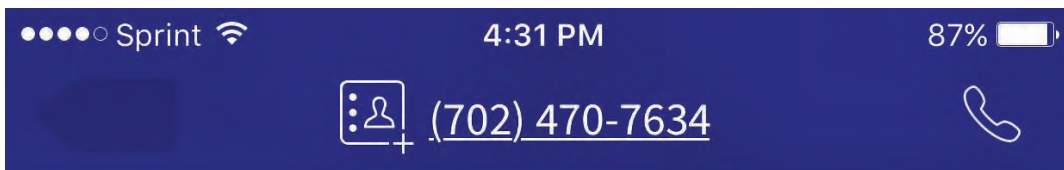


**keep your number
from expiring**

reserve

RA000207

MLG000159



4:36 PM

A second cause?

She mentioned it quickly
Did she tell you about yesenia

4:42 PM

4:46 PM

A second chance?

4:46 PM

You mean?

4:46 PM

What about Yecenia dude call me better

No she brought it up leaving but then I
kind of shut her out about so she left it
alone and didn't sound so determine no
more
Yesenia moving in with guy

4:48 PM

4:51 PM

So she wants to move in with the guy is
that good or bad?

Yesenia is moving in with her man
Well it kind of keeps her from calling
Rosie

4:53 PM



Textfree...

Send

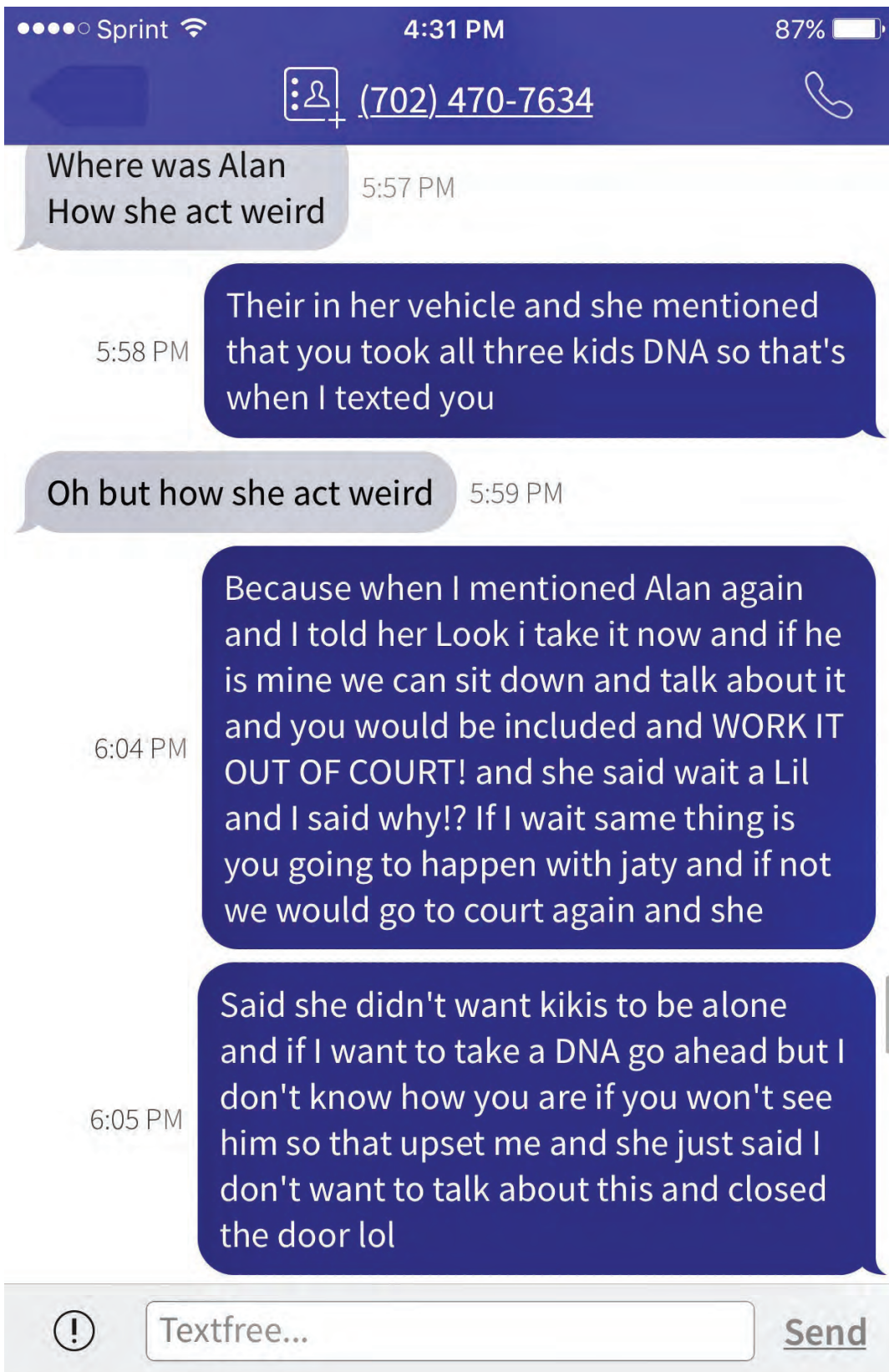


**keep your number
from expiring**

reserve

RA000208

MLG000160



**keep your number
from expiring**

reserve

RA000209

MLG000161



**keep your number
from expiring**

reserve

RA000210

MLG000162

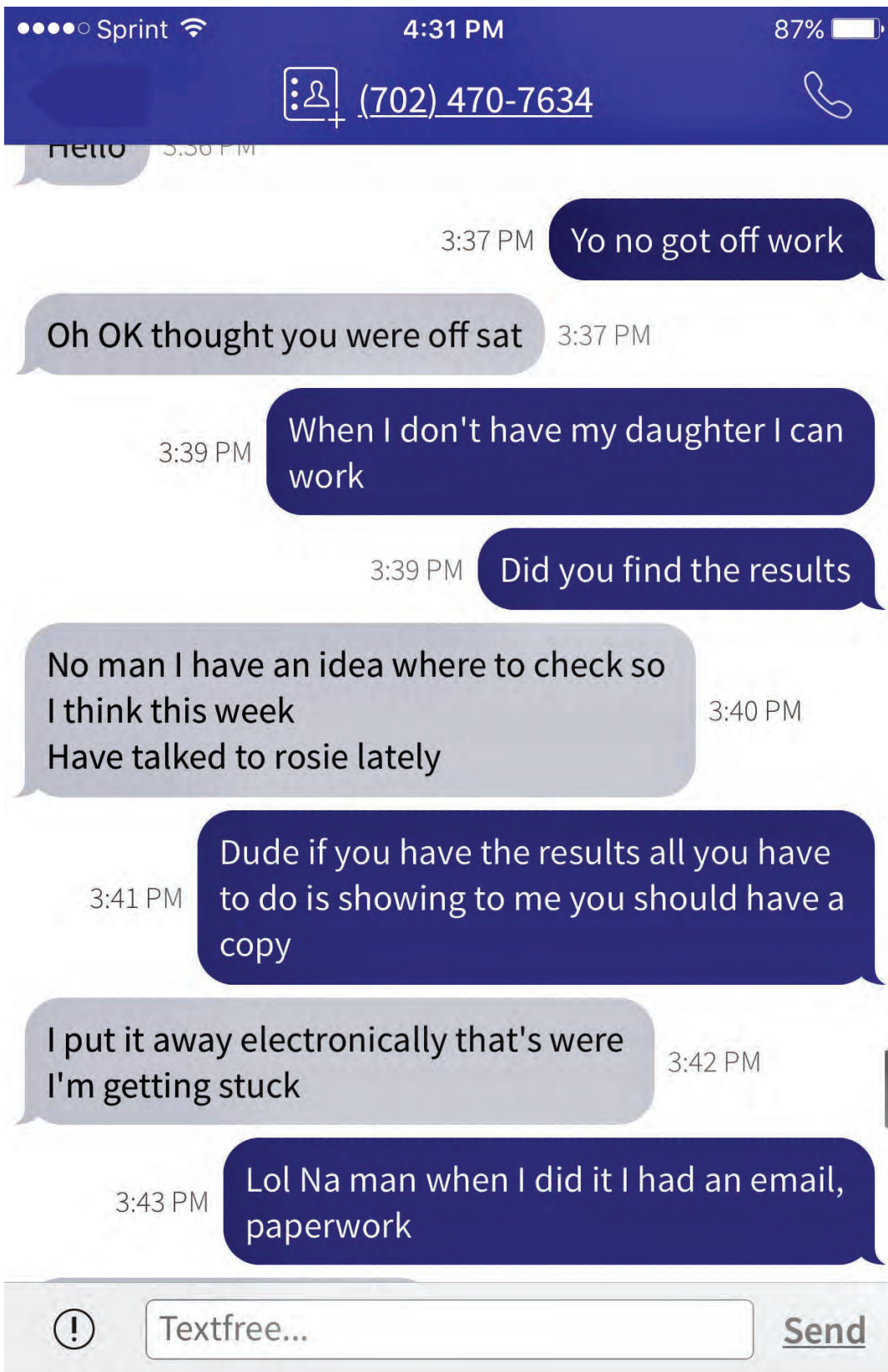


**keep your number
from expiring**

reserve

RA000211

MLG000163



**keep your number
from expiring**

reserve

RA000212

MLG000164

7/26/16

Missed call

1:39 PM

2:30 PM

Did you call

Mistake 2:52 PM

10/4/16

4:38 PM

Yo did you ever find the dna results for Alan?

12/2/16

Alleged Father: "Henry" Child: "Alan"

Conclusions of DNA Paternity Test

Based on the genetic testing results obtained by PCR analysis of STR loci, the alleged father, "Henry" is not included as the biological father of the child, "Alan". The probability of paternity is 99.9998%. Note: Results from privately collected (not witnessed) tests are for personal knowledge only and cannot be used as legal evidence of parentage or identity. The laboratory is not responsible for any wrongful collection or dissemination of the samples, whether accidental or intentional, prior to our acceptance of these samples.

STR Locus	Child	Alleged Father	Reference Index
D8S1179	15,15	15,15	0.75
D21S11	29,30	30	0.05
D7S820	30	2,20	0.05
CSF1PO	30,32	30,35	0.10
D16S1056	13,15	13,15	0.75
TH01	7,8	7,8	0.50
D13S317	8,11	11,11	0.05
D18S338	9	9,11	0.05
D22S396	24,25	24,25	0.50

12:23 PM

12/5/16

+

Textfree...

Send

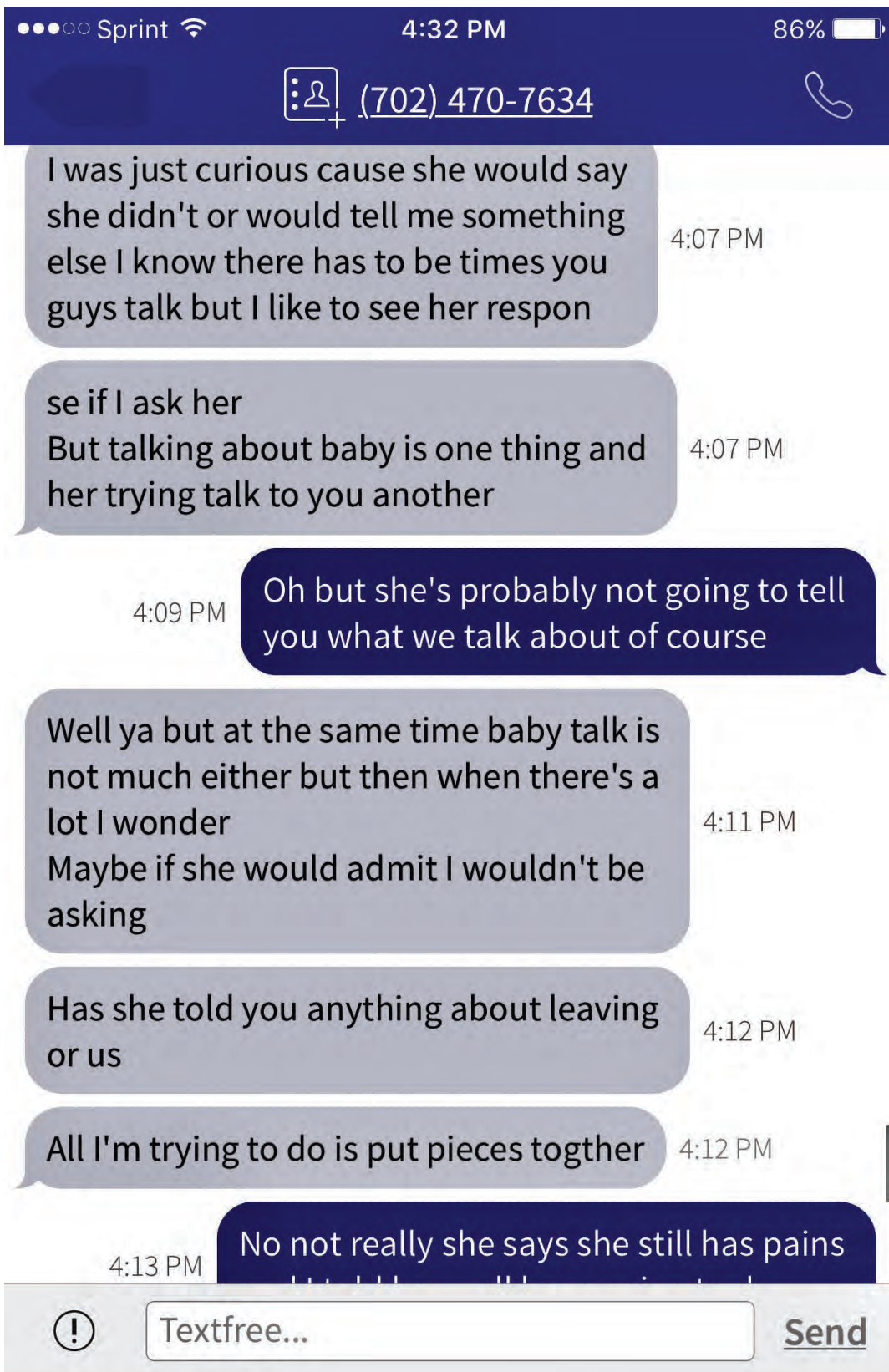


keep your number
from expiring

reserve

RA000213

MLG000165

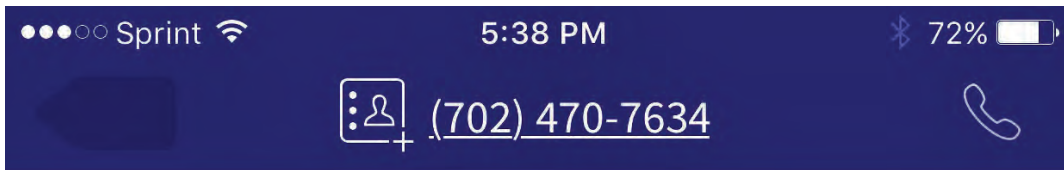


**keep your number
from expiring**

reserve

RA000214

MLG000166



3/27/16

12:14 AM

Yo

Ya

12:20 AM

U got it

12:26 AM

9:19 AM

Yes sorry I knocked out

Lol

9:43 AM

9:58 AM

Is my number different though

Ya

10:08 AM

Is mine same

10:22 AM

10:22 AM

It's same

What app

10:23 AM

10:26 AM

What app what



Textfree...

Send

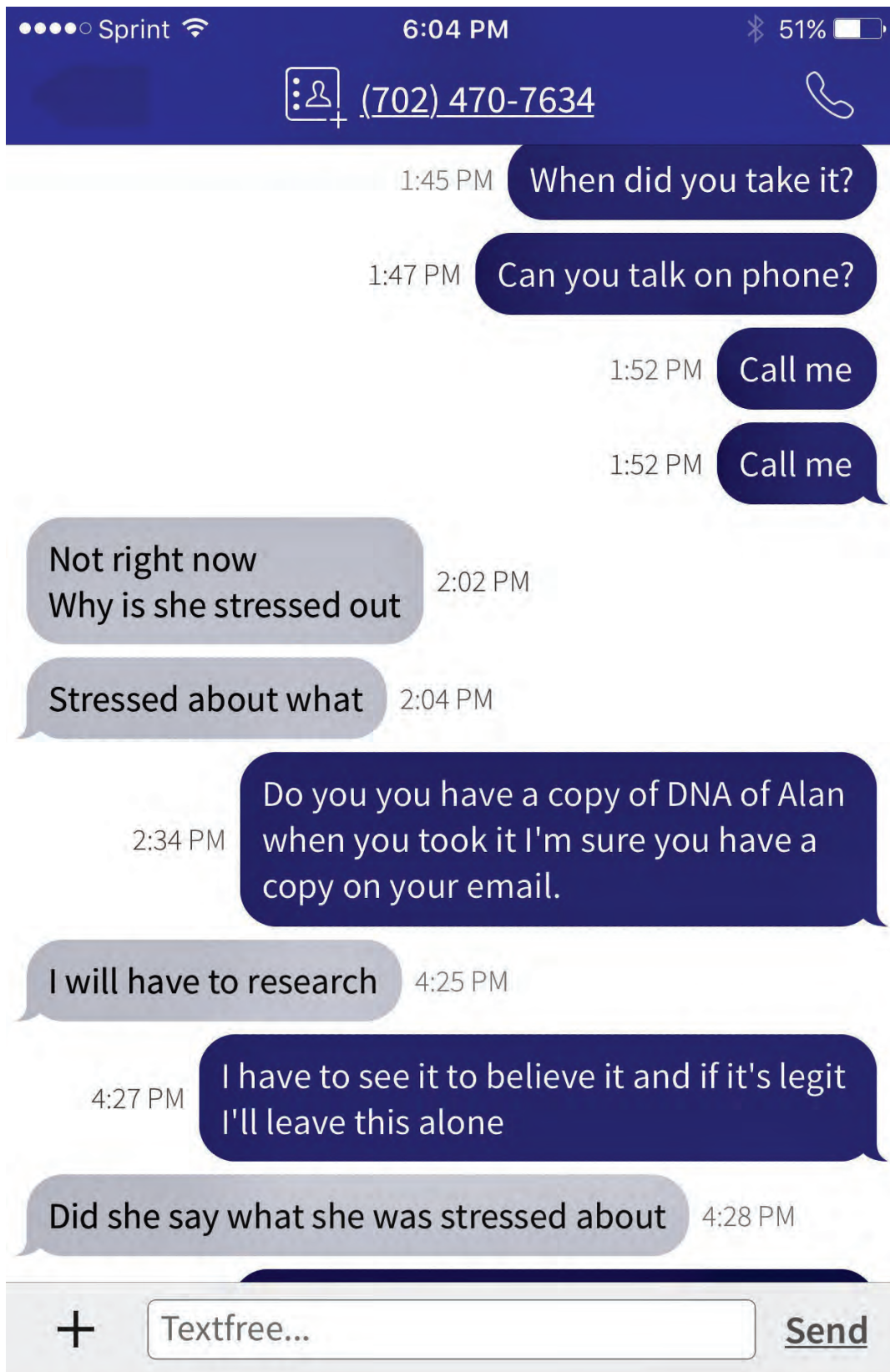


**keep your number
from expiring**

reserve

RA000215

MLG000167



**keep your number
from expiring**

reserve

RA000216



**keep your number
from expiring**

reserve

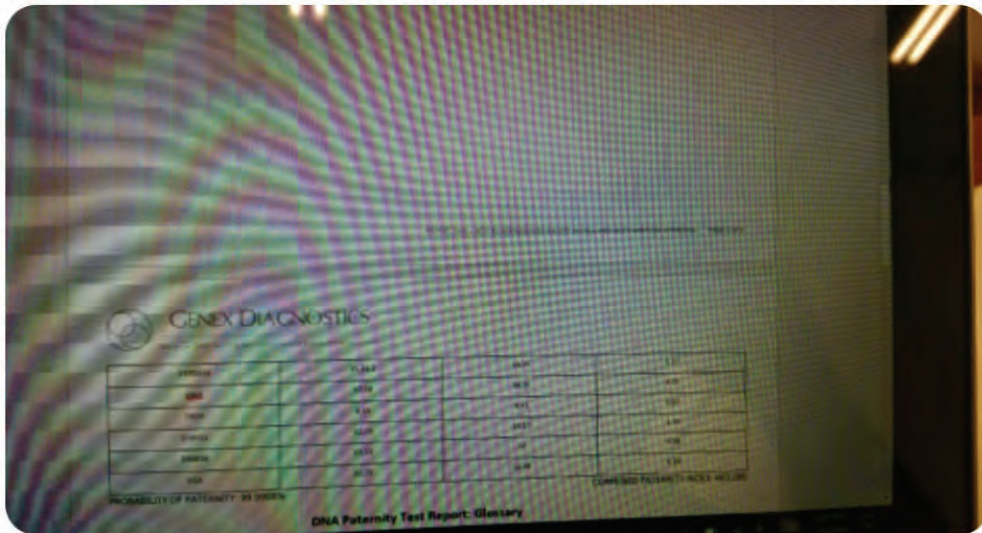
RA000217

MLG000169

12/5/16

1:17 PM

Just saw the "dna" but where is the rest of the dna?



1:21 PM

1:23 PM

How you and I go to the dna and take it again I don't mind paying for it

I don't know

7:16 PM

5/2/17

What's new

6:28 PM

6:31 PM

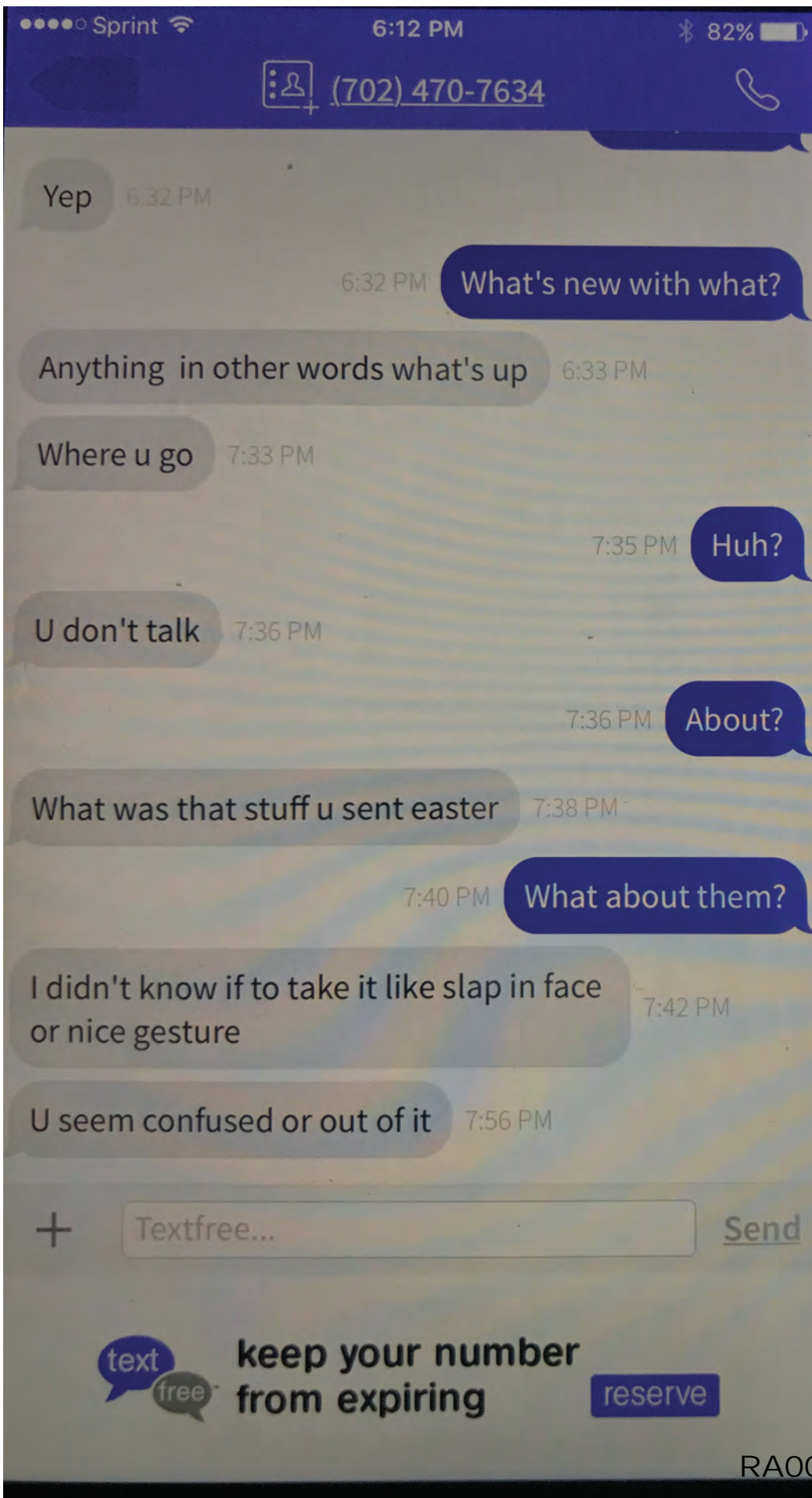
Henry Oliva?

Yes

6:32 PM

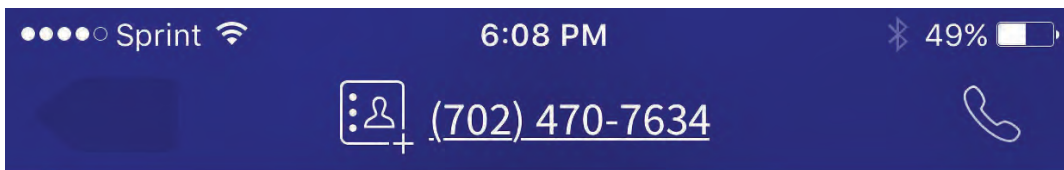
RA000218

MLG000170



RA000219

MLG000171



Oh what else you guys talk about 6:11 PM

6:22 PM That's it man she also told me she has another appointment this Friday that's it

Y she tell u that 6:23 PM

6:24 PM Because I asked her how did the Dr go and that's when she told me that

Oh 6:24 PM

4/20/16

11:13 AM Did you find DNA?

I haven't looked it will take couple days 11:14 AM

11:15 AM When did you do it?

11:18 AM You at work?

While back
Ya zip 11:34 AM

! Textfree... Send

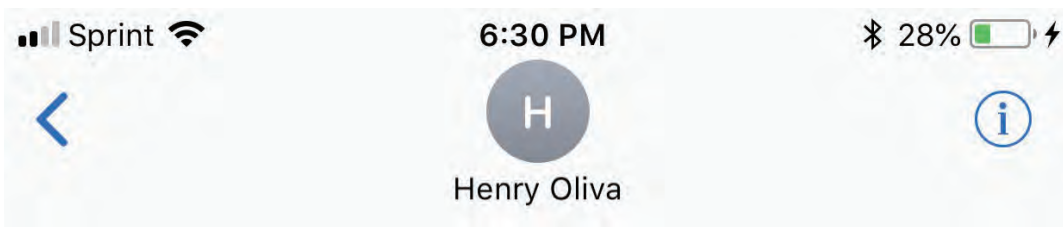


**keep your number
from expiring**

reserve

RA000220

MLG000172



Text Message
May 4, 2017, 11:05 AM

How u feeling today

Henry?

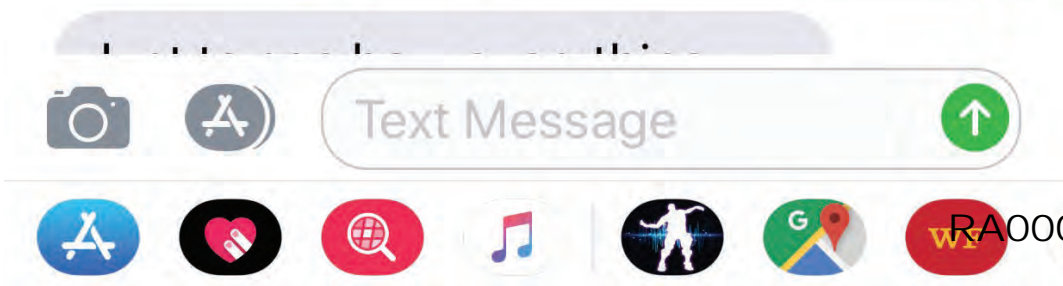
Ya

U there

Yup

So what's up u didn't respond
back when I message u the
other day

So what's the problem now
did you also want an Easter
basket too? Smh! Why you
texting me?



RA000221

MLG000173



Henry Oliva >

Just to see how everything was going cause I've been see court papers and stuff hey this is nothing against u I figured since we talked before it's cool

11:45 AM

but you seem to be bothered

11:45 AM

Court papers?

11:46 AM

The way respond seems to be standoffish which surprised me but it's cool I guess it answers some questions for me thanks

11:49 AM

Standoffish?

11:50 AM

So when did you do that fake DNA you send me?

11:51 AM

RA000222

MLG000174



(702) 470-7634



12/2/16

Alleged Father: "Henry" Child: "Alan"

Conclusions of DNA Paternity Test

Based on the genetic testing results obtained by PCR analysis of STR loci, the alleged father, "Henry" is not included as the biological father of the child, "Alan". The probability of paternity is 99.9998%. Note: Results from privately collected (not witnessed) cases are for personal knowledge only and cannot be used as legal evidence of parentage or identity. The laboratory is not responsible for any wrongful collection or contamination of the samples, whether accidental or intentional, prior to our acceptance of these samples.

STR Locus	Child	Alleged Father	Paternal Index
D8S1179	12,14	12,15	0.76
D21S11	26,30	26	1.26
D7S1620	60	5,57	0.86
CSF1PO	10,12	12,14	0.76
D16S1338	13,15	13,15	40.26
TH01	2,4,5	2,5	0.80
D13S317	8,12	11,12	0.80
D10S1248	8	9,11	4.16
D21S18	14,25	14,15	4.50

12/5/16

Just saw the "dna" but where is the rest of the dna?

GENEX DIAGNOSTICS

STR Locus	Child	Alleged Father	Paternal Index
D8S1179	12,14	12,15	0.76
D21S11	26,30	26	1.26
D7S1620	60	5,57	0.86
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TH01	2,4,5	2,5	0.80
D13S317	8,12	11,12	0.80
D10S1248	8	9,11	4.16
D21S18	14,25	14,15	4.50

PROBABILITY OF PATERNITY: 99.9998%

DNA Paternity Test Report: Glossary

How you and I go to the dna and take it

RA000223

MLG000175

EXHIBIT 7



R



Rosie

Mar 12, 2017, 1:12 PM

How's baby and Alan

1:12 PM

Mar 13, 2017, 12:42 PM

How's baby and Alan

12:42 PM

Mar 13, 2017, 3:29 PM

DNA Testing Clinics

Collection	SampleID	Name	Relationship	Sample Type	Race
1/20/2017	FT_851AF	Ignacio Avila Jr.	Alleged Father	Standard	Unknown
1/20/2017	FT_851C	Alan Oliva	Child	Standard	

CONCLUSION:

The alleged father cannot be excluded as the biological father of the child. The probability of paternity is 99.99% as compared to an untested, unrelated man of the Caucasian population. A prior probability of 0.5 was assumed.

STATISTICS:

Paternity Likelihood: 3578742
Probability: 99.99%

I verify that I have reviewed and agree with the interpretation of the results.

Zach Gaskin, Chief Scientific Officer
Thursday, January 26, 2017

For Report Consultation Contact:
Absolute Drug & DNA Testing
620 S. 11th St. Ste. 120
Las Vegas, NV 89101
702-498-9405

DATA:

Marker	FT_851AF	FT_851C	PI
AMEL	X,Y	X,Y	N/A
D3S1358	15	15,16	1.97
D1S1656	16,18	12,18	50.00
D2S441	10	10,11	2.48
D10S1248	13,15	13,15	2.06
D13S317	10,12	9,12	0.81
Penta E	16	0	N/A
D16S539	12,13	11,13	1.49
D18S51	17	14,17	4.06
D2S1338	19,22	17,19	1.82
CSF1PO	11	11	3.14
Penta D	10	0	N/A
TH01	7,9,3	7,9,3	2.01
vWA	17	17,19	2.04
D21S11	29	29	4.88
D7S820	11,12	8,12	1.69
D5S818	11	11,12	1.27
TPOX	8,11	8,11	1.43
DY5391	9	0	N/A
D8S1179	13	13,15	1.54
D12S391	17,18	17,21	1.00
D19S433	14,15	13,2,14	0.73
FGA	24,26	24	3.64
D22S1045	0	0	N/A

3:29 PM



Text Message



RA000225



MLG000176



R

Rosie



Here it is so I can take a good look at it. Because the one your Roommate showed me was not real

3:29 PM

Oh yea n what proves me this is real if I never let you do it. Unless you did it behind my back but i don't think you would be that bad to do that. still

4:29 PM

doesn't prove anything only the kind of person that you are but anyways I'm gonna have my rm take another one infront of me cuz I'm tired of this n I'll

4:29 PM

let you know don't worry.

4:29 PM

Lol I did tell him I told him let's take one let's go to A lab and



Text Message



RA000226



MLG000177



Rosie



he said he didn't know why because he knows too it's not his... Why don't we all go to the lab I already did pm if twice the same one I took jazlynn. Why would I like you and him know about it anyways why are you even acting like if he's not mine you and he know.

4:33 PM

I told you before let me take one and you said no why because you and he probably is mine. I'm not trying to cause any problems but you eventually are the one causing these problems. And so what if he's mine than what? You don't care if he's mine or not because if you did you would have solved this a long time

4:37 PM



Text Message



RA000227



MLG000178



R



Rosie

have solved this a long time ago.

All I want to be is part of his life and I came to you because I felt like what if he's mine and ofcourse I did it behind your back because you would not let me take it. And why would I lie about it if you are the one hiding him from me and also if you did once with jazlynn now you did it with Alan. But moving foward and if you want I would be more than happy to take it again and again at the end he is 100 percent mine.

4:39 PM



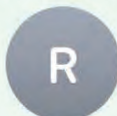
Text Message



RA000228



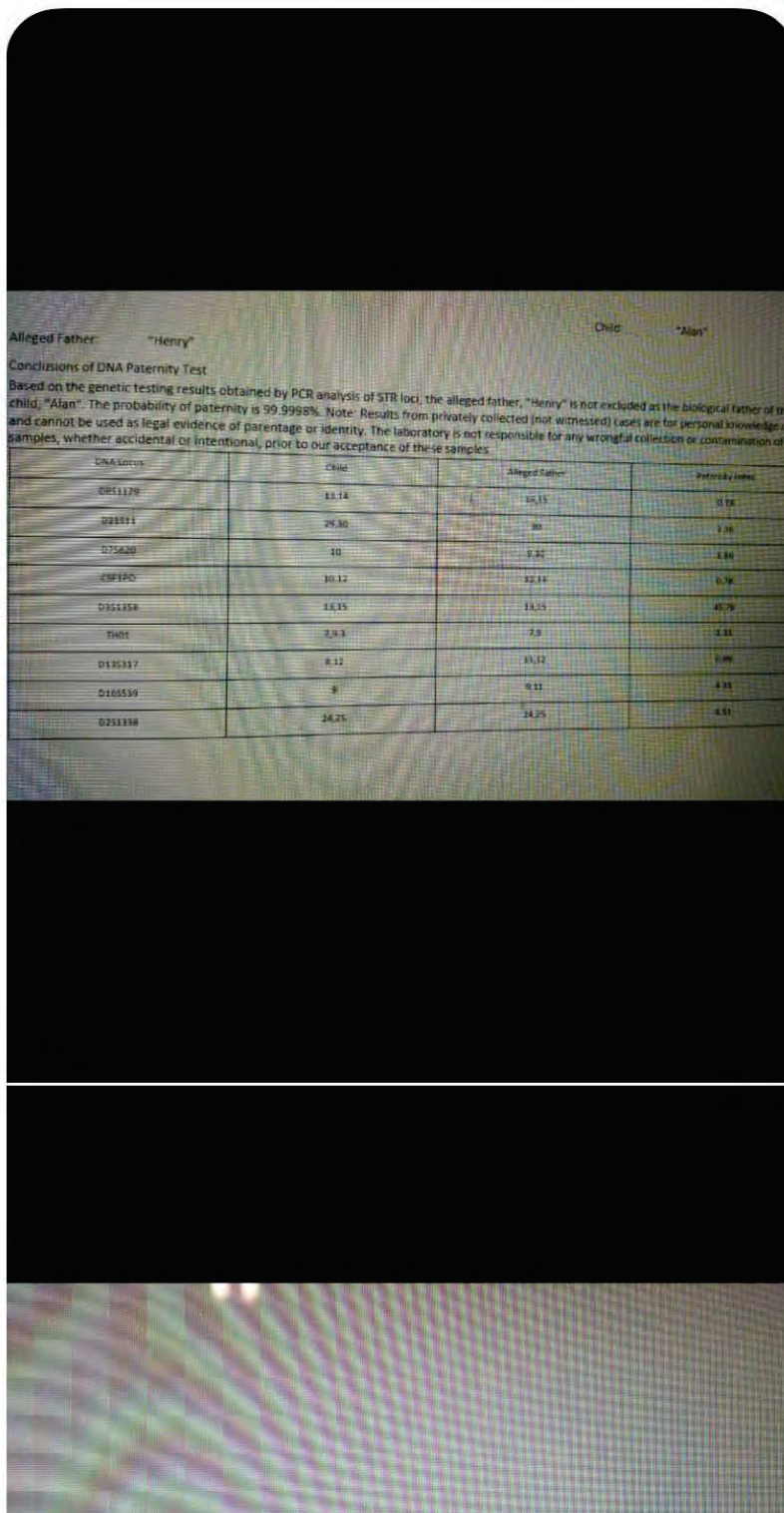
MLG000179



Rosie



and he is 100 percent mine.



4:40 PM



Text Message



RA000229

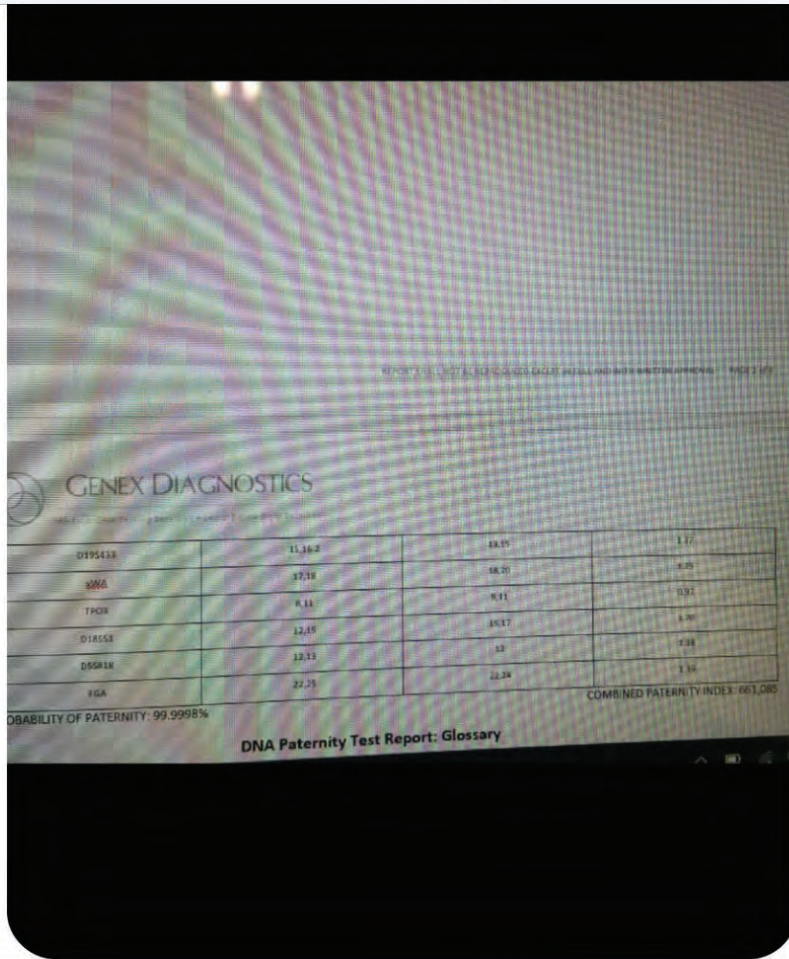


MLG000130



R

Rosie



4:40 PM

This is what your Roommate
sent me and compare to mine!
My DNA is more real than his

4:40 PM

Like I said if you want me to
take it in front of you guys
then let's go I'll even pay for it.
I don't need to hide anything.

4:42 PM



Text Message



RA000230



MLG000131



Rosie



I'll tell you what if he is not mine I will stop bothering you and just focus on our daughter jazlynn but if Alan is mine I won't stay quiet because I already missed alot of time.

4:46 PM

I'm sure you both know why are you guys acting like no one knows. And also all I want is to be part of his life and if I have to pay child support I have to pay which I don't care what I do care is getting this situation fix and move on towards the kids.

4:50 PM

Mar 14, 2017, 9:33 AM

Can I see baby for a couple of hrs?

9:33 AM



Text Message



RA000231



MLG000132



Rosie



Mar 14, 2017, 11:05 AM

Tomorrow

11:05 AM

How is she and alan

11:05 AM

Mar 15, 2017, 10:28 AM

12 at shell

10:28 AM

Mar 15, 2017, 11:59 AM

I'm here

11:59 AM

Mar 15, 2017, 2:43 PM

4 at shell?

2:43 PM

K

2:59 PM

I'm here

3:55 PM



Text Message



RA000232



MLG000133



Rosie



Mar 16, 2017, 12:32 PM

How's my baby and Alan doing?

12:32 PM

Mar 17, 2017, 11:03 AM

I'll be there at 12 at shell

11:03 AM

Can I take Alan for a bit?

11:35 AM

Mar 19, 2017, 12:21 PM

How's Alan? What time did you want baby?

12:21 PM

Mar 19, 2017, 1:49 PM

5

1:49 PM

Mar 19, 2017, 5:13 PM



Text Message



RA000233



MLG000134



Rosie



why wouldn't you want to work this out with me. You took him away from me for 5 years and you still don't want to fix it because you don't care

5:17 PM

I don't know stop saying that I know ok

5:17 PM

You do because you told me you were 100 percent he wasn't mine and I told you and him several time well let me see a Dna and you both didn't want to show me or let me do it. Til now you don't want to

5:18 PM

And also you told me you were not going to let me do it why because you knew he is mine

5:19 PM

So stop denying it!

5:19 PM



Text Message



RA000234



MLG000135



R



Rosie

Mar 19, 2017, 5:13 PM

When are we going to take a Dna again since you don't believe the one I took? We can do it this Tuesday at a lab so you can know that he is mine. Even though I know you both knew about it. So either we fix it ourselves or through court

5:13 PM

Court is ok with me

5:14 PM

Nothing new anyways

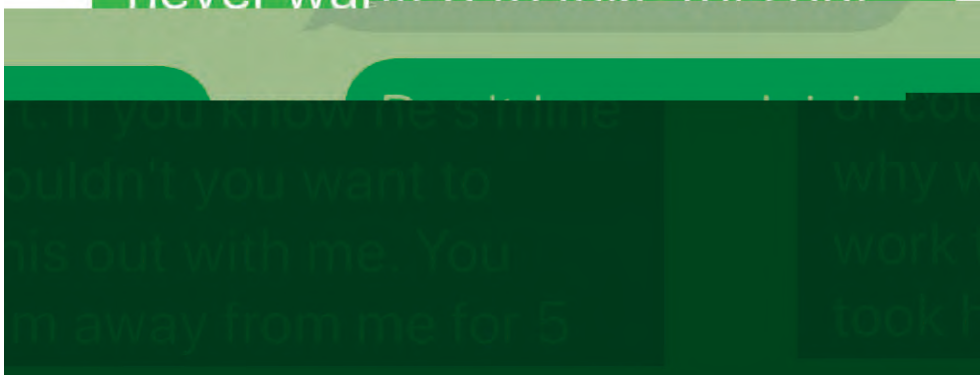
5:14 PM

Do whatever u want

5:15 PM

Don't be complaining that you never wanted to take this out

5:17 PM



Text Message

RA000235



MLG000136



R



Rosie

And I told you before if he's mine we can figure something out but NO you get upset and shut me down. It's only when you want too

5:21 PM

Cuz I saw his dna no cuz I just didn't want to. I don't even know who's lying now you or him. So I'm gonna figure that out soon.

5:21 PM

You don't know you are a mother you should know who you sleep with!!! Lol and also I am showing you a Dna I took through a lab it's so obvious you both are lying to me. 1) he don't want me to take it in a lab so you have several witnesses or 2) he don't want me to take it either why

5:24 PM



Text Message



RA000236



MLG000137



Rosie



because he don't know smh!
Well atleast I told you this time
because who knows I'm still
missing more time with him
but it's ok I will fix this myself

Well you can figure this out
but you rather wait why
because you don't want to
give me time with him

5:25 P

Just remember you lied about
our daughter now my SON! I
would have not been
bothering you at all SO TRUST
ME! I would have been quiet
but since now I know I am not
going to just stay still I will do
something about it

5:27 P

Why not I don't care it is what
it is if he's yours. I can't stop it.
But I have to know for sure

5:30 P



Text Message



RA000237



MLG000138



Rosie



it is mine & yours. I can't stop it.

But I have to know for sure first. And do whatever you want ok bye.

5:30 PM

You know he's mine it's like this why don't you let me take a dna? Lol

5:31 PM

You are going to be complaint because your family don't know so if it's not your time don't be complaint or getting mad

5:34 PM

Mar 20, 2017, 12:46 PM

How's my baby and Alan?

12:46 PM

Mar 21, 2017, 11:07 AM

12 at shell

11:07 AM



Text Message



RA000238



MLG000139



R

Rosie



Mar 21, 2017, 1:58 PM

What time did you want baby?

1:58 PM

430

2:38 PM

Mar 22, 2017, 1:43 PM

How's my baby and Alan?

1:43 PM

Mar 23, 2017, 10:53 AM

I forgot to ask you if you can take baby tomorrow for the weekend so I could get her next weekend instead. Yes or no ?

10:53 AM

No I'll get her next weekend

11:05 AM

And I'll pick her up at 12 at shell

11:06 AM



Text Message



RA000239



MLG000190



R

Rosie



K

11:06 AM

I can't give her to you at 12 but like at 2 and you can keep her till like 7

11:07 AM

Why not ? I'm around the area though. And that's the time I suppose to pick her up anyways

11:08 AM

Had an emergency

11:23 AM

So why you just telling me.

11:24 AM

Well I'll be there at 12 or I could go pick her up

11:31 AM

I'm with my family. look you can keep her till tomorrow. Please... understand. i let you know when I'm on my way. At

11:44 AM



Text Message



RA000240



MLG000191



R



Rosie

know when I'm on my way. At 2 cuz I gotta pick up kids anyways.

I understand but you could have told me earlier I would have left work early so you can be with your family

11:52 AM

Yea but it just happened all of a sudden sorry

11:53 AM

Mar 23, 2017, 1:24 PM

I'll pick her up around 2:40
yea I have to get my nephew and niece from school my sis just called

1:24 PM

How's Alan?

1:25 PM

OK good RM

1:28 PM



Text Message



RA000241



MLG000192



Rosie



I was wondering if we can take another DNA since you don't believe he's mine while I showed you he is. If we can take one tomorrow we can go to a lab and you can be there as my witness and take a DNA? I can also pay for it too because I don't want to miss more time pls

1:28 PM

I can't tomorrow cuz I'm gonna have breakfast with Alicia and Sergio is coming too for the weekend. So next week.

1:57 PM

So you rather have lunch with your " friends " than fixing this situation with our son whom I just found out about him a 99.99999 percent mine and you want to just not fix this

2:00 PM



Text Message



RA000242



MLG000193



Rosie



situation and make me miss more time with him am I correct?

Because if say he's not mine and you are sure you would let me do it right?

2:01 PM

Monday we can go

2:01 PM

You not answering my question

2:02 PM

You've ask me that same question allot of times

2:03 PM

But I can't till Monday ok

2:03 PM

And Monday you can't because you have other things to do right? Well on Monday at 12 you will meet me at the lab correct?

2:04 PM



Text Message



RA000243



MLG000194



R

Rosie



Yea well I thought u had send me to court already I was waiting for the papers

2:05 PM

Obviously you have been denying not to take a DNA with Alan because you knew he was mine and so I could miss more time you rather wait for me to go to court that way you can keep withholding him like how you did with our daughter right

2:08 PM

Im on my way to go pick her up now

2:15 PM

Almost there because traffic

2:41 PM

I'm here

2:47 PM



Text Message



RA000244



MLG000195



R



Rosie



12:53 PM

She's looks so cute

12:58 PM

Apr 12, 2017, 4:20 PM

I'm here

4:20 PM

How was Alan day of school

4:34 PM

I was wondering maybe I can
get Alan for Easter and baby

Text Message



RA000245



MLG000196



Rosie



get Alan for Easter and baby
that way I can spend time with
both of them? Grandma and
grandpa , uncles and aunties
would like to meet him please?

4:40 PM

I can't have family too n i can't
him till we confirm
ting or anything.
an u give me baby

5:23 PM

let you take h
it I'm not fight
What time ca
on Sunday?

At 4 Sunday?

5:41 PM

Is that ok

5:41 PM

5:47 PM

Yes thanks

or 13, 2017, 1:50 PM

ny baby and Alan

1:50 PM

How's r
doing?

Text Message



RA000246

ML0000197



R

Rosie



Apr 16, 2017, 7:23 PM

Thanks. Thanks for baskets
they liked them allot

7:23 PM

Your welcome and glad they
liked them

7:26 PM

Apr 17, 2017, 1:36 PM

How's my baby and Alan
doing?

1:36 PM

Good

2:34 PM

Apr 18, 2017, 10:50 AM

Be there at 12 at shell

10:50 AM

Apr 18, 2017, 12:28 PM

What time did she eat

12:28 PM



Text Message



RA000247



MLG000198



Rosie



good

2:40 PM

Apr 25, 2017, 10:04 AM

I was wondering if I could see
my baby for a couple of hrs

10:04 AM

Apr 25, 2017, 11:47 AM

I can't take her like at 1215 or
tomorrow better

11:47 AM

Can I get her tomorrow
instead I'm already on
Henderson

11:48 AM

ok

11:48 AM

I was looking at some pre
school classes for our baby
ages from 3-5 since new



Text Message



RA000248



MLG000199



R



Rosie

If you are moving out why don't you let me take care of our baby while you settle in is what I meant

12:17 PM

no it's ok I like taking her with me she helps me. but if I need you to take her I'll let you know.

12:20 PM

Ok

12:21 PM

How's my baby and Alan ?

12:21 PM

good

12:27 PM

Apr 26, 2017, 10:32 AM

12 at shell?

10:32 AM

k

10:51 AM



Text Message



RA000249



MLG000290



R



Rosie

ages from 3-5 since new registration is on May 13-16 I was wondering if maybe I can get baby more so I could take her to class or we can for just one hr every Monday Wednesday and Friday. They also have more activities maybe if you let me put her on different activities if you don't mind?

11:56 AM

well I'm moving right now let me settle in n well talk k

12:12 PM

Moving? Out of state?

12:12 PM

no

12:14 PM

Why don't you let me help you out take care of the baby while you settle in?

12:16 PM



Text Message



RA000250



MLG000291