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7 *Social Security Numbers pursuant to NRS 239B.030*

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Clerk of Supreme Court

8 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

9 **OFFICE OF THE CLERK**

10 IN THE MATTER OF THE  
11 GUARDIANSHIP OF THE PERSON  
12 AND ESTATES OF C.T.F. AND  
13 P.G.S., MINOR PROTECTED  
14 PERSONS.

**Supreme Court No. 83443**  
District Court Case No. PR-GU-18-67

**JOINT APPENDIX**  
**VOLUME 1**

15 Pursuant to NRAP 3E(d)(1), 3E(d)(4) and this Court's order dated July 21,  
16 2021, following is Appellant's Appendix in support of their Fast Track Statement.  
17 Parties met and conferred and agreed to file this as a joint appendix.  
18

19 DATED this 27th day of October, 2021.

20 AMENS LAW, Ltd.

21 

22 Debra M. Amens, Esq.  
23 Nevada Bar No. 12681  
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**VOLUME I**

**BATES PAGES**

Transcript August 5, 2020 ..... A-A0001-0072

"\"

FILED

1 CASE NO. PR-GU-18-49, PR-GU-18-56, PR-GU-18-67, 2021 PR-GU-18-67 37

2 DEPT. NO. 1

4th JUDICIAL DISTRICT COURT  
CLERK \_\_\_\_\_ DEPUTY JP

3

4 THE FOURTH JUDICIAL DISTRICT COURT THE STATE OF NEVADA

5

IN AND FOR THE COUNTY OF ELKO

6

BEFORE THE HONORABLE NANCY PORTER

7

DISTRICT JUDGE, PRESIDING

8

9 IN THE MATTER OF THE GUARDIANSHIP OF THE PERSON AND  
ESTATE OF

10

11 CARTER THOMAS FERGUSON (PR-GU-18-49);  
12 PAISLEY GRACE STONE (PR-GU-18-56);  
CARTER THOMAS FERGUSON and PAISLEY GRACE STONE  
(PR-GU-18-67),

13 MINOR PROTECTED PERSONS.

14

ORIGINAL

15

TRANSCRIPT OF RECORDED PROCEEDING

16

PETITION FOR GUARDIANSHIP

17

AUGUST 5, 2020

18

ELKO, NEVADA

19

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23

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25

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## 1 APPEARANCES:

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15 KRISTEN STONE (Mother)  
 16 KEVIN FERGUSON (Father of Carter Ferguson)

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## 1 TRANSCRIPT OF RECORDED PROCEEDINGS

2 THE COURT: We have three cases. The Case No.  
 3 PR-GU-18-49. In the matter of the guardianship of the  
 4 persons and estates, or estate, of Carter Ferguson.  
 5 Case No. PR-GU-18-67, which is in the matter of the  
 6 guardianship of the persons and estates of Carter  
 7 Thomas Ferguson and Paisley Grace Stone. Case No.  
 8 PR-GU-18-56, in the matter of the guardianship of  
 9 Paisley Grace Stone.

10 This is the time set for a hearing on competing  
 11 petitions for guardianship.

12 Mr. Gerber is present representing the  
 13 Fergusons and the McGrews. Ms. Amens is present  
 14 representing the Luceros. Mr. Loreman is present  
 15 representing Kristin Stone, the mother of the children.  
 16 Ms. Rodriguez is present representing the children.

17 We have the parties in the gallery because of  
 18 social distancing requirements. The bailiff and I set  
 19 it up this way so that you don't all have to wear masks  
 20 all day long. That's why we're doing it this way.

21 Counsel, if at any time you need to speak to  
 22 your clients, or the parties, if at any time you need  
 23 to speak to your attorney, you just need to say so, and  
 24 we'll take a break so that you can do it.

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1 You know, ordinarily you are sitting right by  
2 your attorney when we're in court. But to keep  
3 everybody safe, we're doing it this way. But I don't  
4 want you to be prohibited from talking to your  
5 attorney, if you need to.

6 So for those of you, the parties who are in the  
7 back, just wave at me and we'll take a break so you can  
8 talk to your attorney.

9 All right. Mr. Loreman, yesterday you  
10 submitted a motion to withdraw. Would you like to make  
11 that motion orally?

12 MR. LOREMAN: Yes, Your Honor, I move to  
13 withdraw at this time. Since I was appointed in this  
14 case, my meetings with my client were the initial and  
15 during court one time, when we had court here.  
16 There -- there has been no -- no -- at no time has my  
17 client kept in contact with me, or by phone, or letting  
18 me know of an address to contact her.

19 My understanding is that she's here today.  
20 But, again, I haven't had any opportunity to discuss  
21 any of this case with her.

22 It just -- it's like every time we go to a  
23 hearing, then all of the sudden I -- she falls off the  
24 earth. And I have no ability to do anything in this  
25 case. And I think it would be best if I withdraw.

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1 At this point -- well, as this Court knows, I  
2 was appointed for this case without remuneration on  
3 this. So the many hours that would require actually to  
4 do something, that I have no -- no way of knowing any  
5 alignments or anything regarding the situation with  
6 regard to my client. And the things that I did ask to  
7 be done, she has not.

8 THE COURT: Okay.

9 MR. LOREMAN: And so I think the relationship  
10 is a complete failure.

11 THE COURT: All right. Before I address  
12 Ms. Stone, Counsel, do you have any objections to  
13 Mr. Loreman's withdrawal? Ms. Amens?

14 MS. AMENS: Yes, Your Honor. Actually, I do  
15 object. I do think that Kristin needs counsel to -- to  
16 speak with her. I totally understand Mr. Loreman's  
17 position. And, you know, I've had situations where you  
18 can't talk with your client, and then you can't  
19 represent her. But she has an important voice here,  
20 and I think she needs to be represented.

21 THE COURT: Ms. Rodriguez?

22 MS. RODRIGUEZ: I don't object, Judge. I mean,  
23 Mr. Loreman has made numerous efforts. We've  
24 communicated frequently about his attempts. I've given  
25 information back and forth.

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1 THE COURT: Okay. Mr. Gerber?

2 MR. GERBER: I have no objection. I just would  
3 ask that it not delay these proceedings.

4 THE COURT: Mr. Bailiff, would you get  
5 Ms. Stone a microphone, please? She's in the back.  
6 (Bailiff complied.)

7 THE COURT: Ms. Stone, were you able to hear  
8 what Mr. Loreman says?

9 MS. STONE: Yes.

10 THE COURT: You understand he no longer wants  
11 to represent you?

12 MS. STONE: Yes.

13 THE COURT: What is your feeling about that?

14 MS. STONE: I think there's no case.

15 THE COURT: You think there's no case?

16 MS. STONE: Yeah, I don't understand what's  
17 going on.

18 THE COURT: Do you want Mr. Loreman to be your  
19 attorney?

20 MS. STONE: Uhm, he knows as much as I do. We  
21 don't know what's going on.

22 THE COURT: Have you -- he says you have not  
23 stayed in contact with him; is that correct?

24 MS. STONE: Yes.

25 THE COURT: Mr. Loreman, do you wish to be

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1 heard any further?

2 MR. LOREMAN: No, Your Honor. I submit it.

3 THE COURT: Okay. I'm going to allow  
4 Mr. Loreman to withdraw, Ms. Stone. You did not keep  
5 in touch with him. That is your obligation. He has  
6 been your free attorney. I'm not going to make him  
7 continue to do that when he hasn't had your  
8 cooperation. So you're going to have to look out for  
9 your own interests here today.

10 MS. STONE: Okay. I just want me and my kids  
11 to be -- remain at my grandma's house, so I don't  
12 really understand what's going on.

13 THE COURT: All right. It's possible someone  
14 will call you as a witness, or you can testify  
15 yourself, if that's what you choose to do.

16 So because you're representing yourself,  
17 Ms. Stone, you will -- I'll give you the opportunity,  
18 you don't have to, but you can come forward and sit at  
19 the counsel table, if that's what you want to do, or  
20 you can stay there with your grandparents.

21 MS. STONE: I want to stay here with my  
22 grandparents.

23 THE COURT: All right. I don't have an order  
24 here in the file I don't think, Mr. Loreman.

25 MR. LOREMAN: I submitted an order.

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1 THE COURT: Yeah. I have it. I'm signing it  
2 right now. So you are excused. Thank you for your  
3 efforts.  
4 MR. LOREMAN: Thank you, Your Honor.  
5 THE COURT: We do -- I have a witness sitting  
6 here, Geri Goddard -- or an order sitting here to have  
7 Geri Goddard testify telephonically. I don't know who  
8 submitted that motion. It looks like you did,  
9 Ms. Amens.  
10 MS. AMENS: Yes, Your Honor.  
11 THE COURT: It was just filed yesterday  
12 afternoon.  
13 Where is she?  
14 MS. AMENS: She is in Reno. Uhm, and  
15 Mr. Gerber and I met on Friday and conferred about  
16 this, the logistics here. She would be scheduled to  
17 appear tomorrow at 9:30 when we started.  
18 THE COURT: Is she the therapist who testified  
19 at our last hearing by phone?  
20 MS. AMENS: Yes, Your Honor. Yes.  
21 THE COURT: Is there any objection to her  
22 testifying by phone?  
23 MR. GERBER: No, Your Honor.  
24 MS. RODRIGUEZ: Will it be video, or just plain  
25 phone?

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1 MS. AMENS: Right now we've set it up, she can  
2 do either.  
3 THE COURT: We can do it, I believe, by Zoom  
4 and get it up on the big screen now, right?  
5 THE CLERK: Yes. Yes. We can. And everything  
6 comes through the overhead. We'll be fine.  
7 THE COURT: All right. So we'll need to get a  
8 number for her, or an e-mail address so we can send her  
9 the Zoom invitation.  
10 Does that work for you?  
11 MS. AMENS: That will work for her, as well.  
12 THE COURT: Mr. Gerber?  
13 MR. GERBER: Yes, ma'am.  
14 THE COURT: All right. Ms. Stone, do you care  
15 if Ms. Goddard testifies by video rather than being  
16 here?  
17 MS. STONE: Uhm, no.  
18 THE COURT: She didn't have a microphone for  
19 the record. Ms. Stone has said no.  
20 So I am going to sign that order. We'll get  
21 her set up on Zoom.  
22 It looks like we have one witness in the  
23 courtroom, correct?  
24 MR. GERBER: Julie Thompson is my assistant  
25 from my office.

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1 THE COURT: Oh, she is. All right. So she's  
2 helping you here today?  
3 MR. GERBER: Yes.  
4 THE COURT: All right. We have three competing  
5 petitions. I don't know, Counsel, if you all discussed  
6 who's going to go first. It doesn't matter to me.  
7 Ms. Amens has her witness set at -- one in the morning,  
8 anyway.  
9 MR. GERBER: I have three witnesses that are  
10 waiting in the lobby. I was planning to put them on  
11 first this morning. Mr. -- Detective Mariah Drake from  
12 the Elko County Sheriff's Office, Brenda Kelley-Brace,  
13 and Lori Moorehead from the Division of Child and  
14 Family Services.  
15 THE COURT: All right. And then what's your  
16 plan -- well, that's probably going to take the  
17 morning.  
18 MR. GERBER: And then I was -- and I don't  
19 expect to take a lot of time with them.  
20 Then I was planning to call my parties, John  
21 and Maria McGrew, Vicky and Don Ferguson. And --  
22 and -- and possibly Kevin Ferguson. He's working, but  
23 he's expected to be present during these proceedings at  
24 some point.  
25 THE COURT: All right. You do not represent

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1 him, correct?  
2 MR. GERBER: I do not.  
3 THE COURT: All right. So it sounds like  
4 you're planning to put on your case today, and it looks  
5 like, Ms. Amens, your case will be tomorrow?  
6 MS. AMENS: Yes, Your Honor.  
7 THE COURT: All right. Call your first  
8 witness, Mr. Gerber.  
9 MR. GERBER: I call Detective Mariah Drake.  
10 THE COURT: We are going to put the witnesses  
11 in the jury box. I know that makes it a little awkward  
12 for you, Mr. Gerber. But, again, so that we don't all  
13 have to wear masks. Okay. Yeah. We'll spread out a  
14 little bit here.  
15 Ms. Stone, are you going to want to ask  
16 questions of the witnesses?  
17 MS. STONE: Yes.  
18 THE COURT: Yes?  
19 MS. STONE: Yes.  
20 THE COURT: All right.  
21 (Witness sworn.)  
22 THE COURT: Thank you.  
23 Please state and spell your name.  
24 THE WITNESS: Mariah Drake. M-a-r-i-a-h. Last  
25 is D-r-a-k-e.

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1 THE COURT: Thank you.  
2 Go ahead, Mr. Gerber.  
3 MR. GERBER: Thank you, Your Honor.  
4  
5 MARIAH DRAKE,  
6 the witness herein, being first duly sworn, testified  
7 as follows:  
8  
9 DIRECT EXAMINATION  
10 BY MR. GERBER:  
11 Q Ms. Drake, what's your position at the Elko  
12 County Sheriff's Office?  
13 A I'm a detective.  
14 Q How long have you held that position?  
15 A Uhm, I've been a detective with the sheriff's  
16 office for over four years.  
17 Q And during that time, approximately how many  
18 cases of child abuse or neglect have you investigated?  
19 A Oh, I have no idea. Too many to count.  
20 Q How many on a monthly or a yearly basis? Can  
21 you give us an indication?  
22 A Uhm, I can say last month, I think I had four  
23 or five separate sexual assault or child abuse cases.  
24 Those are primarily what I focus on. But I'm assigned  
25 other cases, as well.

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1 Q Okay. Were you assigned to investigate a case  
2 relating to these parties, just within the last couple  
3 of months?  
4 A Not within the last couple of months.  
5 Q When was the last time that you remember?  
6 A I believe there was a case I looked in to in  
7 2018, and a case that I looked in to in 2019.  
8 Q Okay. Were you called to investigate a bruise  
9 that was reported this year on Paisley Stone?  
10 A This year? No.  
11 Q You weren't apart of that one?  
12 A No.  
13 Q The cases that you were investigating, can you  
14 tell the Court what happened in those investigations?  
15 A Uhm, in one of the investigations there was,  
16 uhm, an allegation that there was -- Paisley was taken  
17 to the emergency room to be looked at for a possible  
18 burn. When I got contact with the case, I had  
19 contacted Ms. McGrew. She signed over medical record  
20 releases. I got medical records from Dr. Hernandez for  
21 the follow-up appointment. And I got medical records  
22 from Northern Nevada Hospital with discharge paperwork,  
23 I believe. And it -- in the medical records it was not  
24 determined to be a burn, but it was determined, I  
25 believe, to be cellulitis.

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1 And then another case that I looked in to,  
2 there was allegations that there was a scratch on  
3 Paisley's butt, and that Paisley had been taken to --  
4 not doctor, Troy Eden to be examined. And Troy Eden  
5 didn't find any evidence of child abuse. Just -- and  
6 so I had gotten that information from the Division of  
7 Child and Family Services. So nothing further after  
8 both those.  
9 Q So did you find any allegation of abuse or  
10 neglect in either of those cases?  
11 A No.  
12 Q Who was the reporting party in both of those  
13 cases?  
14 A I believe the Luceros were the reporting  
15 parties, but I dealt with Ms. McGrew. So...  
16 Q Ms. McGrew was the party that was alleged to  
17 have been the perpetrator in both of those cases,  
18 correct?  
19 A Yes.  
20 Q But you found no evidence of abuse or neglect?  
21 A No.  
22 Q And in both cases, did the Luceros take Paisley  
23 directly to the doctor?  
24 A I believe -- I know Paisley was taken to the  
25 hospital for the burn, the suspected burn, and I know

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1 she was taken to see Troy Eden for the scratch on her  
2 butt. Uhm, I don't know if it was immediately or not.  
3 Q During this investigation, did you have  
4 opportunity to visit the Lucero home?  
5 A No.  
6 Q Did you have an opportunity to interact with  
7 Michael or Pam Lucero?  
8 A Not during these investigations, no.  
9 Q Okay. Did you have an opportunity to visit the  
10 McGrew home?  
11 A Yes. I went there once.  
12 Q Okay. And who did you interact with there?  
13 A Maria McGrew.  
14 Q Was there anything that you observed at the  
15 home that would be significant to report?  
16 A No.  
17 Q What did you observe there?  
18 A I walked in. I saw a living area, dining area,  
19 kitchen. I believe she had a chair for Paisley to sit  
20 while she had snacks, and there may have been an area  
21 with toys. But Paisley, I believe at the time, was  
22 napping, so I didn't even go through the rest of the  
23 house.  
24 Q Okay. Did there appear to be anything  
25 suspicious in the home?

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1 A No.  
2 Q Did there -- did it appear that Paisley's needs  
3 were being met in that home?  
4 A Yes.  
5 Q In interacting with Maria McGrew, do you feel  
6 that she was concerned about Paisley's care?  
7 A Yes.  
8 Q And that she was, based on your observations,  
9 an appropriate caregiver at that time?  
10 A Yes.  
11 MR. GERBER: Thank you, Judge. I have no  
12 further questions.  
13 THE COURT: Ms. Amens.  
14 MS. AMENS: Yes, Your Honor.

CROSS EXAMINATION

17 BY MS. AMENS:  
18 Q Good morning, Detective Drake.  
19 A Good morning.  
20 Q So you were not involved with, uhm, a situation  
21 this year in regards to any kind of bruising on --  
22 A No.  
23 Q -- on Paisley?  
24 When you -- you had indicated that the Luceros  
25 may have been the reporting party. Do you know that

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1 for sure?  
2 A I would have to refer to my reports to -- to  
3 know that.  
4 Q Okay.  
5 A And I --  
6 Q And you never actually went and visited with  
7 them about their concerns, specifically?  
8 A No. The reports were forwarded to me. They  
9 were initially taken by other deputies.  
10 Q Okay.  
11 A And so I got them after the fact. And after I  
12 made follow-up conversations with DCFS on the scratch  
13 incident, and they determined they weren't opening a  
14 case. They had already spoken with Troy Eden, that  
15 investigation didn't go any further.  
16 And then I only had contact with Ms. McGrew on  
17 the allegations of the burn. Because she had Paisley  
18 at the time and would sign medical records to be  
19 released to me.  
20 Q Okay. Did you actually see pictures of the  
21 burn?  
22 A Uhm, I believe I saw pictures of red marks.  
23 But, again, you know, they -- when they were taken, I  
24 don't believe they were taken with or without scales.  
25 I -- so --

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1 MS. AMENS: Okay. Your Honor, I would like to  
2 approach?  
3 THE COURT: Hand whatever you need to the  
4 bailiff, please.  
5 MS. AMENS: Okay. Hold on for just a second.  
6 I have provided her what's been premarked as I.  
7 Could I see that real quickly and see if that's  
8 correct?  
9 (Bailiff complied.)  
10 UNIDENTIFIED SPEAKER: (Inaudible).  
11 MS. AMENS: Yeah, I think they are.  
12 Can you see if she recognizes that, if that's  
13 what she saw before?  
14 (Bailiff complied.)  
15 Q BY MS. AMENS: Is that what you saw before? Do  
16 you recall?  
17 MS. RODRIGUEZ: May I ask for the record what  
18 we're looking at, Judge?  
19 THE COURT: That is -- may Ms. Rodriguez look  
20 at that, please?  
21 MS. RODRIGUEZ: 29 and 30. Bates stamped 29  
22 and 30.  
23 MS. AMENS: Yeah. But I don't think she can --  
24 so I'm not going to move for the admittance with her.  
25 MS. RODRIGUEZ: (Inaudible).

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1 MS. AMENS: What's that?  
2 All right. I'm not going to move for the  
3 admittance of that, because she didn't recognize it.  
4 THE COURT: It hasn't been marked, correct?  
5 MS. AMENS: Correct.  
6 Q BY MS. AMENS: Uhm, so when you met with Maria,  
7 were you able to talk with her about, kind of, how she  
8 normally would discipline a child?  
9 A Uhm, I'm not sure that we talked about  
10 discipline. I know, uhm, we talked about food  
11 regarding Paisley, because the weight -- Paisley's  
12 weight was a concern. And that I believe she said she  
13 didn't provide her with a lot of juice and stuff. They  
14 tried to have her drink water and stuff like that and  
15 have healthier snacks.  
16 Because I think at some point a doctor or a  
17 family physician for Paisley had documented that she  
18 was overweight for her size.  
19 Q Did Ms. McGrew, Maria, is she the one that  
20 brought that issue up?  
21 A Yes.  
22 Q That wasn't an issue that you came to her  
23 about?  
24 A No.  
25 Q So you don't know how she disciplined --

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1 A No.  
2 Q -- Paisley? That wasn't something you followed  
3 up on?  
4 A No.  
5 Q Were there other children in the home?  
6 A In the McGrew home?  
7 Q In the McGrew home.  
8 A I'm not sure if she had other children in the  
9 home. She may have had other children, but I don't --  
10 I didn't interact with other children while I was  
11 there.  
12 Q Okay. Okay. Did you have any follow-up visits  
13 with the people at DCSF [sic] on the outcome of their  
14 investigation?  
15 A No. The only time I had a conversation was  
16 regarding what information they had received from  
17 Troy Eden, and the fact that they were not opening an  
18 investigation on that allegation based off the  
19 information from Eden. And that's where it stopped.  
20 Q And then you closed your case?  
21 A Yes.  
22 Q You didn't forward it forward?  
23 A Yeah.  
24 MS. AMENS: Okay. No further questions.  
25 THE COURT: Ms. Stone, do you have any

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1 questions for Detective Drake?  
2 MS. STONE: Yes.  
3 THE COURT: Wait a minute. Let the bailiff get  
4 you a microphone.  
5 All right. Go ahead.  
6  
7 CROSS EXAMINATION  
8 BY MS. STONE:  
9 Q How come know one knew what happened, and no  
10 one could -- none of the -- none of the parents, or  
11 guardians, or grandparents, or whatever, could tell  
12 anybody what happened?  
13 A I can't answer why --  
14 Q And why wasn't the mom notified when it  
15 happened?  
16 A From my understanding, I thought the -- the  
17 grandparents were the guardians, so they had custody --  
18 Q None of them knew or could tell me what  
19 happened to my daughter, and they're fighting for  
20 grandparents rights, or whatever, but no one knew what  
21 happened when she was hurt?  
22 A I can't -- I can't answer why they didn't know  
23 what happened and not them.  
24 MS. STONE: (Inaudible).  
25 THE COURT: Any other questions, Ms. Stone?

PAGE 23

1 MS. STONE: No.  
2 THE COURT: Ms. Rodriguez, cross examination.  
3 MS. RODRIGUEZ: Thank you, Judge.  
4  
5 CROSS EXAMINATION  
6 BY MS. RODRIGUEZ:  
7 Q Detective Drake, have you ever had -- have you  
8 ever had cause to go to the McGrew home prior to the  
9 visit with Paisley, concerning Paisley?  
10 A No.  
11 Q Have you ever had cause to go the Luceros prior  
12 to this incident with Paisley?  
13 A No.  
14 MS. RODRIGUEZ: Nothing further.  
15 THE COURT: Redirect, Mr. Gerber?  
16 MR. GERBER: I have no further questions.  
17 THE COURT: Does anybody need this witness  
18 retained?  
19 MR. GERBER: No, Your Honor.  
20 MS. AMENS: No, Your Honor.  
21 THE COURT: Thank you, Detective. You are  
22 excused.  
23 THE WITNESS: Thank you.  
24 (The witness left the stand.)  
25 THE COURT: Your next witness, Mr. Gerber?

PAGE 24

1 MR. GERBER: I call Brenda Kelley-Brace.  
2 THE BAILIFF: Who was that?  
3 MR. GERBER: Brenda Kelley-Brace.  
4 (Witness sworn.)  
5 THE COURT: You may be seated.  
6 Please state and spell your name.  
7 THE WITNESS: Brenda Kelley-Brace.  
8 B-r-e-n-d-a. Kelley, K-e-l-l-e-y, hyphen, B-r-a-c-e.  
9 THE COURT: Thank you.  
10 Go ahead, Mr. Gerber.  
11 MR. GERBER: Thank you, Your Honor.  
12  
13 BRENDA KELLEY-BRACE,  
14 the witness herein, being first duly sworn, testified  
15 as follows:  
16  
17 DIRECT EXAMINATION  
18 BY MR. GERBER:  
19 Q Do you prefer to be called Ms. Kelley-Brace, or  
20 how do you prefer to be addressed?  
21 A Just "Brace."  
22 Q Okay. Ms. Brace, how long have you been  
23 employed with the Division of Child and Family Services  
24 in Elko, Nevada?  
25 A 20 months.

PAGE 25

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1 Q And where were you employed before that?

2 A Spokane, Washington.

3 Q Okay. What is your training or education?

4 A I have a bachelor degree in sociology and a

5 master's degree in criminal justice.

6 Q What is your position at the local office here?

7 A I am a Case Management Specialist 2.

8 Q Okay. Did you have occasion to investigate

9 or -- or have interaction with Paisley Stone regarding

10 an alleged bruise that happened this year?

11 A Yes.

12 Q Okay. Can you tell the Court what happened in

13 that investigation? What was your involvement?

14 A We received a report on June 15th, 2000 [sic],

15 regarding physical abuse. I investigated by going out

16 to the home of, uhm, Mr. and Mrs. Lucero on the 16th of

17 June and interviewed Paisley.

18 Q Okay. And to continue, what else happened in

19 that investigation?

20 A So I went out and talked to Paisley regarding

21 the bruise. That investigation happened face-to-face,

22 privately in her bedroom at Mr. and Mrs. Lucero's home.

23 I started out with just general questions, uhm,

24 talking to Paisley. And those general questions were

25 how, again, how her summer was going, who did she like

PAGE 26

1 to play with, what kind of things did she like to eat,

2 what kind of toys did she like to play with.

3 And then we got in to her being over at her

4 Grandma and Grandpa McGrew's house, and then what

5 happened when she got in to trouble over there at their

6 house.

7 And she stated that she usually got put in

8 timeout. She would have toys taken away from her. And

9 then when she got in really trouble, she got spanked

10 with a wooden spoon.

11 Q Okay. And -- and did you have a chance to

12 observe the bruise on her buttocks?

13 A I did. At the end of the conversation, I asked

14 her to please lower her pants to allow me to observe

15 the bruise.

16 Q And what did you observe about the bruise?

17 A I observed the bruise as being a light

18 yellowish/brownish color, so it was starting to heal.

19 It was in the healing stages. It was about four inches

20 long, going horizontally, and about one-inch wide.

21 Q Did Paisley know that she had a bruise?

22 A Yes.

23 Q Uhm, and did -- did you make any conclusions in

24 your investigation of whether that was caused by abuse

25 or neglect?

PAGE 27

1 A My conclusion was that it was not caused by a

2 whipping spoon. Uhm, because a whipping spoon would

3 have made a round mark and not a long mark.

4 Q Okay. In the course of your investigation, did

5 the McGrews explain to you what happened to Paisley to

6 cause the bruise?

7 A Yes. Paisley had fallen on the hearth, uhm,

8 that surrounds the wood stove.

9 Q Okay. And did you have a chance to look at the

10 hearth?

11 A Yes. That was the first thing I noticed when I

12 walked in to their home.

13 Q Based on your investigation, was the bruise

14 consistent with a fall on the hearth?

15 A Yes.

16 Q And did you find that the report was

17 substantiated or unsubstantiated?

18 A I unsubstantiated that.

19 Q And who was the reporting party in that case?

20 MS. RODRIGUEZ: I'm gonna object, Judge.

21 THE COURT: Just a moment. She can't answer

22 that, Mr. Gerber, by statute.

23 Q BY MR. GERBER: During the course of your

24 investigation, did you have a chance to observe the

25 Lucero home?

PAGE 28

1 A Yes, I did.

2 Q Did you also have a chance to observe the

3 McGrew home?

4 A Yes, I did.

5 Q How many visits did you make to each home?

6 A I was in the Lucero home once, and I was in the

7 McGrew home twice.

8 Q Okay. Can you explain to the Court what you

9 observed while in the Lucero home?

10 A Uhm, I observed the Lucero home to -- it was

11 clean, but it was chaotic.

12 Q Okay. And why do you say it was chaotic?

13 A There was people in the home, uhm, in and out

14 of the home, kids running around.

15 Q A lot of traffic in and out?

16 A Yes.

17 Q And what ages were these people in and out?

18 A Uhm, they were -- there was other toddler

19 children. There was a newborn infant, plus other

20 adults.

21 Q Any teenagers?

22 A I'm sorry?

23 Q Any teenagers?

24 A Uhm, I do know there was -- there was a --

25 teenagers living in the home, but I don't believe they

PAGE 29 A-A0008

1 were there at the time.

2 Q And when you say "adults," were they young  
3 adults, middle-aged adults, older adults?

4 A I believe they were, uhm, mid adults, in their  
5 20s.

6 Q Okay. And were they still residing in the  
7 home?

8 A Uhm, yes.

9 Q Approximately how many people would you say  
10 were in the home during your visit?

11 A During my visit there was, uhm, probably  
12 (unintelligible) seven, I believe.

13 Q And what time of the day was that?

14 A This was, uhm, two o'clock in the afternoon.

15 Q Were -- were any of them employed at that time?

16 A That, I can't remember.

17 Q Okay. Was Michael Lucero present?

18 A No, he was not.

19 Q Okay. So -- and to your knowledge, were these  
20 seven people residents of the home?

21 A That, I do not know.

22 Q Uhm, so it was two o'clock.

23 Did -- did you observe any routines or patterns  
24 in the home, like eating schedules or what they -- what  
25 the household was doing at that time?

PAGE 30

1 A Uhm, there was a young woman, uhm, on the couch  
2 with her newborn child. And then they were bringing --  
3 the other people were bringing Paisley fast food.

4 Q Okay. This was at two o'clock in the  
5 afternoon?

6 A Yes.

7 Q Was it lunch or dinner, to your knowledge?

8 A At that (unintelligible) I do not know.

9 Q Okay. And what did they serve Paisley for  
10 lunch or dinner?

11 A It was a hamburger and fries, I believe.

12 Q Okay. And do you know from which restaurant?

13 A I do not know.

14 Q Okay. And what did you observe about Paisley's  
15 eating habits?

16 A She got up there at the table with the rest of  
17 them. She was reaching over the table wanting ketchup,  
18 uhm, sitting on her knees, reaching over across the  
19 table demanding more ketchup, not sitting properly.

20 Q Okay. And do you know how much quantity of  
21 food she ate in that sitting?

22 A I have no idea. That was about the time I  
23 left.

24 Q Okay. Was she served a full-sized hamburger?

25 A Honestly, I don't know. She had her back to

PAGE 31

1 me.

2 Q Okay. But french fries?

3 A Yes.

4 Q Anything else remarkable that you saw in the  
5 home on that occasion?

6 A No.

7 Q When you went to the McGrew home, can you  
8 describe what you observed at the McGrew home in  
9 contrast to the Lucero home?

10 A It was very clean, very well organized. She  
11 stated how that they all sat at the dinner table  
12 together. They had a certain amount -- a certain time  
13 they all sat around. Nobody got up from the table.  
14 They ate at the -- ate together. Nobody got up and  
15 came back and sat down to eat. You know, it was a well  
16 organized dinnertime.

17 Paisley had three square meals a day. She had  
18 snack. But she was not allowed to get up and play  
19 around and eat, and then come back and then eat again.

20 Q Was the mood calm or chaotic?

21 A It was very calm.

22 Q Okay. Who was present at the house when you  
23 were there?

24 A It -- her and I had the conversation. She had  
25 her other two grandsons there with her daughter,

PAGE 32

1 Danielle, and they were outside

2 Q Okay. And did you have a chance to meet  
3 John McGrew?

4 A I did. He came towards the end of my  
5 assessment on the 16th. He was actually very surprised  
6 to see me because he didn't know anything about the  
7 report. And it wasn't until the 26th, uhm, when I had  
8 a chance to sit down and interview him.

9 Q And what did you learn from that interview?

10 A I learned from him that he was, again, very  
11 shocked to learn about the report and the allegations,  
12 and that he wants to keep Paisley in his home. He  
13 thinks that is the best place for Paisley to be able to  
14 grow up and learn the responsibilities and to be  
15 (unintelligible).

16 MR. GERBER: Okay. Thank you, Your Honor. I  
17 have no further questions of this witness.

18 THE COURT: Cross examination, Ms. Amens?

19 MS. AMENS: Yes, Your Honor.

20  
21  
22  
23  
24  
25

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CROSS EXAMINATION

1 BY MS. AMENS:  
 2 Q Ms. Brace, other than this one incident, have  
 3 you had a chance -- have you been to either of the  
 4 homes previous?  
 5 A I've been to (unintelligible) Luceros home  
 6 before, yes.  
 7 Q And what was the reason for that?  
 8 A There was allegations against one of her  
 9 daughters.  
 10 Q When was that?  
 11 A I believe that was back in February.  
 12 Q That would be February of --  
 13 A -- 2020.  
 14 Q One of her -- this was -- I'm sorry. I may  
 15 have misunderstood.  
 16 This was at the Luceros' home?  
 17 A Yes.  
 18 Q Was it somebody that was living at the Luceros'  
 19 home?  
 20 A Yes.  
 21 Q And you said that you had gone to the McGrews  
 22 home two times?  
 23 A Yes.  
 24 Q Is that correct?

PAGE 34

1 A Yes.  
 2 Q As part of this investigation?  
 3 A Yes.  
 4 Q Uhm, so I was a little confused. You talked  
 5 about dinnertime. Was one of the visits during  
 6 dinnertime?  
 7 A At which home?  
 8 Q At the McGrews.  
 9 A No.  
 10 Q Okay. I thought you said they were all sitting  
 11 down at a meal.  
 12 What meal were they sitting down at?  
 13 A I need -- no, Pam Lucero was feeding Paisley at  
 14 two o'clock in the afternoon.  
 15 Q Okay. But when you were talking about the  
 16 McGrews' home --  
 17 A No, she was telling me --  
 18 Q So you did not observe that?  
 19 A No.  
 20 Q Okay. So you're just going off of them --  
 21 A What Mrs. McGrew said.  
 22 Q -- telling you what actually happens?  
 23 A Yes.  
 24 Q So wasn't it at the Luceros' home they were  
 25 sitting down for this meal at 2 p.m.?

PAGE 35

1 A Yes.  
 2 Q Okay. So they were also sitting down for a  
 3 meal together?  
 4 A Yes.  
 5 THE COURT: Just a minute. Ms. Stone, were you  
 6 trying to get my attention?  
 7 MS. STONE: Oh, no.  
 8 THE COURT: Okay. Go ahead.  
 9 Q BY MS. AMENS: All right. And you indicated  
 10 that there were seven people at the Luceros' home,  
 11 correct?  
 12 A Yeah.  
 13 Q And then you counted up five people at the  
 14 McGrews' home; is that correct?  
 15 A Yeah.  
 16 Q Two grandsons.  
 17 Was there only two or was there three?  
 18 A I only saw two.  
 19 Q Okay. And what were their ages?  
 20 A Uhm --  
 21 Q About.  
 22 A About seven, eight years old.  
 23 Q Okay. Both of them or --  
 24 A Yeah.  
 25 Q Uhm, did you get introduced to the -- to the

PAGE 36

1 grandsons?  
 2 A Uhm, I -- I did briefly before they went  
 3 outside.  
 4 Q So was one of them, uhm, named Braxton?  
 5 A I believe so.  
 6 Q And you said that he's seven.  
 7 How about Bryson?  
 8 A Yeah.  
 9 Q Bryson was there?  
 10 A Yeah.  
 11 Q And you said that he's seven or eight?  
 12 A Yeah.  
 13 Q Could he be more like four or five?  
 14 A He could have been. I -- like I said, they  
 15 went outside to play while I was talking to --  
 16 Q Okay.  
 17 A -- Maria.  
 18 Q Okay. When you visited with the McGrews, was  
 19 Paisley there?  
 20 A No.  
 21 Q So you didn't actually observe Paisley in the  
 22 McGrews' home?  
 23 A No. Because she was forbidden to go back to  
 24 the --  
 25 Q Okay.

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1 A -- McGrews' home because of the ex parte.  
2 Q Did you get a chance to look at her room?  
3 A No.  
4 Q Did you ask to look at her room?  
5 A No.  
6 Q Do you know if she shares a room?  
7 A No.  
8 Q You don't know?  
9 A No.  
10 Q How many rooms are there in the house?  
11 A I have no idea.  
12 Q So you -- you said it was very clean.  
13 Which rooms were you in?  
14 A I was in the kitchen and the living room.  
15 Q Okay. All right. So those areas were clean?  
16 A Uh-huh.  
17 Q Okay. And organized.  
18 What -- is the daughter, Danielle, does she  
19 live there?  
20 A She lives in the camper in the back, the RV.  
21 Q Okay. So there's multi generations that are  
22 living in both homes; is that a fair assessment?  
23 A Danielle and her children and husband live in  
24 the camper in the back, yes.  
25 Q Okay. Okay. Did you visit with Mr. McGrew on

PAGE 38

1 both occasions, or just one of the occasions?  
2 A Just the one occasion.  
3 Q The first occasion or the second occasion?  
4 A The second.  
5 Q Okay. Why did you make two trips there?  
6 A Because the first one is just a present danger  
7 assessment --  
8 Q Okay.  
9 A -- is what we call that. That's just the first  
10 initial assessment to assess for the present danger.  
11 The second one is called the remediate  
12 interview, where we sit down and go in to a further  
13 in-depth of the interview. And that's to interview the  
14 family members.  
15 Q Okay. So you received the report on June 15th,  
16 2020, correct?  
17 A Uh-huh.  
18 Q So did you -- were you at the McGrews' home on  
19 June 15th, 2020?  
20 A No. It was June 16th.  
21 Q So the next day you were able to get there?  
22 A Uh-huh.  
23 Q Were you at the Luceros' home on the 15th --  
24 A On the 16th.  
25 Q -- also? Okay.

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1 A Uh-huh.  
2 THE COURT: Ms. Brace, will you please answer  
3 "yes" or "no" for the record. Thank you.  
4 THE WITNESS: Sorry. Yes.  
5 Q BY MS. AMENS: Does the name Geri Goddard mean  
6 anything to you?  
7 A Yes. That's the psychiatrist, or the  
8 counselor.  
9 Q Were you able to talk with her?  
10 A I talked to her on the 16th?  
11 Q Okay. Did you talk to her on the 16th?  
12 A Yeah, she was -- she called in previously, the  
13 day that I was there. And I was introduced over video  
14 chat.  
15 Q Okay. All right.  
16 A And then she did call my office, yes.  
17 Q Were you aware of the disclosures that Paisley  
18 had made to her in regards to the bruising?  
19 A I was not aware of the -- of the disclosures,  
20 no.  
21 Q Are you aware of them now?  
22 A Yes.  
23 Q I mean, did you become aware of them?  
24 A Yes. I don't know the exact words that she  
25 said, but I do know the --

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1 Q Okay. So I would like to show you what has, I  
2 think, been premarked as -- I don't know what to --  
3 Exhibit H, and see if you recognize this. It's a  
4 photo.  
5 THE COURT: Exhibit H, has it been marked by  
6 the clerk?  
7 MS. AMENS: I gave it to her. I expected,  
8 actually, to be introducing these tomorrow. So I had  
9 advised her that we had some time. So I don't know if  
10 she's had a chance to premark it.  
11 THE COURT: So do you have the one that's  
12 marked Exhibit H?  
13 THE CLERK: (Inaudible).  
14 THE COURT: Okay. Apparently they're marked,  
15 Ms. Amens, but don't match with the list that you  
16 provided.  
17 MS. AMENS: Oh, great. Okay. So H says  
18 pictures of Paisley Stone's bruise on buttocks.  
19 THE CLERK: You combined H and I together.  
20 MS. AMENS: It would be the first three photos.  
21 And I'll separate out the balance of that. We'll make  
22 it K.  
23 THE COURT: Why don't we take about a  
24 five-minute recess, and you can get your --  
25 MS. AMENS: Thank you.

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1 THE COURT: -- exhibits straightened out.  
2 Counsel, I have a webinar at noon, so we'll  
3 take our lunch recess about five to 12:00. So keep  
4 that in mind as you're going through your witnesses.  
5 We'll take a brief recess to get those  
6 organized.  
7 (Recess.)  
8 THE COURT: Ms. Amens, do you want to --  
9 MS. AMENS: Yes, Your Honor. I think we now  
10 have it properly marked. I would like to show the  
11 witness what's been premarked as Exhibit H. It's also  
12 Bates stamped number 26, 27, and 28.  
13 Do you have those? No.  
14 THE COURT: Put them up on the screen.  
15 MS. RODRIGUEZ: Oh.  
16 THE COURT: So you should be able to see on  
17 your TV screen the exhibit, and the rest of us will see  
18 it on the big screen.  
19 THE BAILIFF: So we got to do one at a time  
20 here.  
21 MS. AMENS: I think you had it right, actually.  
22 THE COURT: Adjust the Elmo, I believe.  
23 THE CLERK: There's a zoom on there.  
24 THE COURT: This is new technology that we just  
25 installed. I got a grant from the State to purchase

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1 this equipment. This is the first time we're using it  
2 like this, so bear with us.  
3 MS. RODRIGUEZ: So we need 26 first, Mercedes.  
4 THE CLERK: Thank you, Michelle.  
5 Q BY MS. AMENS: Ms. Brace, do you recognize this  
6 photo?  
7 A Yes.  
8 Q What is it a photo of?  
9 A Paisley's bottom and a bruise.  
10 Q Okay. And were you given these photos, or did  
11 you take this photo?  
12 A I was given these photos, yes.  
13 Q Okay. And you understand --  
14 MS. AMENS: Well, I move for the admittance  
15 of -- I guess we could go through each one of them.  
16 But I move for the admittance of H.  
17 THE COURT: They're all marked H, so let's go  
18 through them all, and you can offer H.  
19 MS. AMENS: Okay.  
20 Q BY MS. AMENS: So you recognize that one.  
21 Let's put up the next one.  
22 MS. AMENS: Do you want me to do that one  
23 instead of --  
24 THE COURT: However you want to do it. I don't  
25 care.

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1 THE CLERK: I'm okay either way. Yes, Judge.  
2 I don't care.  
3 I'm not blocking you if I stand here?  
4 MS. AMENS: You're great. Thank you.  
5 THE CLERK: Thank you.  
6 Q BY MS. AMENS: Was this also one of the  
7 pictures that you looked at during your investigation?  
8 A Yes.  
9 Q And what is that a picture of?  
10 A Also Paisley's bottom and a bruise.  
11 Q Okay. The next picture, please.  
12 And was this also provided to you as part of  
13 your investigation?  
14 A Yes.  
15 Q And what is it?  
16 A Paisley's bottom and a bruise.  
17 Q Okay. Do all the pictures appear to be taken  
18 at the same time?  
19 A Yes.  
20 MS. AMENS: I move for the admittance of  
21 Exhibit H.  
22 THE COURT: Any objection to the admission of  
23 Exhibit H?  
24 MR. GERBER: No, Your Honor.  
25 MS. RODRIGUEZ: I don't have any objection.

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1 THE COURT: Exhibit H is admitted.  
2 (Exhibit H admitted.)  
3 MS. AMENS: Can you put the first page back up?  
4 THE CLERK: Yes.  
5 MS. AMENS: Number 26.  
6 THE CLERK: Yes.  
7 Q BY MS. AMENS: So when did this incident  
8 actually occur?  
9 Okay. You started your investigation on the  
10 15th. That's when you got a call.  
11 Do you know when the bruising actually  
12 occurred, how many days ahead?  
13 A No. We got -- we got the report on the 16th --  
14 or on the 15th. I began my investigation on the 16th.  
15 Q And you don't know how -- how much earlier the  
16 injury took place?  
17 A No.  
18 Q Okay. The pictures that you were provided, are  
19 they -- is the bruise in the same state of recovery as  
20 what you saw?  
21 A No.  
22 Q So this was taken earlier?  
23 A Correct.  
24 Q Okay. Did the bruise that you saw on, uhm,  
25 Paisley's buttocks, was it basically the same shape?

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1 A Yes.

2 Q Okay. And from that shape, you determined that

3 it could not have been a spoon?

4 A Correct.

5 Q Okay. When you saw the bruise on Paisley, did

6 the bruise extend at all over to the other --

7 A No.

8 Q Okay. So was that at the same location

9 exactly.

10 A The same side, yeah.

11 Q Okay. When you spoke with Ms. McGrew, did you

12 ask to see the whipping spoon?

13 A Yes.

14 Q And can you describe it?

15 A Yeah. It was a -- a regular whipping spoon --

16 I'm sorry, a regular mix -- mixing spoon, wooden. It

17 had approximately an inch diameter hole in the middle

18 of it.

19 Q Okay. How long was the --

20 A About 12 inches long, just a regular size --

21 what you would be mixing -- you know, a regular size, a

22 mixing spoon. It was a flat -- so it wasn't an actual

23 wooden -- or a spoon size, that you think of a spoon.

24 Q It wasn't curved greatly, is that what you're

25 saying?

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1 A Right.

2 Q Okay.

3 A So it wasn't an actual spoon looking, as you

4 would imagine a spoon. So the top of it was flat, kind

5 of a square shape, the top, with a hole in the middle.

6 Q Did Ms. McGrew kind of show you how she used

7 it?

8 A Kinda. Yeah, I mean, she demonstrated a

9 little.

10 Q Okay. Do you know for sure that that's not

11 from a spoon?

12 A My -- in my training, no, I would not say

13 that's from a spoon.

14 Q What if it was where she hit with the handle,

15 not the spoon section?

16 A I would still say that's not from a spoon.

17 Q Is that about the same length -- did the length

18 of that bruise, is that within the length of the spoon?

19 A No.

20 Q So which is longer, the spoon or the bruise?

21 A The spoon is longer.

22 Q Okay. After you heard what Paisley had

23 disclosed, did you go back and talk with Paisley about

24 the spoon and the bruise?

25 A Again, I do not know what -- what Paisley

PAGE 47

1 disclosed to Geri.

2 Q Oh, you don't -- I'm sorry. I misunderstood.

3 I thought you had talked and you now knew. You didn't

4 know when you initially started your investigation?

5 A No. I have no idea what she disclosed to Geri,

6 herself.

7 Q Okay. Well, if -- would it -- would it --

8 would it change your mind if she had disclosed that she

9 had been hit with the wooden spoon?

10 A No.

11 Q No? She spoke about being hit with a spoon?

12 A She told me, herself.

13 Q What did she say?

14 A She told me that she, uhm, was hit with the

15 whipping -- she was spanked with the whipping spoon.

16 And I had asked her why she was spanked with the

17 whipping spoon. And the first thing she told me was

18 that she was hit -- she was hit -- uhm, she was hit by

19 her cousin, uhm, in the face, and she hit her cousin

20 back. And that's why she got in trouble.

21 And I said, Who is this cousin? And she said

22 it was Braxton. And I repeated that back to her, and

23 she said, No, it was Noah. And when I asked Pam Lucero

24 about that, I said, Who is Noah? And she said, That's

25 her cousin. And I said, That's why she said she got in

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1 trouble and got spanked, because she hit Noah in the

2 face. And she's like, Oh, well, that's impossible,

3 because Noah is on this side of the family, and Noah

4 wouldn't be over at Maria McGrew's house. And I said,

5 Oh, okay.

6 Q So first she said Braxton?

7 A First she said Braxton, and then she said, no,

8 it was Noah.

9 Q Okay.

10 A So she's telling me two different stories to

11 begin with of why she got in trouble.

12 Q Okay.

13 A And then --

14 THE COURT: No, don't talk.

15 THE WITNESS: And then when I asked Maria,

16 Maria admitted to spanking her.

17 Q BY MS. AMENS: For -- for -- for hitting her

18 cousin?

19 A No. For actually defying her and actually

20 coming out and saying no to her. So she was completely

21 honest about spanking Paisley.

22 Q Did you ask her how often she spanked her?

23 A She said she doesn't spank her very often at

24 all.

25 Q Okay. Do you know if she spanks the other

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1 children in the home?

2 A She said when they absolutely need it.

3 Q Okay.

4 A And it was because Paisley was told to do

5 something three different times, and Paisley actually

6 said no to her face, is the reason why Paisley got

7 spanked.

8 Q Okay. Do you know if she spansks them in front

9 of all the other kids?

10 A She does not.

11 Q How do you know that?

12 A Because she told me.

13 Q Okay.

14 A And that has actually been confirmed by

15 Danielle, her daughter. That is something that she

16 does not do, and she does not believe in doing that at

17 all. She will actually have the other children go

18 outside when she punishes, whether it be putting them

19 in time out, sending them to their rooms, whatever the

20 discipline may be.

21 Q So you were able to talk to Danielle about --

22 A Yes, I was.

23 Q -- about the spanking?

24 A And Danielle witnessed the spanking.

25 Q Okay. Did they give you a time frame of when

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1 that had occurred?

2 A It was a couple of days after Paisley fell down

3 on the hearth.

4 Q Okay. So -- so in terms of falling down on the

5 hearth, would you expect there would only be a bruise

6 on one half, one half of her buttocks?

7 A Uh-huh.

8 Q You would?

9 THE COURT: Please answer "yes" or "no."

10 THE WITNESS: I'm sorry. Yes.

11 Q BY MS. AMENS: Why? Can you describe the

12 hearth?

13 A It's like any other hearth that goes around --

14 Q Actually, I don't understand what this hearth

15 looks like at all. So if you can kind of help out,

16 that would be helpful.

17 A So there's the wood stove and then a hearth,

18 rock hearth, that goes around -- around it that has

19 kind of a wooden edge, that goes around that, that has

20 kind of a little lip.

21 Q Did she show you where she fell?

22 A She demonstrated to me how she fell.

23 Q Was it on the corner of it --

24 MS. RODRIGUEZ: I'm just going to ask for

25 clarification. Did Paisley demonstrate it or did

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1 Ms. McGrew demonstrate it?

2 THE WITNESS: I'm sorry?

3 THE COURT: Who -- who demonstrated? Was it

4 Ms. McGrew?

5 THE WITNESS: I'm sorry. Maria.

6 MS. RODRIGUEZ: Thank you.

7 THE WITNESS: So she picked up the -- the -- a

8 blanket out of a laundry basket that was next to the

9 couch, which was between the couch and the hearth. She

10 had her back towards me. She shook out the blanket,

11 demonstrating as Paisley would have done. And Paisley

12 had lost her balance and fell on the edge of the rock

13 hearth, on the right side of her bottom, which would

14 have given her the bruise on the right side of her

15 bottom.

16 Q BY MS. AMENS: Would -- would -- did you look

17 for any other bruising to see if she had kind of

18 reached out and bruised herself to try to catch herself

19 or --

20 A She didn't. She had the blanket in her hand.

21 She just literally fell backwards.

22 Q Okay. So could it have been when you were at

23 the Luceros it was 4:30 and not two o'clock in the

24 afternoon?

25 A No.

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1 Q Okay. And you had indicated that it had seven

2 people there. You indicated there was a mother and

3 newborn.

4 A Uh-huh.

5 Q Is the mother in this courtroom today?

6 A Yes.

7 Q Okay. So you recognize her?

8 A Uh-huh.

9 THE COURT: "Yes" or "no," please.

10 THE WITNESS: Yes.

11 Q BY MS. AMENS: Was -- was there children? You

12 said there was a lot of children. So what are we

13 talking about? How old were the children?

14 A I believe there was -- I didn't see a lot of

15 children. There was one, probably, three-year-old

16 maybe, two-year-old.

17 Q Okay. So one other -- the newborn, the

18 two-year-old, and Paisley, correct?

19 A Uh-huh, yes.

20 Q Okay. And the mother with the newborn?

21 A Right.

22 Q Ms. Lucero?

23 A Right.

24 Q Did you meet Mr. Lucero on your way out, when

25 he was returning with the meal with -- from McDonald's?

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1 A No.

2 Q How did the meal appear?

3 A Somebody -- somebody had brought it in from the

4 garage.

5 Q Okay. Was that Mr. Lucero?

6 A I -- I don't know who it was.

7 Q So you don't know if you saw him or not?

8 A No. I -- no. I just saw people coming in from

9 the garage.

10 Q And were they there the whole time you were

11 having this interview, or did they just come in with

12 the meal?

13 A They just came in towards the end of the

14 interview.

15 Q Okay. And you indicate there's a teenager?

16 A Uh-huh.

17 Q Did you see the teenager?

18 A I saw a couple of teenagers, yeah.

19 Q Okay. And where were they? Did you see their

20 rooms?

21 A No. I was upstairs, and I went to Paisley's

22 room. And, uhm, the young mother's room was next to

23 Paisley's room.

24 Q Okay. Uhm --

25 A So towards the end of the interview, it was

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1 probably close to four o'clock, yes.

2 Q Okay. All right.

3 A So I guess that would have probably been a

4 different time; early dinner.

5 Q Okay. And then you saw everyone go to the

6 table; is that what I understand happened?

7 A The people that had come in from the garage,

8 yes, they were all at the table. The mother and the

9 baby were still on the couch. Pam Lucero was talking

10 to me.

11 Q Okay.

12 A Yes.

13 Q Was, uhm, Paisley being given any --

14 anything -- you don't know what she was actually

15 eating, other than you actually saw her kind of reach

16 across the table?

17 A Right. Right. They had brought home burgers

18 and fries and --

19 Q Okay. How many times did you talk with

20 Ms. Goddard? Just the once?

21 A I'm sorry?

22 Q How many times did you talk with the counselor?

23 Just once or more?

24 A She called my office once, I believe, yes.

25 Q Did she talk with you?

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1 A Yes.

2 Q And did you reach back out to her at all to

3 tell her what was gonna happen with the investigation?

4 A Uhm, we talked about it the one time.

5 MS. AMENS: Okay. No further questions.

6 THE COURT: Ms. Stone, do you have any

7 questions for this witness?

8 MS. STONE: No.

9 THE COURT: Ms. Rodriguez?

10 MS. RODRIGUEZ: Thank you, Judge.

11

12 CROSS EXAMINATION

13 BY MS. RODRIGUEZ:

14 Q Did you discuss your findings with Ms. Goddard

15 when you spoke to her at your office?

16 A I'm sorry?

17 Q With Geri Goddard, the child's therapist, did

18 you discuss your findings?

19 A Yes, I did.

20 Q So when you spoke to Ms. Goddard, you informed

21 her that you were unsubstantiating that report?

22 A Yes.

23 Q What day was that?

24 A Uhm, I believe it was the end of June.

25 Q Did you discuss with Ms. Goddard your reasoning

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1 for unsubstantiating your report?

2 A Yes, I did.

3 Q At that time, to the best of your recollection,

4 did Ms. Goddard indicate to you further disclosures

5 that Paisley had made?

6 A No, she did not.

7 Q And at that time, did it appear that

8 Ms. Goddard understood that you were unsubstantiating

9 that report?

10 A Yes.

11 Q Thank you.

12 You testified there was a young mother with an

13 infant child at the Lucero home. Was that young mother

14 Kristin Stone, Paisley's mom?

15 A Uhm, I understood that after I had left. But,

16 yes.

17 Q Were you ever introduced to Ms. Stone while you

18 were there?

19 A I was -- I was introduced to her as Kristin and

20 baby Macy. But I did not figure out that it was

21 Paisley's mother until I was shown a picture of Kristin

22 at Maria McGraw's house.

23 Q So nobody told you that was Paisley's mom when

24 you were there?

25 A No.

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1 Q Who all did you interview during your  
2 investigation?

3 A I interviewed -- I spoke with Pam Lucero. I  
4 spoke with Paisley. I spoke with both  
5 Mr. and Mrs. McGrew. I used Danielle Ray (phonetic)  
6 and Jim Ballard as collaterals.

7 Q Who was the last one?

8 A Jim Ballard. He is a pastor at the McGrews'  
9 church.

10 THE COURT: Thank you.

11 MS. RODRIGUEZ: Thank you, Judge.

12 Q BY MS. RODRIGUEZ: When you interviewed  
13 Ms. Lucero and Paisley, had you called prior to going  
14 to the Lucero home to schedule an interview?

15 A No.

16 Q It was an unannounced visit?

17 A Yes.

18 Q And you were there as a follow-up to a physical  
19 abuse allegation, correct?

20 A Correct.

21 Q During the time that you interviewed Paisley,  
22 did she indicate to you, did Paisley indicate to you,  
23 any other allegations of abuse or neglect?

24 A No, she did not.

25 Q When Paisley discussed with you that she got in

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1 to real trouble, and based upon the real trouble, she  
2 received punishment with the whipping spoon, did  
3 Paisley explain to you what real trouble meant to her?

4 A No, she did not.

5 Q She just said real trouble?

6 A She just said she was naughty.

7 Q And you indicated on direct that other forms of  
8 punishment were time out, and her toys were taken away  
9 at the McGrew home, correct?

10 A Correct.

11 Q Did Paisley indicate to you what kind of  
12 discipline she received at the Lucero home?

13 A She doesn't get in trouble.

14 Q She said she doesn't get in trouble there?

15 A No.

16 Q Were you able to observe Paisley in the Lucero  
17 home at all, or did you just speak with her during your  
18 interview?

19 A I just spoke with her. She, uhm -- I did  
20 observe her a little bit as I was talking to Pam. She  
21 was climbing on the counters. Pam was trying to tell  
22 her to get down, uhm, that she knew better than that.  
23 But, uhm, that was pretty much it.

24 Q And then what little bit that you saw her  
25 eating?

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1 A Yes.

2 Q Do you remember what she was drinking?

3 A Sorry?

4 Q What Paisley was drinking during the meal?

5 A I don't -- I don't know. I'm sorry.

6 Q And you weren't there to look in to what --  
7 what Paisley was eating, correct?

8 A Correct.

9 Q Had you been informed prior to going to the  
10 Lucero home that there was a concern about Paisley's  
11 overall health, weight?

12 A I knew nothing of Paisley. I never met her  
13 before.

14 Q Okay. So your sole purpose was to investigate  
15 this report of physical abuse?

16 A Correct.

17 Q Did Paisley indicate during your interview with  
18 her on June 15th of 2000 -- or June 16th of 2000 -- of  
19 2020, excuse me, sorry, how often she gets in trouble  
20 over at the McGrew home?

21 A She did indicate. But she just said she has  
22 fun over there, she likes to be over at her Nanny and  
23 Pop's house.

24 Q So Paisley told you she has fun over there and  
25 likes to be at the McGrew home?

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1 A Uh-huh.

2 Q Did Paisley indicate to you during your  
3 interview at any time that she was fearful of the  
4 McGrew home?

5 A No.

6 Q Did Paisley tell you how often she goes to her  
7 Nanny and Poppy's --

8 A And Pop's.

9 Q -- Nanny and Pop's house, the McGrew home?

10 A She said, uhm, she goes there one week, and  
11 then she stays with her Granny one week.

12 Q Okay. Were you and Paisley by yourself when  
13 you interviewed her?

14 A Yes.

15 Q And the interview was done in Paisley's room?

16 A Yes.

17 Q Bedroom. Excuse me.  
18 Did the bedroom appear to be sufficient for  
19 Paisley's needs?

20 A Yes.

21 Q Did Paisley say anything else to you other than  
22 she had a bruise from the whooping spoon?

23 A No.

24 Q Did Paisley tell you how it happened, how the  
25 bruise occurred? Sorry.

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1 A Uhm, she said she got it from hitting her  
2 cousin in the face. She got in trouble.  
3 Q But Paisley's indication was that bruise was  
4 from the whooping spoon, correct?  
5 A Uh-huh.  
6 THE COURT: That's a "yes"?  
7 THE WITNESS: Yes. Sorry, Judge.  
8 THE COURT: I know it's awkward, but that's how  
9 we have to speak in a courtroom.  
10 Q BY MS. RODRIGUEZ: And, Ms. Brace, you  
11 indicated that you personally observed both homes at  
12 different times?  
13 A Yes.  
14 Q The McGrew home and the Lucero home?  
15 A Yes.  
16 Q Were there -- did you have any concerns about  
17 Paisley's safety in either home?  
18 A No.  
19 Q When you were able to speak to Mrs. Lucero, Pam  
20 Lucero, did you learn anything else about the concerns  
21 with Paisley's behavior at the McGrew home that caused  
22 you concern?  
23 A I'm sorry, can you repeat that?  
24 Q Yes. I'm sorry. That was a long question.  
25 When you were speaking with Pam Lucero on June

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1 16th of 2020, did Ms. Lucero indicate to you any other  
2 concerns of Paisley at the McGrew home?  
3 A She -- Pamela Lucero stated that the McGrews  
4 hide food from Paisley, and they don't ever feed her.  
5 Q When you interviewed Paisley alone, did Paisley  
6 indicate to you that her -- that the McGrew  
7 grandparents were hiding food or not feeding her?  
8 A No.  
9 Q Just that she liked going to the McGrew home?  
10 A Yes.  
11 Q Did Ms. McGrew indicate -- have any other  
12 concerns for Paisley, other than the issue with the  
13 food at the McGrew home and the whooping spoon at the  
14 McGrew home?  
15 A No.  
16 Q Did Ms. McGrew request additional time to speak  
17 with you than you allotted her?  
18 A No.  
19 Q Were you ever able to interview Mr. Lucero?  
20 A No.  
21 Q Did you provide all four parties, the McGrews  
22 and the Luceros, your contact information?  
23 A Yes. Pam Lucero knows how to get ahold of me.  
24 Q After the initial interview with the Luceros  
25 and the two interviews at the McGrew home, did you

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1 receive any follow-up information from either set of  
2 grandparents?  
3 A No -- oh, I'm sorry. I did receive the video  
4 from Amen Law showing me Paisley throwing a fit about  
5 going back to the McGrew home.  
6 Q When was that video taken? Do you know?  
7 A That, I do not know, because it does not have a  
8 stamp on it.  
9 Q And where, within your investigation, did you  
10 receive that report? At the beginning? At the end?  
11 A Towards the end of the investigation. It was  
12 after the ex parte stated that Paisley was to go back  
13 to the McGrew home for her visits.  
14 Q Did that video cause you concern for Paisley's  
15 well-being while at the McGrew home?  
16 A It gave me no concerns.  
17 Q Why?  
18 A Because all it showed was a four-year-old  
19 throwing a temper tantrum about putting her shoes on.  
20 Q Okay. When you interviewed Paisley, did she  
21 tell you she did not like to go between the two  
22 different homes, between the Lucero home and the McGrew  
23 home?  
24 A No. She made no indication about that. She  
25 just said she liked spending time at both homes.

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1 Q Have you received any reports of the concern  
2 for the welfare of Paisley's brother, Carter Ferguson,  
3 that you're aware of?  
4 A I'm not aware of any, no.  
5 Q Okay. Do you know if Carter was at the Lucero  
6 home when you were there?  
7 A That, I do not know.  
8 Q You indicated that you were at the Lucero home  
9 previously in February of 2020 due to -- why were you  
10 there at that time?  
11 A I was there, uhm, because there was an open  
12 case, uhm, for Pam Lucero's daughter and her infant  
13 child.  
14 Q Okay.  
15 THE COURT: Are you talking about Kristin  
16 Stone?  
17 THE WITNESS: No.  
18 THE COURT: So this is a daughter of the  
19 Luceros who also has an infant?  
20 THE WITNESS: Yes.  
21 THE COURT: And do they live in the Lucero  
22 home?  
23 THE WITNESS: Not at this time.  
24 THE COURT: Did they when you made your  
25 investigation?

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1 THE WITNESS: They were under -- at the time I  
2 had an investigation, but that daughter and grandchild  
3 does not live there anymore.  
4 THE COURT: But at the time you made your  
5 investigation, they did?  
6 THE WITNESS: Yes.  
7 THE COURT: Thank you.  
8 Q BY MS. RODRIGUEZ: Of the February of 2020 time  
9 frame?  
10 MS. AMENS: I'm sorry, Judge.  
11 Q BY MS. RODRIGUEZ: Or the June of 2020  
12 investigation?  
13 A Yeah, on the February, I was doing an  
14 investigation that had to do with that daughter, adult  
15 daughter and infant child.  
16 Q Okay. Thank you.  
17 A It had nothing to do with Pam Lucero.  
18 Q Okay. At that time, in February of 2020  
19 investigation time frame, did you have concerns about  
20 the Lucero home being a safe and appropriate place for  
21 a child?  
22 A Uhm, no.  
23 Q Did you observe anything in the home at that  
24 time that would cause you concern for a child of two to  
25 four years of age?

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1 A No.  
2 Q You indicated that the second visit to the  
3 McGrew home was to complete your NIA, Nevada Initial  
4 Assessment?  
5 A Correct.  
6 Q Have you completed that?  
7 A Yes.  
8 Q Do you have the NIA with you?  
9 A No.  
10 Q Has the NIA been provided to any of the parties  
11 in this case?  
12 A No.  
13 Q Has it been provided to the Court?  
14 A No.  
15 Q Would you be willing to provide that NIA to the  
16 Court for an in camera review?  
17 A That has to be ordered.  
18 Q If the Court were to order you provide your  
19 records, would you be able to provide that NIA within  
20 the next -- well, by the end of today to the Court for  
21 review?  
22 A That would have to go through our AA, and she  
23 would have to de-fact that.  
24 Q You indicated upon review of Exhibit H, the  
25 pictures of Paisley's right buttock, but that was not

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1 how the bruise appeared when you interviewed Paisley on  
2 or about June 16th of 2020.  
3 How is that picture different than Paisley's  
4 appearance when you interviewed her?  
5 A It's just lighter color.  
6 Q It was lighter in color when you interviewed  
7 her?  
8 A Yeah. It was just lighter in color, same  
9 shape.  
10 Q When Paisley discussed with you her -- her  
11 discipline at the McGrew home, was she upset?  
12 A No. Absolutely not.  
13 Q How would you describe her demeanor upon  
14 discussing her discipline at the McGrew home?  
15 A Oh, she was completely fine with me. We -- we  
16 sat on her bed and we played toys. And we talked about  
17 playing with the dogs and -- and different things. And  
18 by the end of the conversation, she wanted to go to my  
19 house for a sleepover.  
20 THE COURT: You must play really well.  
21 THE WITNESS: Yeah.  
22 Q BY MS. RODRIGUEZ: Did you take any pictures of  
23 the hearth at the McGrew home during your  
24 investigation.  
25 A I did not.

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1 Q You testified on cross with Ms. Amens that  
2 Maria McGrew demonstrated where and how Paisley fell on  
3 the hearth to obtain the bruise on her right buttock.  
4 Did that description meet the resulting bruise,  
5 based upon your training?  
6 A Yes.  
7 MS. RODRIGUEZ: Nothing further, Judge.  
8 THE COURT: Redirect, Mr. Gerber.  
9 MR. GERBER: Thank you, Your Honor.  
10  
11 REDIRECT EXAMINATION  
12 BY MR. GERBER:  
13 Q While you were at the Lucero home,  
14 Ms. Rodriguez asked you if there was any -- any other  
15 reports or things said, and you testified that -- that  
16 someone alleged that the McGrews, quote, hide food,  
17 don't ever feed her. And you meant Paisley, correct?  
18 Is that a "yes"?  
19 A Yes.  
20 Q That's your testimony.  
21 Who made that allegation?  
22 A That was Pam Lucero.  
23 Q Okay. Did you investigate those allegations?  
24 A Yes.  
25 Q And did you find them to be founded or

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1 unfounded?  
2 A That was totally unfounded.  
3 Q Totally unfounded?  
4 A Yes.  
5 Q Did -- was anything else negative, or were  
6 there any other negative comments or allegations  
7 against the McGrews or any other persons while you were  
8 in that home?  
9 A No.  
10 Q When you interviewed Paisley, you indicated she  
11 indicated the bruise was caused by a spanking?  
12 A Correct.  
13 Q Can you tell us more about that conversation,  
14 how that conversation developed?  
15 A That she had been naughty. And I asked her  
16 what she did and what "had been naughty" meant. And  
17 that's when she had told me that she had gotten in  
18 trouble for hitting her cousin, uhm, because her cousin  
19 had hit her in the face, she had hit him in the face,  
20 and that she got in trouble because she hit him in the  
21 face.  
22 Q And that's different than what was reported to  
23 you by Maria and Danielle, correct?  
24 A Correct.  
25 Q And you found that it was inconsistent because

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1 she said it was Braxton and then she said it was Noah,  
2 correct?  
3 A Correct.  
4 Q Tell me more about how Paisley could connect a  
5 spanking with a bruise on her buttocks. How would  
6 she -- how would she know -- how would she know how the  
7 bruise was caused?  
8 A And that is also something that child safety  
9 and welfare has to consider, uhm, that, you know, who  
10 told her, you know, that that is a connection. And,  
11 you know, a child, you know, do they really understand  
12 that there's a -- you know, there's a bruise and the  
13 bruise hurts. And it connects that. You know, you get  
14 spanked with an object, and it makes a bruise, and that  
15 makes her -- the bruise hurts. And, uhm, so you have  
16 to try to connect those dots, and who else helps them  
17 connect those dots.  
18 Q So that's part of your investigation, is to  
19 find out how the child came to that conclusion?  
20 A Correct, yes.  
21 Q Since the -- before you investigated,  
22 Paisley -- did Paisley have contact with the Luceros?  
23 A Yes.  
24 Q She was, in fact, in their custody, correct?  
25 A Correct.

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1 Q And -- and to your knowledge did Pam Lucero  
2 take those photographs that were entered in to evidence  
3 today?  
4 A Yes.  
5 Q Okay. And would she have had occasion to talk  
6 to Paisley about how the bruising occurred prior to  
7 you --  
8 A Yes.  
9 Q -- investigating?  
10 A Yes.  
11 Q In your experience, is Paisley credible about  
12 how -- how the bruise occurred? Or, I mean, would it  
13 be credible for her to come to a conclusion of whether  
14 that occurred from a spanking?  
15 A (Unintelligible).  
16 MR. GERBER: Okay. Thank you. No further  
17 questions.  
18 THE COURT: That was a "no"?  
19 THE WITNESS: No.  
20 THE COURT: Ms. Amens, recross.  
21 MS. AMENS: Yes, Your Honor.

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1 RECROSS EXAMINATION  
2 BY MS. AMENS:  
3 Q So following up on what Mr. Gerber was just  
4 asking you about in terms of the connection, isn't  
5 it -- isn't it common that if a child receives an  
6 injury and, you know, she's telling you kind of that  
7 she got in trouble, and this is her belief of kind of,  
8 like, what happens, that there's a connection there for  
9 the child?  
10 A Yes.  
11 Q If you, uhm -- so if I was to tell you that  
12 the -- that what Ms. Goddard -- what Paisley disclosed  
13 to Ms. Goddard was the exact same story that she  
14 disclosed to you, exactly the same story she disclosed  
15 to you, does that make --  
16 MS. RODRIGUEZ: Judge, I object. That's pure  
17 hearsay.  
18 THE COURT: I think we're getting in to hearsay  
19 within hearsay, even though you're asking it -- I can't  
20 think of the word I want -- as a hypothetical, it's  
21 still hearsay. It's just too much hearsay.  
22 MS. AMENS: Okay.  
23 THE COURT: So the objection is sustained.  
24 MS. AMENS: Let me try a different way.  
25 Q BY MS. AMENS: If there was other evidence that

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1 said that the first thing that she told you was exactly  
2 what she was telling others, would that make you  
3 believe -- so let me start all over. I'm sorry. I'll  
4 strike that.

5 The fact that the -- that the child is  
6 consistently explaining the bruise --

7 MS. RODRIGUEZ: I object. Those are facts not  
8 in evidence.

9 THE COURT: Objection sustained.

10 MS. AMENS: Okay. Let me go a different  
11 direction.

12 Q BY MS. AMENS: You indicated that you had seen  
13 a picture of Kristin at the McGrews' home. How did  
14 that come up?

15 A Uhm, because we were talking about, uhm, how --  
16 how Paisley ended up in the custody, or in the  
17 guardianship -- basically, how Paisley ended up where  
18 she was --

19 Q Okay.

20 A -- between the two sets of grandparents. And  
21 so Ms. McGrew was explaining that to me. And, uhm,  
22 then it had come about to where she said that Paisley's  
23 mom had just had a baby. And I was remembering back  
24 that I had just seen a woman that had a brand new baby.

25 And so I asked her, I said, is Kristin living

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1 with Pam Lucero? And she says, Well, she might be. I  
2 have no idea where she's at right now. I said, Do you  
3 happen to have a picture of Kristin? And she says,  
4 Yeah, we have one in Paisley's room.

5 And so she went and got it for me. And lo and  
6 behold, that was the woman that I had seen at  
7 Pam Lucero's home when I was just there a half hour  
8 before sitting on the couch holding the brand new baby.

9 Q So from that conversation, did you have any  
10 indication that Maria, or Ms. McGrew, had been in  
11 contact recently with Kristin?

12 A No, she hadn't. Because she didn't know where  
13 she was.

14 Q Okay. Did you have any understanding of  
15 whether or not there had been any visits, uhm, with the  
16 children, uhm, at the McGrews' home with the mother?

17 A No.

18 Q Did -- that didn't come up or, no, there were  
19 no visits?

20 A There was no visits.

21 Q Okay. So she told you that.

22 Did she tell you how the guardianship had  
23 occurred, this whole thing had started?

24 A Yes.

25 Q Did she tell you that they had put, uhm,

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1 Kristin on a bus to go to California?

2 A She had -- it was a complicated story. And  
3 like I said, that wasn't part of my assessment. I just  
4 kind of wanted to get the gist of when Paisley was born  
5 up until this point. Uhm, so, again, that wasn't part  
6 of my assessment, so I didn't take a lot of notes on  
7 that.

8 Q So you don't recall whether she told you that?

9 A No, I don't recall.

10 Q Okay. Uhm, did you get that back story from  
11 the Luceros? Did they give you kind of any overview of  
12 how this all had been arranged?

13 A Just that I know that Kristin is there grand  
14 daughter and that TJ was the McGrews' son and they had  
15 Paisley. So, no, I did not get much of a back story.

16 Q Okay. You had indicated that Ms. Lucero had  
17 said that the McGrews were hiding food. Did you ask  
18 Paisley whether or not they were hiding food?

19 A Yeah. And she said, no, she -- she got to eat  
20 good snacks, but not all the time.

21 Q Okay. You said it was totally unfounded. What  
22 do you mean by "totally"? Who did --

23 A They weren't hiding food.

24 Q How do you know that?

25 A Because she just wasn't able to -- Paisley just

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1 wasn't able to eat. There's a difference between  
2 hiding food and her just not being able to go get  
3 snacks anytime she wanted to.

4 Q So that's what you understood?

5 A Yes.

6 Q That she just wasn't -- okay.

7 You indicated that you had talked with somebody  
8 by the name of Tim Ballard?

9 A Jim.

10 Q And that is the McGrews' pastor?

11 A Correct.

12 Q Why did you talk with him?

13 A Because that is part of my job as an assistant  
14 worker, to speak with collaterals. And he was a  
15 collateral.

16 Q Okay. And what did you learn in regards to  
17 Paisley from him?

18 A That she, uhm, goes to church with the McGrews  
19 on the Sundays that they have her; that he feels that  
20 she is a delight, a delightful child, that she is a joy  
21 to have at church; that she does enjoy going to church;  
22 that he has never seen the McGrews discipline her  
23 inappropriately; that they've never seen bruises on  
24 her; that she's never been fearful of them.

25 Q Okay. And that -- that was the extent?

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1 A Yes.

2 Q Did you -- okay. When you went to the McGrews,

3 was that also on an unannounced visit?

4 A Yes. The first time.

5 Q And then the second time?

6 A No. That is a set up -- we set an appointment

7 for that day to make sure everybody's available, that

8 both Mr. and Mrs. McGrew are available for that

9 interview.

10 Q Okay. So you didn't visit with Mr. McGrew the

11 first time?

12 A Correct. Because he was at work.

13 Q Okay. Did Paisley bring up the hearth?

14 A No.

15 Q The -- you said you were provided a tape from

16 my office. Uhm, without a description of what it was,

17 if you were aware that that was representative of

18 exchanges regularly, would that have concerned you?

19 A I'm sorry. Say it again, please.

20 Q Okay. From receiving the tape, you understand

21 that there were some difficulties between exchanges --

22 A Uh-huh.

23 Q -- with Paisley.

24 If that was representative of how the exchanges

25 occurred weekly, or every two weeks, would -- would

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1 that be concerning to you? Would you have continued

2 your investigation?

3 A No.

4 Q Okay. Was the child clearly in distress?

5 A I still would not have continued my

6 investigation.

7 Q Okay. And why not?

8 A Because a -- a child that has to continually go

9 back and forth between any family as this, uhm, gets

10 stressed out. Uhm, they don't like going back and

11 forth. And so they are -- they do tend to throw temper

12 tantrums and fits.

13 Q If it was just happening on one side and not

14 the other --

15 A It does happen on the other, though.

16 Q How do you know that?

17 A Because I've been told that by

18 Mr. and Mrs. McGrew.

19 MS. AMENS: Okay. No further questions.

20 THE COURT: Ms. Stone, do you have any

21 questions?

22 MS. STONE: Yes.

23 What --

24 THE COURT: Just a moment. Let's get you a

25 microphone.

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1 CROSS EXAMINATION

2 BY MS. STONE:

3 Q So if I had my babies, would any of this would

4 have happened -- would have happened, or would no one

5 know because I never got a chance?

6 THE WITNESS: I can't hear a thing she is

7 saying.

8 THE COURT: Can you speak up louder, please?

9 She can't hear you.

10 Q BY MS. STONE: Would any of this bruising or

11 feeding them, my kids, or them getting too fat would

12 have happened, or why did no one give me a chance to be

13 a mom? They all been a mom and dad, they all failed.

14 THE WITNESS: I still can't understand what she

15 said.

16 THE COURT: I don't really understand your

17 question either.

18 Q BY MS. STONE: What would have happened to my

19 children if they were with the mother, me?

20 THE COURT: I think she wants to know if any

21 of -- any of these issues, uhm, the bruising, the issue

22 about the food, the tantrums, if any of that had

23 occurred had Paisley been with her mother.

24 MS. RODRIGUEZ: Judge, I'm going to object.

25 That's calling for pure speculation.

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1 THE COURT: Yeah. The objection is sustained.

2 I don't know how the witness could answer that.

3 Q BY MS. STONE: Then what is this all about?

4 Why is people fighting for my kids? I'm the mom.

5 THE COURT: That's why I gave you an attorney,

6 Ms. Stone, to help you through this, and you didn't

7 cooperate with your attorney.

8 The issue here for me to decide is whether your

9 children need a guardian. Uhm, I haven't heard the

10 evidence yet about why you are unable to take care of

11 your children, if you are.

12 MS. STONE: I don't have no record.

13 THE COURT: So if I determine that someone

14 needs to be a guardian of your children, then the

15 question is, which of these grandparents would be the

16 guardians.

17 MS. STONE: I'm the mom, and I'm not giving my

18 kids up for adoption.

19 THE COURT: I understand that.

20 MS. STONE: Or guardianship. There's nothing

21 wrong with me.

22 THE COURT: Okay. I understand that. And it

23 is up to the attorneys to prove that these children

24 need a guardian. You don't have to prove they don't

25 need one. The attorneys have to prove they do. And

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1 that's the purpose --  
2 MS. STONE: But where's my rights, my citizen  
3 rights of being a mother?  
4 THE COURT: That's what the purpose of this  
5 hearing is.  
6 MS. STONE: Where is any proof of anything?  
7 THE COURT: Okay. I've explained it to you,  
8 Ms. Stone. We're going to move on.  
9 Ms. Rodriguez, do you have any questions?  
10 MS. RODRIGUEZ: Just one follow-up question.

11  
12 RE CROSS EXAMINATION

13 BY MS. RODRIGUEZ:  
14 Q Ms. Brace, you indicated that a child's going  
15 back and forth between families such as this would  
16 exhibit the type of behavior which was shown in the  
17 video that -- whichever video that was, that Ms. Amens  
18 provided to you.  
19 Could you explain what you meant by such as  
20 this?  
21 A Uhm, Paisley, in the video, uhm, again, there  
22 was no -- no indication that in the video that she was  
23 being asked to go to Grandma Maria's house. It was  
24 supposed to be assumed that she was.  
25 All that was said in the video was, Paisley,

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1 you need to put your shoes on. And it was showing a  
2 four-year-old throwing a temper tantrum. But I was  
3 supposed to assume that she was being asked to get her  
4 shoes on to go to her grandmother's.  
5 So if we were to assume that she's being asked  
6 to get ready to go to her grandma's house, she was  
7 throwing a temper tantrum, crying, saying, No, no, no.  
8 So she's exhibiting those behaviors because she has  
9 spent a week at one grandmother's house. She's  
10 comfortable. She's got her toys. She's got a routine  
11 going on. And they're asking her to quit that routine  
12 and go to somebody else's house where things are  
13 different, new rules. She's expected to do different  
14 things.

15 And so when she's being asked to do something  
16 totally different, she has to leave something behind  
17 that she's already doing. And so that tends to cause  
18 stress in children. And she's doing the same thing at  
19 the end of the week that she's spending with the  
20 McGrews. She's doing the exact same thing, because she  
21 has to leave that behavior behind, those rules, when  
22 she's already gotten used to that, to go back to  
23 Pam Lucero's home.

24 Q And based on your training, that's normal child  
25 development behavior in a child of this age?

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1 A Correct. She's confused.  
2 Q Okay. Yet Paisley informed you that she enjoys  
3 going to both homes, correct?  
4 A Correct.  
5 MS. RODRIGUEZ: Thank you.  
6 Thank you, Judge.  
7 THE COURT: Does anybody need this witness  
8 retained?  
9 MR. GERBER: No, Your Honor.  
10 MS. AMENS: No, Your Honor.  
11 THE COURT: Thank you. You are excused.  
12 (The witness left the stand.)  
13 THE COURT: All right. It's ten to 12:00, so I  
14 don't see any point in starting with a witness for five  
15 minutes. We will resume court at 1:30.  
16 MR. GERBER: Your Honor, are we planning to go  
17 to five o'clock today?  
18 THE COURT: We are.  
19 MR. GERBER: Okay.  
20 THE COURT: We're in recess.  
21 (Recess.)  
22 THE COURT: Your next witness, Mr. Gerber?  
23 MR. GERBER: Lori Moorehead from the Division  
24 of Child and Family Services.  
25 THE COURT: And it looks like Carter's father

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1 has arrived; is that correct?  
2 MR. GERBER: That's correct.  
3 THE COURT: You are here without an attorney,  
4 Mr. Ferguson. Are you going ahead without an attorney?  
5 MR. FERGUSON: Yes, ma'am.  
6 THE COURT: Thank you.  
7 Lori Moorehead.  
8 MS. RODRIGUEZ: In addition, Judge,  
9 Ashley Stone is here.  
10 MS. AMENS: Shawn Stone.  
11 MS. RODRIGUEZ: Shawn Stone, excuse me.  
12 MS. AMENS: Yeah. I talked to the attorneys.  
13 Ms. Stone is not on the witness list, doesn't plan to  
14 be a witness. She's just sitting with her daughter for  
15 support.  
16 THE COURT: And she's Kristin's mother?  
17 MS. AMENS: She's Kristin's mother, correct.  
18 THE COURT: We're gonna have you sit in the  
19 jury box, and then you and I won't have to --  
20 MS. MOOREHEAD: I was thinking, wow, that's  
21 close.  
22 THE BAILIFF: Please stand.  
23 (Witness sworn.)  
24 THE COURT: Please be seated.  
25 Please state and spell your name.

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1 THE WITNESS: Lori Moorehead. M- -- Lori,  
2 L-o-r-i. Moorehead, M-o-o-r-e-h-e-a-d.  
3 THE COURT: Thank you.  
4 Go ahead, Mr. Gerber.  
5 MR. GERBER: Thank you.

6  
7 LORI MOOREHEAD,  
8 the witness herein, being first duly sworn, testified  
9 as follows:

10  
11 DIRECT EXAMINATION

12 BY MR. GERBER:

13 Q Ms. Moorehead, what is your position with the  
14 Division of Child and Family Services?

15 A I am a Social Work Supervisor 2.

16 Q And how long have you been employed in that  
17 position with the Elko office?

18 A The last two years.

19 Q Okay. And what did you do prior to that?

20 A Prior to that for two years, I was a social  
21 work assessment worker.

22 Q In Elko?

23 A Yes.

24 Q And prior to that?

25 A Here at the Elko office, I worked as a foster

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1 care licensing social worker for about four years.  
2 Q And all total, how long have you worked for the  
3 Division of Child and Family Services continuously in  
4 Elko, Nevada?

5 A Over eight years.

6 Q And in your current position, do you maintain  
7 records for the Division of Child and Family Services?

8 A Yes.

9 Q What is the purpose of maintaining those  
10 records?

11 A Documenting -- documentation of assessments and  
12 reports and case notes and et cetera.

13 Q When you receive reports of abuse or neglect,  
14 or alleged abuse or neglect, do you make a report of  
15 those --

16 A Yes. We've got a data system that records all  
17 DCFS records, the various reports and case notes.

18 Q And when you receive a report involving a  
19 family or individual, do you compare and research past  
20 records of that person or individual?

21 A That is taken into consideration.

22 Q Okay. So, yes?

23 A Yes.

24 Q Okay. And in this case, does the Division of  
25 Child and Family Services in Elko, Nevada, have a

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1 substantiated report of abuse or neglect against  
2 Pamela Lucero?  
3 A Yes.  
4 Q And how many? How many substantiated reports?  
5 A There is one substantiated report on record for  
6 Pamela Lucero and Mike Lucero, Mr. Lucero.  
7 Q And are there other records in the Division of  
8 Child and Family Services showing reports that were  
9 unsubstantiated against that couple?

10 A Yes. Two other unsubstantiated reports.

11 Q Okay. And did you bring with you today the  
12 substantiated report?

13 A Yes, I did.

14 Q And have you received a subpoena from my office  
15 to produce that?

16 A Not to my knowledge.

17 Q Okay.

18 A I did not see the subpoena, but I was aware of  
19 it being -- it being produced.

20 Q You're aware that a subpoena was --

21 A Submitted.

22 Q -- submitted, but you haven't personally seen  
23 it?

24 A Correct.

25 Q Okay. And have you produced that report to my

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1 office?

2 A No.

3 Q Okay. And why not?

4 A Because it is my understanding that you would  
5 need a Court order to access the, um --  
6 Pamela Lucero's information.

7 Q And if the Court were to order you to release  
8 that substantiated report, you have it in your  
9 possession now?

10 A Yes.

11 MR. GERBER: Your Honor, I make a motion that  
12 the Court allow us to inspect that substantiated report  
13 in camera under NRS 432(b).290, because it involves a  
14 pending guardianship and the parties that are involved  
15 in this case.

16 THE COURT: Any objection, Ms. Amens?

17 MS. AMENS: Yes, Your Honor. I don't know -- I  
18 don't have any information as when this -- when this  
19 occurred, how long ago, any of the background  
20 information in regards to this.

21 THE COURT: It sounds like that's an objection  
22 to foundation.

23 Mr. Gerber, why don't you lay more of a  
24 foundation?

25 MR. GERBER: Okay.

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A-A0023

1 Q BY MR. GERBER: When -- what year was this  
2 substantiated, this finding of substantiation made?  
3 A February of 2014.  
4 Q Okay. And was it here in Elko, Nevada, or in  
5 Elko County, Nevada?  
6 A Yes.  
7 MR. GERBER: Okay. All right.  
8 MS. AMENS: Your Honor, may I voir dire?  
9 THE COURT: Yes.  
10 MS. AMENS: Ask some questions?  
11 THE COURT: Uh-huh.

12  
13 VOIR DIRE EXAMINATION

14 BY MS. AMENS:  
15 Q Ms. Moorehead, does this involve any of the  
16 people that are involved in this guardianship; Paisley  
17 Stone or Carter Ferguson?  
18 A No, it does not.  
19 Q Does it involve the mother or father of the two  
20 children here?  
21 A Not as perpetrators.  
22 Q Okay. Does it involve any of the children, any  
23 of the Luceros' children?  
24 A Yes, it does.  
25 Q So it involves the children of -- of theirs,

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1 not grandchildren?  
2 A Correct.  
3 Q Okay.  
4 MS. RODRIGUEZ: Judge, I know this is an  
5 unusual thing to do in open court. And because it's  
6 unusual to do in open court, is there a way to ask  
7 everyone other than the parties be excused from the  
8 Court? I guess we only have the parties.  
9 THE COURT: We have one person in here that's  
10 not a party.  
11 MS. RODRIGUEZ: Right.  
12 Is it possible -- I know Mr. Gerber wants to  
13 have it on the record. However, in our last hearing,  
14 Your Honor had indicated that you were going to request  
15 an in camera investigation, or in camera review of the  
16 DCFS records and reports. I would ask that that be  
17 done rather than this information being provided in  
18 open court.  
19 THE COURT: Well, it's been pretty vague so  
20 far, so I have been paying close attention to that. I  
21 think the foundation has been laid.  
22 Do you want to be heard on that further,  
23 Ms. Amens?  
24 MS. AMENS: Your Honor, it's something that  
25 occurred five years ago. I have nothing on it in

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1 regards of any advanced notice that this was coming  
2 forward. So, uhm -- and we've had plenty of time to at  
3 least provide the attorneys an awareness of what was  
4 going to be presented here. So it's a little bit of an  
5 ambush.  
6 THE COURT: I'm not sure Mr. Gerber knows  
7 what's even in it.  
8 You haven't seen it, have you?  
9 MR. GERBER: I have not seen it, Your Honor.  
10 THE COURT: Give me a minute to look at the  
11 statute.  
12 Ms. Rodriguez, do you have any objection?  
13 MS. RODRIGUEZ: I don't have an objection,  
14 Judge. The --  
15 THE COURT: Ms. Stone, do you have any  
16 objection to the Court reading this DCFS report?  
17 MS. STONE: No.  
18 THE COURT: All right. For the record, she  
19 said no.  
20 Let me look at the statute.  
21 I am going to order that it be -- were you  
22 going to say something, Ms. Amens?  
23 MS. AMENS: Yes, Your Honor.  
24 It seems to me that 432(b) actions are meant to  
25 be confidential. I think it may be appropriate -- you

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1 know, is there anything that came out of it? Were kids  
2 taken away or anything like that, for the Court to  
3 know. But I don't think it makes sense that the  
4 report, itself, be provided in this particular case.  
5 THE COURT: Under NRS 432(b).290, subsection  
6 (2)(b) that talks about in camera inspection only,  
7 except as otherwise provided in paragraph F.  
8 F talks about guardianship cases where it can  
9 be provided to the Court in determining whether a  
10 guardian should be appointed. And then there are other  
11 people that can see it later on. But I'm not going to  
12 make that decision right this minute, so that we can  
13 keep moving. But I am going to order that it be  
14 provided to the Court for an in camera inspection.  
15 So can you hand that to the bailiff, please?  
16 (Witness complied.)  
17 THE COURT: Just to me. Thank you.  
18 I will look at that on a break and decide  
19 whether it will be disseminated to anybody else after  
20 that.  
21 Go ahead, Mr. Gerber.

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DIRECT EXAMINATION (Continued)

BY MR. GERBER:

Q Ms. Moorehead, this report that you delivered to the Court, was it kept in the regular course of business at the Division's office?

A Can you repeat that?

Q Was this report kept in the regular course of business with the records of the Division of Child and Family Services in Elko?

A If I understand that right, yes, it was, uhm, processed in our system, and that's where it's been stored.

Q And were you able to make a copy of it from the Division's records?

A Yes.

Q Okay. And is this a true and correct copy of the record that's kept in the Division's office in Elko, Nevada?

A Yes, it is.

MR. GERBER: Okay. All right. No further questions, Your Honor.

THE COURT: Cross examination, Ms. Amens.

If I provide this, Counsel, my plan is I would give it to you overnight so you have time to look at it and discuss it with your clients. Because I understand

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how you feel about not having notice.

MS. AMENS: Right.

THE COURT: You may have to come back tomorrow, Ms. Moorehead, depending on where this goes.

Do you have somewhere to be tomorrow?

THE WITNESS: No. But I could add that I'm not familiar with this case. I wasn't the caseworker on this case or the supervisor.

THE COURT: Okay. So you're just the records custodian, and that's why you brought it?

THE WITNESS: Yes. I was the supervisor available to testify, but I was not involved in the case at all.

THE COURT: Okay. Your testimony tomorrow probably won't be necessary, then.

Go ahead, Ms. Amens. Cross examination.

MS. AMENS: That makes it even more difficult. Right? I mean, we don't even have anyone I can cross in regards to this report.

MS. RODRIGUEZ: You can call your client.

MS. AMENS: I can call my client. Okay.

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CROSS EXAMINATION

BY MS. AMENS:

Q When did you receive the subpoena? When did the Division receive the subpoena? I understand that you have not seen it.

A I can't answer that question. I'm not sure when the -- our records clerk received that subpoena.

Q Okay. Do you know if it was this week?

A All I know is that Brandi Stout, our administrative assistant who takes care of the records requests, received the subpoena, but I don't know the exact time and date.

Q Okay. Is there a standard time frame that you respond to subpoenas normally, the Division?

A I believe that we need enough -- ample time to produce records.

Q Okay.

A And in this particular case, were you given ample time.

Q Like I said, I'm not quite -- I'm not sure when it was received?

MS. RODRIGUEZ: Judge, I'm going to object.

Ms. Moorehead said she doesn't know anything about the subpoena, she was just directed to come and deliver.

THE COURT: Ms. Amens, I can tell you're

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struggling with this, understandably. What we're going to do, though, is take some time. This looks to be about 30 pages, single-spaced, typed. We're gonna take a recess so I can read through this, decide who gets to see it. And that might help you to prepare any cross examination. So sorry we're gonna have to do this.

MS. AMENS: Your Honor, I will -- I'm not objecting to -- that it's a true -- the report. And I am willing to kind of deal with this overnight.

THE COURT: All right.

MS. AMENS: We've been trying to get this trial done for quite a while, and I don't want that to delay it.

THE COURT: All right.

MS. AMENS: So I'll look at it overnight.

THE COURT: All right.

MS. AMENS: Let me just ask a couple more questions.

THE COURT: Okay. Go ahead.

Q BY MS. AMENS: So in regards to this, did you know who the parties were for this action? Do you know who the other guardians are?

A With this case?

Q Yes.

A Yes, I'm familiar with the family from --

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1 Q Both of the families?  
2 A No.  
3 Q The McGrews?  
4 A Yes.  
5 Q Okay. Did you also look to see if there were  
6 records related to the McGrews?  
7 A No, I wasn't requested to. I -- I did not.  
8 Q Okay. The fact that you're aware of the -- the  
9 family, the McGrews, is that related to the work that  
10 the Division does?  
11 A Yes.  
12 Q Okay. Are you aware of any, uhm, cases  
13 involving the Fergusons?  
14 A No.  
15 Q You're awareness of the cases involving the  
16 McGrews, are you aware of outcomes of those cases?  
17 A Yes. One case.  
18 Q One case. Was it substantiated or not  
19 substantiated?  
20 A Unsubstantiated.  
21 Q Is that related to something that happened this  
22 year? Is that what you're referring to?  
23 A Yes.  
24 MS. AMENS: Okay. No further questions.  
25 THE COURT: Ms. Stone, do you have any

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1 questions for Ms. Moorehead?  
2 MS. STONE: No.  
3 THE COURT: Ms. Rodriguez, any questions?  
4  
5 CROSS EXAMINATION  
6 BY MS. RODRIGUEZ:  
7 Q Ms. Moorehead, the information that you're  
8 familiar with concerning the McGrews, is that the case  
9 in which -- uhm, involved the McGrews on Paisley, the  
10 bruise on Paisley's buttocks?  
11 A Yes.  
12 Q So just the recent case?  
13 A Pardon me?  
14 Q The recent case?  
15 A Yes.  
16 MS. RODRIGUEZ: Thank you. Nothing further.  
17 THE COURT: Redirect, Mr. Gerber?  
18 MR. GERBER: I have no further questions, Your  
19 Honor.  
20 THE COURT: Does anyone need this witness  
21 retained, other than if she needs to be called back  
22 tomorrow?  
23 MS. RODRIGUEZ: I do have one further question  
24 that I --  
25 THE COURT: Go ahead.

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1 MS. RODRIGUEZ: Specifically in regard to  
2 Paisley, Judge.  
3  
4 RECROSS EXAMINATION  
5 BY MS. RODRIGUEZ:  
6 Q In regard to the investigation which you  
7 supervised concerning Paisley, was a NIA completed?  
8 A Yes.  
9 Q Has that NIA been delivered to the Court or to  
10 me and the parties in this case?  
11 A No.  
12 Q Would you be willing to deliver a copy of that  
13 NIA by the end of the day if the Judge so orders?  
14 A Yes.  
15 MS. RODRIGUEZ: Thank you.  
16 Thank you, Judge.  
17 THE COURT: I'm ordering you to produce that by  
18 the end of the day, please.  
19 MS. AMENS: Your Honor, I have one more.  
20 THE WITNESS: Okay.  
21 MS. AMENS: Your Honor, I have one more  
22 question based on what Ms. Rodriguez --  
23 THE COURT: Go ahead.  
24 MS. AMENS: -- had asked, or it may not be.  
25

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1 RECROSS EXAMINATION  
2 BY MS. AMENS:  
3 Q In your -- you had indicated that you knew of  
4 one case involving the McGrews. Did you do an  
5 extensive search to see if there were other cases that  
6 would have been years old, like this one, that we're  
7 dealing with and the Luceros?  
8 A Yes.  
9 MS. AMENS: Okay. All right. No further  
10 questions.  
11 THE COURT: If it's easier for you, you can  
12 e-mail that. I don't know if that's okay by your  
13 standards. The bailiff, I think, could give you an  
14 e-mail address --  
15 THE WITNESS: Okay.  
16 THE COURT: -- on your way out. And then you  
17 can e-mail that, and you don't have to make another  
18 trip back.  
19 THE WITNESS: Yeah. I can do that.  
20 THE COURT: Just be available by phone in case  
21 we need to call you back tomorrow, but I don't think  
22 that's going to happen.  
23 THE WITNESS: Okay.  
24 THE COURT: Thank you.  
25 THE WITNESS: Thank you.

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1 (The witness left the stand.)  
2 THE COURT: Next witness, Mr. Gerber?  
3 MR. GERBER: I call Vicky Ferguson.  
4 THE COURT: Ms. Ferguson, please come forward.  
5 THE BAILIFF: One second so I can wipe this  
6 down, and let me get the e-mail from her.  
7 THE COURT: Okay. And give her Mercedes'  
8 e-mail, please.  
9 THE BAILIFF: Mercedes' e-mail?  
10 THE COURT: Yeah.  
11 Hang on one second, Ms. Ferguson.  
12 (Witness sworn.)  
13 THE COURT: Thank you. You may be seated.  
14 Would you please state and spell your name?  
15 THE WITNESS: Vicky Ferguson. V-i-c-k-y.  
16 F-e-r-g-u-s-o-n.  
17 THE COURT: Okay. Ms. Ferguson, I know you're  
18 having difficulty there speaking. Would a glass of  
19 water help you?  
20 THE WITNESS: I'm like this all the time.  
21 THE COURT: Okay.  
22 THE WITNESS: So if I need something, I'll ask.  
23 THE COURT: Yeah. Please go ahead and do if  
24 you need something.  
25 Go ahead, Mr. Gerber.

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1 VICKY FERGUSON,  
2 the witness herein, being first duly sworn, testified  
3 as follows:  
4  
5 DIRECT EXAMINATION  
6 BY MR. GERBER:  
7 Q Ms. Ferguson, are you married to Donald William  
8 Ferguson?  
9 A Yes.  
10 Q And is he present in the courtroom with you  
11 today?  
12 A Yes.  
13 Q And you were seated by him before you took the  
14 stand?  
15 A Yes.  
16 Q And are you the mother of Kevin Ferguson?  
17 A Yes.  
18 Q Okay. And he's also present in court today?  
19 A Yes.  
20 Q Are you the paternal grandmother of Carter  
21 Thomas Ferguson?  
22 A Yes, I am.  
23 Q And he's a male, minor child born January 17th,  
24 2018?  
25 A Yes.

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1 Q And you've been appointed as a co-guardian for  
2 Carter in this court, right?  
3 A Yes.  
4 Q Why -- what was the reason why you filed for  
5 guardianship back in April of 2018?  
6 A Kristin had asked me if I would take care of  
7 Carter while she had went to California. I said yes.  
8 Q What was Kristin's purpose in going to  
9 California, or at least what did she tell you?  
10 A It was my assumption, from what I was  
11 gathering, that she was gonna go and get help.  
12 Q Okay. Get help for what?  
13 A For drugs.  
14 Q Okay. Did she ever admit to you that she had a  
15 drug problem?  
16 A Yes, she did. She had come up to our house,  
17 uhm, in -- I can't remember the date. But Carter was  
18 in bed. It was about nine o'clock at night. I had  
19 just crawled in bed. My husband had come and got me  
20 and told me that Kristin was outside on the front  
21 porch.  
22 I had went out and talked to her, and my  
23 husband was out there with me. And she had told us  
24 that she was sorry, she couldn't (unintelligible). And  
25 I didn't know what to say to her. I think I said, I'm

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1 sorry, you know. And if it hadn't had been so late at  
2 night, I would have let her in to see Carter.  
3 Q Okay. So she came and asked you to take Carter  
4 so she could go to California --  
5 A Yes.  
6 Q -- for rehabilitation, correct?  
7 A Yes.  
8 Q And did she ask you for money to go to get to  
9 California?  
10 A Yes, she did.  
11 Q Were you -- were you able to provide her money?  
12 A I -- I told her I would have to wait and see  
13 how big my check was. And at that time, there was a  
14 mistake on my check. My check wasn't that big because  
15 I had quit my job. Uhm, I believe back in April of  
16 last year I had quit my job because I got a phone call  
17 saying that I needed to go pick up Carter, and I needed  
18 to do it now. So it was two years ago.  
19 MR. GERBER: Okay. Your Honor, may I have  
20 these marked as an exhibit?  
21 THE COURT: Hand them to the bailiff, please.  
22 (Counsel complied.)  
23 Q BY MR. GERBER: And during that time, did you  
24 have text message communication with Kristin?  
25 A Yes, I did. And every -- every time that she

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1 would text me and ask me for pictures of Carter, I  
2 would immediately send her pictures.  
3 Q At that time did you have a relationship of  
4 trust with Kristin?  
5 A Yes.  
6 Q She trusted you?  
7 A Yes.  
8 Q In those text messages that you had with  
9 Kristin, do you recall what she told you in the text  
10 messages?  
11 A No, I don't.  
12 Q I'll show you an exhibit that is being marked  
13 in just a moment.  
14 THE CLERK: (Inaudible) as one exhibit.  
15 THE COURT: How do you want those marked,  
16 Mr. Gerber? All as one exhibit?  
17 MR. GERBER: It would be Exhibit 3 as a bundle.  
18 We checked the record prior to the start this  
19 afternoon, and there's been two exhibits entered on my  
20 case. And so I think it would be number 3.  
21 THE COURT: Okay.  
22 (Exhibit 3 marked.)  
23 THE COURT: You can put those up on the screen.  
24 MR. GERBER: Okay. Are you able to -- can you  
25 hand her a hard copy, Judge?

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1 MS. RODRIGUEZ: She can see the screen.  
2 THE COURT: She can see the screen.  
3 MR. GERBER: Oh, you have a screen.  
4 THE COURT: These are not admitted yet, so I'm  
5 not looking at them, Mr. Gerber.  
6 Q BY MR. GERBER: I'm showing you what's been  
7 marked as Exhibit 3. Do you recognize these text  
8 messages?  
9 A Yes, I do.  
10 Q And what are they?  
11 A The first one is from Kristin.  
12 Q And who is it to?  
13 A It's to me, uhm, asking me for -- asking me to  
14 take Carter temporarily until she is stable.  
15 Q Okay.  
16 A And if I will buy a bus ticket.  
17 Q Okay. So are these text messages that you  
18 printed out from your personal cell phone?  
19 A Yes, they are. And they are still on my  
20 personal phone.  
21 Q Okay.  
22 A I told her that I would.  
23 Q Okay. And looking at the first message on page  
24 1, can you read the first text message?  
25 A From Kristin or from me?

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1 Q From you -- or sorry, from Kristin to you.  
2 A I did make a choice to move to Cali but wanted  
3 to see if you would still take Carter temporarily until  
4 I get stable. But I have to come up with money for a  
5 bus ticket, so I'm not too sure when.  
6 Q Okay. And how did you respond?  
7 A I responded with, Yes, I will. I will take  
8 Carter anytime. You should know that. Thank you, from  
9 her. You are very welcome. New Frontier in Reno is  
10 referring Kevin to Vitality in Carson City. They  
11 called me today. But Kevin did not wind up going to  
12 Vitality.  
13 Q At the time that Kristin left Carter with you  
14 to go to Cali -- because I assume that happened. She  
15 left Carter with you, correct?  
16 A Yes.  
17 Q Where was Kevin at the time?  
18 A Kevin, I believe, was in jail.  
19 Q Okay. And he was getting ready to be released?  
20 A No.  
21 Q No. Okay. Where -- what -- (unintelligible)?  
22 A Kevin was -- Kevin was arrested in --  
23 MR. FERGUSON: Can I --  
24 Q BY MR. GERBER: Okay. And you have to answer  
25 of your own knowledge. You can't look at Kevin or --

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1 A No. He was raising his hand, so I was waiting  
2 for the judge to --  
3 THE COURT: Okay. I will give you the  
4 opportunity to ask questions. You can't interject  
5 here.  
6 So was there something else that you needed?  
7 MR. FERGUSON: I was just going to give what I  
8 got.  
9 THE COURT: Okay. You can't do that.  
10 MR. FERGUSON: I'm frustrated.  
11 THE COURT: You can't do that. You just have  
12 to let your mom answer.  
13 Go ahead, Mr. Gerber.  
14 MR. GERBER: And I plan to call Kevin as a  
15 witness later, so he'll have an opportunity to speak.  
16 THE COURT: Okay.  
17 THE WITNESS: I believe Kevin was arrested in  
18 March.  
19 Q BY MR. GERBER: Okay. So he was in Elko County  
20 Jail at this time?  
21 A Yes.  
22 Q Okay. And why were you talking about him being  
23 referred to a rehab facility if he's in jail?  
24 A Because Kristin and I were going to visit  
25 Kevin. We were going to the jail and seeing him at the

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1 time.

2 Q Okay. And let me direct your attention to page

3 3 of these text messages.

4 MR. GERBER: Would you like me to work the

5 projector or --

6 THE COURT: No. Mercedes can come up and help

7 you.

8 MR. GERBER: So page 3.

9 Q BY MR. GERBER: And so we're clear, was this

10 correspondence going on just before you filed your

11 guardianship petition in 2018?

12 A Yes.

13 Q Okay. And on page 3, do you see at the bottom

14 of the screen there where you say, Okay?

15 A Okay. But all the paperwork will have to be

16 done properly for Carter. I don't want any trouble.

17 Q What do you mean by that?

18 A I didn't want any trouble from Pamela -- Pamela

19 and Michael Lucero.

20 Q Okay. And did Kristin sign a consent for you

21 to have guardianship at that time of Carter?

22 A Yes, she did.

23 Q Okay. And then Kristin did, in fact, go to

24 California, correct?

25 A Yes.

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1 Q And did she actually go in to rehab?

2 A That, I cannot answer.

3 Q Okay. At some point, did she return from

4 California?

5 A Yes.

6 Q And who transported her?

7 A Uhm, Pamela Lucero.

8 Q And after she was brought back to Elko by

9 Pamela Lucero, did Kristin recant and sign a consent

10 for Pamela Lucero to have guardianship?

11 A Yes.

12 Q And then would you consider that the trouble

13 that you were trying to avoid?

14 A Yes.

15 Q Okay. And so Kristin didn't actually attend

16 rehab in California, because she was brought back to

17 Elko by Pamela Lucero, correct?

18 A Correct.

19 Q Okay. Let me turn your attention to the last

20 page of that Exhibit 3. Okay. And do you see at the

21 top of the page, what does Kristin tell you?

22 A Okay. And, no, Paisley won't be going. I have

23 to talk to Maria and let her -- I think that's supposed

24 to be know -- let her know.

25 Q Okay. And what is --

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1 A My response was, Okay. Or -- yeah, my response

2 was, Okay. And then Kristin's to me was, Love you.

3 Love you. And then, Vicky, would you be able to help

4 me with a bus ticket? I'm only doing it to get away

5 from my family and to better myself.

6 Q Okay. And when she says "to get away from my

7 family," who is she referring to?

8 A She was talking about Pamela and Michael

9 Lucero.

10 Q Okay. And going back to the top of that page,

11 she says, Okay. And, no, Paisley won't be going.

12 Going where?

13 A I'm not sure what she meant by that.

14 Q Okay. She is talking about going to Cali, or

15 California, correct?

16 A Yeah. So I don't know if she meant that

17 Paisley would not be going with her and that Maria

18 would be getting her.

19 Q Okay. So she does say, I have to talk to Maria

20 and let her know?

21 A Right.

22 Q That would mean --

23 A That Maria did the guardianship, also.

24 Q So she left Carter with you, and she left

25 Paisley with Maria?

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1 A She left Paisley with Maria.

2 Q And if you could turn back one page to the

3 second to the last page, do you see the place where you

4 say, I won't. Can you read that to the Court?

5 A I won't keep your family from seeing Carter. I

6 would never do that.

7 Q During the course of this guardianship, have

8 you cooperated in allowing the Luceros to see Carter?

9 A Yes, I have.

10 Q Okay. And then read on, if you could finish

11 reading that page.

12 A Please don't let them take him out of your

13 home. I don't trust anybody but Papa.

14 Q Who is she referring to when she says "Papa"?

15 A She is referring to Mr. Lucero.

16 Q Okay. And --

17 A And then, Is Paisley going with you? You got

18 it girl. If I had paperwork, they will still be able

19 to see him. Okay. You got it. Papa, it is. Okay.

20 And, no, Paisley won't be going. I have to talk to

21 Maria and let her know.

22 Q So that's where she --

23 A Yes.

24 Q You ask her if Paisley is going, and she says,

25 No, she's not going, I'm going to talk to Maria?

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1 A Right.  
2 Q And then she did, in fact, talk to Maria?  
3 A Yes.  
4 Q And then left Paisley with Maria?  
5 A Yes.  
6 Q And so -- so did you have any problems with  
7 this guardianship until Kristin was brought back from  
8 California?  
9 A No. Everything was going smooth. Mr. Lucero  
10 would come over, or Pamela would come over and pick up  
11 Carter, take him to his -- to their house. They would  
12 bring him back. We had no problems.  
13 Q Until when?  
14 A Until this day, I have no problems with any of  
15 them.  
16 Q Okay. But you are sitting here in court in a  
17 contested guardianship matter.  
18 A Yes, I am.  
19 MR. GERBER: Okay. Your Honor, I would move to  
20 admit Exhibit 3 in to evidence.  
21 THE COURT: Is there any objection to the  
22 admission of Exhibit 3?  
23 MS. AMENS: We've already been through it all.  
24 No.  
25 THE COURT: Exhibit 3 is admitted.

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1 (Exhibit 3 admitted.)  
2 MR. GERBER: And for the record, the exhibit  
3 that was admitted was Exhibit 2, which was a different  
4 text messages between Maria. These are ones that were  
5 introduced --  
6 THE COURT: -- at another hearing. Is that  
7 what you're talking about, Mr. Gerber?  
8 MS. AMENS: In January of 2019.  
9 MR. GERBER: Yeah.  
10 MS. RODRIGUEZ: And it was Exhibit 1.  
11 MR. GERBER: Exhibit 1. Okay.  
12 Q BY MR. GERBER: Okay. So let's talk about  
13 Kevin at this point. He's been released from jail,  
14 correct?  
15 A Yeah. He was released to rehab. He wasn't  
16 released -- he was released from jail, but they  
17 transported him, the sheriff's department transported  
18 him to Reno.  
19 Q Okay. And did he successfully complete the  
20 Capstone program at the Rich House?  
21 A Yes, he did.  
22 MR. GERBER: Okay. If I could have this  
23 exhibit marked, Your Honor?  
24 THE COURT: This will be 4.  
25 MR. GERBER: This one, 4 and 5.

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1 (Exhibits 4 and 5 marked.)  
2 Q BY MR. GERBER: And to your knowledge, did  
3 Kevin also complete a parenting class once he returned  
4 to Elko?  
5 A Yes, he did.  
6 Q Okay. What other progress has Kevin made since  
7 this case started?  
8 A Kevin has made a lot of good progress. He  
9 worked for Taco Bell for almost a year. He held a  
10 steady job. Uhm, he's off the drugs. He's staying  
11 clean. And he's got people that love him and support  
12 him.  
13 Q Has he been continuously employed since he was  
14 released from the Capstone program?  
15 A Yes.  
16 Q Okay. So he was employed at Taco Bell. Where  
17 did he go after that?  
18 A He went to Maverick. And now he's at Pizza  
19 Hut.  
20 Q Okay. And is he -- is he looking for higher  
21 paying jobs at this time?  
22 A Yes, he is. In fact, he had an interview  
23 yesterday that I drove him to the -- to the Elko Cola  
24 Company. He's got two phone calls from Jerriitt Canyon,  
25 and he's waiting on calls back from them.

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1 Q Okay.  
2 A And he has just moved out Monday to another  
3 place.  
4 Q Okay. Prior to moving out on Monday, was he  
5 continuously living at your home since he was released  
6 from rehab?  
7 A Continuously? No.  
8 Q Can you explain.  
9 A He stayed at our house. He lived there for --  
10 I want to say about a year. And then him and Shea were  
11 engaged to be married. And he was still working at  
12 Taco Bell at the time. They had -- Kevin had gotten  
13 low income housing, and he had moved in there. And he  
14 did that with the support of his counselor from the  
15 adult drug -- Drug Court here.  
16 Q Okay. And then did he move back in with you at  
17 some point?  
18 A He did move back in with me once. Shea and him  
19 had broken up. Shea got the apartment. He moved back  
20 in with us. And, uhm, he's been living there. And  
21 then like I said, just Monday he moved out again.  
22 Q And where is his new residence?  
23 A His new residence is over at Quail Run  
24 Apartments.  
25 Q And does he have anybody else living there with

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1 him?

2 A Yes, he has his girlfriend.

3 Q And is it just the two of them?

4 A Yes.

5 Q How long --

6 A And I may have said that wrong from Michelle's

7 expression.

8 Q How long has he been in that relationship with

9 his girlfriend?

10 A Uhm, I want to say he's -- a month or two.

11 Q Okay.

12 A I might be wrong.

13 Q All right. So a fairly new relationship?

14 A Yes.

15 Q Is she employed, to your knowledge?

16 A To my knowledge, no, she is not.

17 Q Okay.

18 A She is -- she has some stuff she needs to do,

19 but she is also looking for employment. She has

20 applied at the Manor. She has applied at Vogue. And

21 she had an interview yesterday, I believe it was, but

22 I'm not sure where.

23 Q Okay. To your knowledge -- I know this is a

24 new relationship. But to your knowledge, is there

25 any -- any reason why you would believe that she is not

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1 a fit person to be a caregiver for Carter?

2 A I would have to say no, not to my knowledge.

3 There are some things that I am aware of, and I don't

4 think those need to be brought up here.

5 Q Okay. Does she have children of her own?

6 A She has one child.

7 Q And is the child in her custody?

8 A No. And I --

9 MS. RODRIGUEZ: Judge, I'm just going to object

10 for a moment. Unless we're looking for placement of

11 Carter with his father, I don't know that this

12 information is relevant.

13 THE COURT: Me either.

14 Where are we going, Mr. Gerber?

15 MR. GERBER: I'm exploring the -- whether this

16 father is able to care for the child on his own. These

17 are new facts, that he's just barely moved out in to

18 his own apartment. And the Court wants to know if a

19 guardianship is necessary.

20 THE COURT: I think he's consenting to the

21 guardianship, isn't he?

22 MR. GERBER: He did.

23 THE COURT: All right. So Kevin Ferguson, are

24 you consenting to this guardianship? Are you agreeing

25 to it, or are you fighting it?

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1 MR. FERGUSON: I'm agreeing to an extent, you

2 know.

3 THE COURT: Okay. So you're not entirely

4 agreeing, you're saying?

5 MR. FERGUSON: I'm with it. But in the end, I

6 want to be able to have my boy.

7 THE COURT: So --

8 MR. FERGUSON: I guess, like, I'm in to them

9 having guardianship, but in the end, like, I know what

10 my goal as a parent is. And I know what I want down

11 the line.

12 THE COURT: All right. What we're going to do,

13 is we're gonna take a recess here, Counsel, so you can

14 talk to him about maintaining his parental preference,

15 and then maybe we can skip over this part of it. He'll

16 consent and maintain his parental preference, if your

17 clients are willing to do that, Mr. Gerber.

18 I have been looking through the report that

19 Ms. Moorehead provided. I've hit something that I

20 think is an ethical issue in this case, not involving

21 me, involving one of the attorneys. I need to go back

22 and do some research and then talk about that when I

23 come back out.

24 So while I'm out doing that, please talk about

25 the parental preference with Kevin Ferguson.

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1 MR. GERBER: Thanks.

2 THE COURT: Court's in recess.

3 (Recess.)

4 THE COURT: All right. We're gonna talk about

5 this ethical issue first. Oh, I left the book sitting

6 on my desk, Lani. It's open. It's a big, blue

7 paperback.

8 THE CLERK: Okay.

9 THE COURT: If you could grab that, please.

10 So I was looking at this in camera report of

11 the Nevada Initial Assessment that involved the Luceros

12 back in 2014. I also had to look at some juvenile law,

13 because there was a juvenile proceeding involved with

14 this. And I wanted to be careful about what I said in

15 here -- thank you -- to protect the juvenile's rights.

16 So I had not read the whole report. I stopped when I

17 hit what I thought was an ethical issue.

18 The Luceros' son was charged, or at least had

19 some involvement in juvenile court, as of what -- that

20 led to this substantiated report. The Luceros, at

21 least in the first couple of pages I've read, it was

22 determined by DCFS that they were not protecting

23 another one of their children from this 15-year-old

24 boy. I'm trying to not reveal too much about who he

25 is, because he's a juvenile.

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1 But, Mr. Gerber, you represented that child.  
2 Are you aware of that?  
3 MR. GERBER: I did represent a juvenile who  
4 lived in the Lucero home. Yes.  
5 THE COURT: Uh-huh. Well, I'm concerned about  
6 that, because that's a prior client of yours.  
7 Did you get his consent to represent these  
8 clients in this proceeding?  
9 MR. GERBER: My understanding is that he -- I  
10 was representing the juvenile.  
11 THE COURT: Uh-huh.  
12 MR. GERBER: I did not represent Pam and  
13 Michael Lucero. I was not aware that this  
14 substantiated report had to do with this incident or  
15 anything connected to it.  
16 THE COURT: Uh-huh.  
17 MR. GERBER: Until, you know, yesterday/today,  
18 I had an indication that that was the time frame.  
19 I was initially retained by the Fergusons and  
20 McGrews and filed the guardianships, did not believe  
21 they would be contested. It turned out the Luceros did  
22 contest.  
23 Ms. Amens has known about my representation of  
24 the juvenile since early on in this case. Michelle  
25 Rodriguez is aware of it.

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1 My reading of the law is that, just like if  
2 Michelle Rodriguez represents multiple children in a  
3 particular home, it doesn't create a conflict. She  
4 doesn't represent the parents or the caregivers, she  
5 represents the children.  
6 In this case, the juvenile is not a party to  
7 this action. The only parties are Pam and Michael  
8 Lucero, and I've never represented them as an attorney.  
9 THE COURT: There's a couple of different  
10 ethical rules that I'm concerned about. I realize he's  
11 not -- that the Luceros are not your client in this  
12 case. But what I have to consider is if this is a  
13 substantially related matter to the previous case.  
14 And the factors that the Nevada Supreme Court  
15 has set forth in a case called Waid, W-a-i-d, versus  
16 Eighth Judicial District Court, 121 Nevada 605, are I  
17 have to make a factual determination concerning the  
18 scope of the former representation. I have to evaluate  
19 whether it is reasonable to infer that the confidential  
20 information allegedly given would have been given to a  
21 lawyer representing a client in those matters and  
22 determine whether that information is relevant to the  
23 issues raised in the present litigation.  
24 So the scope of the former representation was  
25 in the juvenile matter, correct?

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1 MR. GERBER: Yes, correct.  
2 MS. RODRIGUEZ: Juvenile criminal matter.  
3 THE COURT: Juvenile criminal matter, yes.  
4 Was there an adjudication in that case?  
5 MR. GERBER: My recollection is that it was  
6 resolved without trial and without any adjudication.  
7 But I can't say that for certain. I don't remember  
8 exactly how it was disposed of.  
9 THE COURT: Okay. Ms. Rodriguez, did you have  
10 some involvement in this?  
11 MS. RODRIGUEZ: Not in the criminal action. I  
12 did represent the victim in the 432(b) action, because  
13 it was, obviously, a substantiated 432(b).  
14 My recollection is there was an agreement that  
15 Mr. Gerber reached with juvenile probation, wherein  
16 basically an informal agreement, wherein the alleged  
17 perpetrator would receive certain services. And they  
18 resolved it that way without going forward.  
19 THE COURT: Which presents the next issue. Do  
20 you have a conflict of interest, because you  
21 represented one of the Lucero children, as well, and  
22 now you are representing these other children?  
23 MS. RODRIGUEZ: I actually see it as the same  
24 type of representation, Judge, because of my knowledge  
25 of the previous issues in the family. The ongoing

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1 conflicts have continued. This is one of the reasons  
2 why I've worked very hard to try to get the parties to  
3 settle this.  
4 My goal is for all the family to be able to be  
5 involved with these kids. And I have worked -- tried  
6 to get both parties to convince their clients that it's  
7 best to have both sets of grandparents.  
8 I am aware of the history, and I have concerns  
9 because of that history. But in -- just as DCFS has  
10 that same knowledge. It has not stopped me from  
11 working in this case, and I don't believe it has  
12 impinged me at all. However --  
13 THE COURT: But the child you represented in  
14 that case, you have confidential information --  
15 MS. RODRIGUEZ: Correct.  
16 THE COURT: -- on that case that impacts your  
17 view in this case, right?  
18 MS. RODRIGUEZ: Yes. And I have disclosed that  
19 to anybody -- no, that doesn't impact my view. I know  
20 the previous substantiated allegation against them,  
21 which we're all privy to by subpoenaing the records  
22 from the Division.  
23 THE COURT: Do you have confidential  
24 information from the child in that case? And to  
25 adequately represent the children in these -- in this

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1 case, do you need to disclose that information?  
2 MS. RODRIGUEZ: No. I do not believe I do.  
3 It's a different type of case. Granted, it's the same  
4 with -- essentially a failure to protect previously,  
5 this is a different type of case, in my opinion,  
6 different type of allegations, different types of  
7 concerns.  
8 THE COURT: Because you can't disclose what you  
9 learned confidentially --  
10 MS. RODRIGUEZ: Correct.  
11 THE COURT: -- in that case in this case, but  
12 you need to be able to fully represent these children  
13 without doing that.  
14 MS. RODRIGUEZ: Correct.  
15 THE COURT: And you're confident you can do  
16 that?  
17 MS. RODRIGUEZ: Yes.  
18 THE COURT: All right. So I can find in your  
19 case that the information that you -- the confidential  
20 information that you learned in that case is not  
21 relevant to the issues raised in this case.  
22 But, Mr. Gerber, how is that true for you,  
23 given that your clients are opposed to the Luceros, and  
24 you represented a child in their home? So how is  
25 this -- how is what you learned in that case not

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1 relevant to this case?  
2 MR. GERBER: My knowledge in that case was  
3 limited only to representing a juvenile for allegations  
4 against him, not against the Luceros. I had known -- I  
5 had no knowledge that there was even a 432(b) case  
6 pending with another child or the victim, the alleged  
7 victim, in that case, had no knowledge of that, of  
8 Michelle's case, for example. And in that case, it  
9 only involved the juvenile. The Luceros were not on  
10 trial. They were not parties to that case.  
11 In this case, the Luceros are parties, and the  
12 juvenile is not. So it's a complete switch, where  
13 neither the juvenile is a party to this case, nor the  
14 Luceros a party to the last case.  
15 THE COURT: Did you gain information in that  
16 last case that would be harmful to that child if you  
17 used it in this case?  
18 MR. GERBER: Absolutely not.  
19 THE COURT: Did you gain any information in  
20 that case that you have to hold back that would be  
21 harmful to your clients in this case?  
22 MR. GERBER: No.  
23 THE COURT: Ms. Amens, do you want to be heard  
24 on any of these issues?  
25 MS. AMENS: Yes, Your Honor.

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1 THE COURT: Go ahead.  
2 MS. AMENS: Uhm, Your Honor, first, I was not  
3 aware of the -- the juvenile case having any impact  
4 here, or even that Mr. Gerber represented any of the  
5 children of the Luceros. I was aware that my clients  
6 knew Mr. Gerber. But to the extent that they knew him,  
7 I was not aware of.  
8 My clients have expressed concern previously  
9 about Ms. Rodriguez being involved here. Uhm, I was  
10 not aware of how she's been involved with the family  
11 previously, like in the 432(b) case. I'm --  
12 THE COURT: This is all news to me, also,  
13 Ms. Amens.  
14 MS. AMENS: Yeah. So that's where -- that's  
15 where I'm at in regards to that.  
16 I am -- so as to Mr. Gerber, I think that there  
17 is a potential conflict because the resolution of the  
18 juvenile case is direct -- directly relates to the  
19 substantiation of the Luceros.  
20 In other words, if he was to provide the  
21 information to the Court, then I think he has a problem  
22 with his current clients, right? If he was to -- to  
23 provide the outcome of -- of what was the final  
24 charges -- this is just what I'm understanding and,  
25 uhm, I think it is in conflict with his current --

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1 current clients.  
2 I don't know about Ms. Rodriguez. I know that  
3 she's met with the children at the Luceros. I don't  
4 know if she's met with the children at the other homes.  
5 You know, and I -- I think she has Paisley and Carter's  
6 best interest at heart, but I don't know how the  
7 conflict -- I don't know what's in that report.  
8 THE COURT: I don't know yet either because I  
9 stopped reading when I got to that.  
10 MS. AMENS: So I'm concerned. We are  
11 concerned.  
12 THE COURT: I don't see Kristin Stone here.  
13 Did she leave?  
14 MS. RODRIGUEZ: Just for clarification of the  
15 record, Judge --  
16 UNIDENTIFIED SPEAKER: In the car. She's  
17 having an emotional breakdown.  
18 THE COURT: Okay. Go ahead, Ms. Rodriguez.  
19 MS. RODRIGUEZ: I was going to say, just for  
20 clarification of the record, the individual that  
21 Mr. Gerber represented was a grandchild, not a child.  
22 THE COURT: Okay. I just knew it was a child  
23 in the home. And the Luceros are described in  
24 different ways in here as adoptive parents and as  
25 grandparents.

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1 So, Mr. Gerber, you're telling me as an officer  
2 of the Court that you did not realize that the child  
3 you represented previously had any relationship to this  
4 matter? Is that what you're telling me, until the last  
5 couple of days?

6 MR. GERBER: I did -- when I subpoenaed the  
7 records from the Division, I did know there was a  
8 substantiated report and that substantiated report had  
9 any -- anything to do with the other juvenile that I  
10 had previously represented. And -- but I knew there  
11 was a substantiated report, so I subpoenaed for those.

12 THE COURT: So when did you find out that  
13 juvenile that you represented had the -- a connection  
14 to the Luceros?

15 MR. GERBER: I knew when the Luceros first  
16 filed their petitions to contest the guardianships that  
17 I had filed for the McGrews and the Fergusons, I knew  
18 the Luceros because of my past involvement with their  
19 family and with being -- you know, specifically  
20 representing that juvenile. The Luceros knew that,  
21 too, and it was brought up at the time.

22 THE COURT: I don't recall it being brought up  
23 in court.

24 MR. GERBER: It wasn't brought up in court.  
25 But I do remember talking to Ms. Amens, because she

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1 brought up the issue of conflict way back when. She  
2 may not remember it, or she may not have known what  
3 the -- you know, but my recollection is we did have a  
4 conversation early on, that she knew that I represented  
5 a juvenile that had lived in the Lucero home.

6 But my reading of the conflict statutes is that  
7 it has to do with the parties to the case. In this  
8 case, that juvenile is not a party. And I don't have  
9 any -- I don't have any special information that I  
10 gained from that case that would create a conflict in  
11 this case.

12 THE COURT: But what the rule says is a lawyer  
13 who has formerly represented a client in a matter shall  
14 not thereafter represent another person in the same or  
15 substantially related matter in which that person's  
16 interests are materially adverse to the interests of  
17 the former client.

18 MR. GERBER: Okay.

19 THE COURT: It's fuzzy. It's not clear. Let  
20 me continue, Mr. Gerber.

21 Where I get concerned is down below where it  
22 says, Unless the former client gives informed consent,  
23 confirmed in writing, a lawyer who has formerly  
24 represented a client in a matter, or whose present or  
25 former -- well, a lawyer has formally represented a

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1 client in a matter shall not thereafter reveal  
2 information relating to the representation, except as  
3 these rules would permit or require.

4 So you subpoenaed these records from DCFS,  
5 which has now revealed information relating to your  
6 representation of that child. So that's where I'm  
7 getting concerned.

8 MR. GERBER: I think the key of that statute is  
9 does not juvenile -- is -- is what I'm doing here today  
10 adverse to his interests? I don't think it possibly  
11 could be, because he's not moving for custody of Carter  
12 or Paisley, nor has he made an appearance in this  
13 court.

14 THE COURT: You have confidential information  
15 about him. So it's confidentiality and duties to  
16 former clients. Those two things are intertwined.

17 So the first thing I have to consider is, make  
18 a factual determination concerning the scope of the  
19 former representation. So my determination is, it was  
20 limited to that juvenile proceeding.

21 You don't dispute that, do you?

22 MR. GERBER: No.

23 THE COURT: I have to evaluate whether  
24 confidential information -- whether it's reasonable to  
25 infer that the confidential information allegedly given

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1 by that juvenile would have been given to a lawyer  
2 representing a client in those matters.

3 I don't know what information that he gave you.  
4 And I -- I can't -- no, you can't tell me that. But  
5 it's reasonable for the Court to infer that he would  
6 have given you confidential information about that  
7 juvenile proceeding, which was the basis for this  
8 substantiated allegation of abuse or neglect.

9 And then I have to determine whether the  
10 information that he would have given you is relevant to  
11 the issues raised in the present litigation.

12 MR. GERBER: If I can be heard on that point?

13 THE COURT: All right. Go ahead.

14 MR. GERBER: I think that is a critical point,  
15 that I did not learn anything in that juvenile case  
16 that was adverse to Pam or Mr. Lucero.

17 THE COURT: How did you know that there had  
18 been a substantiated allegation against them?

19 MR. GERBER: When I subpoenaed the records, I  
20 got a call from the AG's office, who told me that there  
21 was a substantiated report, but they could not produce  
22 it without a Court order. And that's why I -- I had  
23 Ms. Moorehead come here to court and asked her to  
24 produce it to the Court in camera.

25 THE COURT: So did you -- so did you just issue

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1 kind of a blanket subpoena to DCFS regarding everyone  
2 in the case, or just the Luceros to see if anything  
3 popped up? How did that happen?  
4 MR. GERBER: The subpoena asked whether there  
5 were any substantiated reports against Pamela Lucero or  
6 Mr. Lucero.  
7 THE COURT: So you didn't know if there were  
8 any reports, any substantiated allegations, until after  
9 you issued the subpoena?  
10 MR. GERBER: Correct.  
11 THE COURT: And then tell me again when you  
12 first -- well, you knew them because of the previous  
13 juvenile proceeding, but you did not know there was a  
14 432(b) case, correct?  
15 MR. GERBER: Correct.  
16 THE COURT: So when did you first know that  
17 this substantiated allegation related to your previous  
18 client?  
19 MR. GERBER: When you indicated that prior to  
20 the break.  
21 THE COURT: Okay.  
22 MR. GERBER: When -- and I was aware that --  
23 that it was approximately the same time frame, but I  
24 did not know.  
25 THE COURT: I'm going to make a finding that

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1 any information that previous client may have given to  
2 Mr. Gerber is not going to be relevant to the issues  
3 raised in this litigation. It was limited to his  
4 representation in the juvenile matter, which sounds  
5 like it was probably resolved fairly informally. The  
6 information in this report pertains to the Luceros and  
7 the finding by DCFS, the substantiated finding of abuse  
8 or neglect.  
9 Mr. Gerber, I'm trusting that you are not going  
10 to reveal any confidence you gained from that child in  
11 this case, correct?  
12 MR. GERBER: Absolutely not, Your Honor.  
13 THE COURT: And again, can you represent your  
14 clients in this case zealously, without using any of  
15 that information?  
16 MR. GERBER: Correct, Your Honor. I don't feel  
17 that there is a conflict.  
18 THE COURT: All right. I'm gonna go ahead and  
19 let you stay on the case. I'm going to make a finding  
20 that this case is not substantially related to the  
21 previous case where you represented that juvenile.  
22 So now let's get to Kevin Ferguson. And have  
23 you all come to an agreement on whether he's going to  
24 retain his parental preference?  
25 MR. GERBER: Yes, Your Honor. I believe that

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1 is the agreement.  
2 THE COURT: So he will consent to this and  
3 retain his parental preference?  
4 MR. GERBER: That's my understanding, if you  
5 want to canvass him. I don't represent him and can't  
6 speak for him.  
7 THE COURT: Right.  
8 So, Mr. Ferguson, Kevin Ferguson, was it  
9 explained to you what this parental preference stuff  
10 means?  
11 MR. FERGUSON: Yes, ma'am.  
12 THE COURT: And you're consenting to this  
13 guardianship? Was that all explained to you?  
14 MR. FERGUSON: Yes, ma'am.  
15 THE COURT: And is that what you want to do, is  
16 consent to the guardianship, but you will retain your  
17 parental preference, which could help you get Carter  
18 back in your care in the future? Is that what you want  
19 to do?  
20 MR. FERGUSON: Yes, ma'am.  
21 THE COURT: All right. Then we don't need to  
22 go in to any more evidence about Kevin Ferguson and his  
23 girlfriend.  
24 Ms. Amens, you look like you wanted to be  
25 heard.

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1 MS. AMENS: Yes.  
2 THE COURT: I made my decision on the conflict  
3 so --  
4 MS. AMENS: Yeah. The only thing there was  
5 whether the outcome here was adverse to his former  
6 client. And I think there could be -- you know, such  
7 that he needed to get consent from his client.  
8 THE COURT: Because I made the finding it's not  
9 substantially related, he does not need to have that  
10 consent.  
11 MS. AMENS: Okay. On the issue of  
12 Mr. Ferguson's parental preference, that actually also  
13 deals with our guardianship action. And I'm not sure  
14 that I'm in agreement that --  
15 THE COURT: You make a good point.  
16 MS. AMENS: -- that he needs to maintain that.  
17 Right?  
18 THE COURT: Have you discussed that with your  
19 clients?  
20 MS. AMENS: Yes, Your Honor. I think there is  
21 some concerns.  
22 THE COURT: All right. So they do not want him  
23 to retain the parental preference?  
24 MS. AMENS: Correct.  
25 THE COURT: All right. Then -- then we can't

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1 do that. You're right. Your clients are involved in  
2 that decision.  
3 So, uhm, Kevin Ferguson, the hearing is going  
4 to go ahead because the Luceros do not agree to  
5 accepting your consent to guardianship. You're not  
6 consenting to them having guardianship. And so they  
7 still want to go ahead with that and do not want you to  
8 retain that parental preference, if I give them  
9 guardianship.

10 So I think the way we could do this is in terms  
11 of the Fergusons' guardianship petition, I can accept  
12 that parental preference. So if I give guardianship to  
13 your parents, Kevin, you would retain that preference.  
14 If I give guardianship to the Luceros, you're not going  
15 to retain that preference.

16 So you're representing yourself. I will give  
17 you the opportunity to ask questions so that you can  
18 make your case for why they shouldn't have  
19 guardianship, or why Carter doesn't need a guardian.

20 This is complicated. This is the kind of thing  
21 that you probably need an attorney for, but we are two  
22 years in to this, and you haven't hired one, so you're  
23 going to have to represent yourself.

24 So, Mr. Gerber, your questions about him and  
25 his girlfriend are not relevant to your case. They may

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1 be relevant to Ms. Amens' case or questions that  
2 Ms. Rodriguez has.

3 MR. GERBER: Okay.

4 THE COURT: This isn't complicated at all.

5 MR. GERBER: I appreciate you working through  
6 the issues, Your Honor.

7 MS. RODRIGUEZ: It's good you have the  
8 experience you do, Judge.

9 THE COURT: Thank you. I appreciate that.

10 MR. GERBER: Shall I proceed?

11 THE COURT: Yes. Go ahead.

12 MR. GERBER: Prior to the break, I had two  
13 exhibits marked, 4 and 5. If we could put those on the  
14 screen? Or I guess we're doing the screen to avoid  
15 contact?

16 THE COURT: Correct.

17 Q BY MR. GERBER: Okay. So I'm showing you  
18 what's been marked as Exhibit 4. And do you recognize  
19 this document?

20 A Yes, I do.

21 Q Okay. And what is it?

22 A That is a certificate saying that Kevin had  
23 completed his course.

24 MS. RODRIGUEZ: Judge, I'm willing to stipulate  
25 for admission of 4 and 5.

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1 MS. AMENS: I haven't seen 5. Can I just look  
2 at it real quick?

3 (Bailiff complied.)

4 THE COURT: Ms. Amens, any objection to the  
5 admission of 4 and 5?

6 MS. AMENS: No.

7 THE COURT: Kevin, do you have any objection to  
8 the admission of 4 and 5? They must be certificates  
9 that you completed something.

10 MR. FERGUSON: No, ma'am.

11 THE COURT: All right. Exhibits 4 and 5 are  
12 admitted.

13 (Exhibits 4 and 5 admitted.)

14 Q BY MR. GERBER: So Exhibit 4, you're saying it  
15 was a certificate of completion for his rehabilitation?

16 A Yes.

17 Q And number 5, was that a certificate of  
18 completion of a parenting class?

19 A Yes.

20 Q Has Kevin done everything he's been asked to do  
21 since he's been released --

22 A Yes.

23 Q -- from jail and rehab?

24 A Yes.

25 Q And you testified earlier that to your

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1 knowledge, he's clean and sober from drugs or other  
2 abusive substances?

3 A Yes. Yes.

4 Q And --

5 A He sees his PO --

6 THE COURT: Just a minute. Who just said no?  
7 Was that you, Mr. Lucero? Knock it off. That's the  
8 third time I've heard you comment. You'll get your  
9 chance to testify.

10 Go ahead, Mr. Gerber.

11 THE WITNESS: He sees his PO once a month. And  
12 he's been doing good. And he keeps in contact with his  
13 PO.

14 Q BY MR. GERBER: And since his release, he has  
15 submitted to drug testing?

16 A Yes. He does -- uhm, when Chad wants him to  
17 drug test, he drug tests. He drug tests through the  
18 Drug Court system.

19 Q To your knowledge, has he had any positive  
20 tests?

21 A No.

22 Q And he's lived in your home for the majority of  
23 the time that he's been out?

24 A Yes.

25 Q And so you've had opportunity to observe him on

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1 a daily basis?

2 A Yes.

3 Q And are you able to, from past experience, see

4 indications of when he's abusing substances and when

5 he's not?

6 A Yes.

7 Q And since he's been released, has he abused

8 substances, to your knowledge?

9 A No.

10 Q Is it your request that the Court grant you

11 guardianship, you and your husband, guardianship of

12 Carter at this time?

13 A Yes.

14 Q And are you fit and proper persons to have his

15 care and custody?

16 A Yes.

17 Q Are you able to provide for all of his needs?

18 A Yes.

19 Q Is it your desire that Kevin continue on the

20 path that he's on to rehabilitate and to one day be

21 able to parent Carter?

22 A Yes.

23 Q And do you support that goal of his?

24 A Yes, I do.

25 Q And have you -- have you ever been convicted of

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1 a felony?

2 A To my knowledge, no.

3 Q And does Carter have less than \$10,000 in

4 assets?

5 A Right now, yes.

6 Q Okay. Does -- do you receive any support for

7 him?

8 A Kevin helps when he can.

9 Q Any other support?

10 A No. Just my husband and I.

11 Q Are you aware that Carter, uhm -- let's see.

12 Do you know if Carter is receiving any government

13 benefits through -- through any program?

14 A None that I know of.

15 Q Okay. Do you know if Kristin receives any

16 benefits on behalf of Carter?

17 A To my knowledge, no. I don't know.

18 Q Are you a party to any other pending criminal

19 or civil litigation, other than this guardianship case?

20 A No.

21 Q Do you have -- are you going to seek litigation

22 as a guardian for Carter, or do you plan to initiate

23 any new litigation?

24 A No.

25 Q Are you currently receiving any compensation

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1 for your services for caring for Carter?

2 A No.

3 Q And have you filed for bankruptcy protection

4 within the last seven years?

5 A No.

6 Q Okay. Okay. Let's talk briefly about your

7 guardianship of Carter. Early on in this case, the

8 Court appointed you as a co-guardian of Carter,

9 correct?

10 A Correct.

11 Q And have you had a chance to observe and

12 witness the exchanges between Carter -- between you and

13 the Luceros?

14 A Yes.

15 Q Have you also --

16 A With Carter? Yes.

17 Q And have you also been able to witness the

18 exchanges between the Luceros and the McGrews?

19 A Yes. Up until Paisley wasn't coming anymore.

20 Q And she wasn't coming anymore because of an ex

21 parte motion filed in this court?

22 A Yes.

23 Q In -- during those exchanges, has Pamela Lucero

24 said anything negative to you about the McGrews?

25 A When -- when Paisley would get dropped off,

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1 okay, uhm, there was one -- one day Kevin was home. He

2 was playing on his Play Station. And Paisley just

3 wasn't having coming to go to Maria's. And there was

4 three people. There was Timmy, Shawn, and Pamela.

5 And Shawn and Timmy walked Carter up to the

6 front porch, and Pamela was trying to get Paisley to

7 come in. She was screaming, crying, saying she didn't

8 want to go, blah. And then Pamela came up on the

9 porch, and Shawn went down. So -- and Shawn was trying

10 the same thing. And they finally got Paisley in.

11 And then, uhm, when -- whenever Paisley is

12 upset, Granny will stand on the front porch and yell,

13 That's it, we're going back to court, you're not doing

14 this anymore. And the kids are all right there.

15 Q Okay. So she said that to Paisley?

16 A She says it to Paisley, yes. I know she's

17 talking to everybody, but Paisley is standing right

18 there. She's hearing it. Paisley comes in and says,

19 Granny says I can't see Maria anymore. And it's, like,

20 that's for the Court to decide.

21 Q Okay. Do you think it's appropriate for Pam

22 Lucero to be saying that in front of Paisley?

23 A I don't feel that's appropriate for anyone to

24 say in front of any child.

25 Q And you said that she is yelling?

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1 A Yes.

2 Q Does that help -- does that help create a mood

3 for a visitation exchange?

4 A No. I try to stay calm, cool, and collected.

5 I try not to blow up. My neighbor one day was outside,

6 and I can't recall what had happened. And he sat there

7 and he said, She's mad. And I said, Yeah. He says,

8 Exchange day? And I said, Yeah.

9 Q Okay.

10 A And --

11 Q Uhm, have you been able to observe the -- the

12 negotiations that go on about exchanging Paisley for

13 holidays between the Luceros and the McGrews?

14 A Yes. When all this first started, Maria had

15 given me a letter to give to Pamela. Uhm, I had wound

16 up calling Maria back and informing her that she had

17 forgot to bring Paisley's hat, and I believe it was a

18 Mickey Mouse hat.

19 Pamela was in my living room. I had Maria on

20 the phone. And Pamela sat there and she said, And you

21 tell her, I will have Paisley for Christmas day. Well,

22 Maria was on the phone, and she overheard everything.

23 And she said, I heard her.

24 Q Okay. Did she also make a comment about --

25 something about that Paisley will spend time with her

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1 family?

2 A Yes.

3 Q Okay. What did she say?

4 A She said that Paisley will spend Christmas with

5 Pamela, and said that Paisley would spend Christmas

6 with her family, as if she was excluding the McGrews.

7 Q Okay. And did she emphasize "her family"?

8 A Yes.

9 Q And did you find that to be offensive?

10 A Yes. And Maria was still on the phone and did

11 overhear that.

12 Q Okay.

13 A Pamela has said more than once that we -- she

14 is gonna go back to court, and Paisley will not have to

15 do this again.

16 Q Okay. If the Court awards guardianship to you

17 and Don for Carter and the McGrews for Paisley, do you

18 believe that your family, meaning you and Don, and your

19 extended family will support visits with the Luceros?

20 A Yes.

21 Q Okay.

22 A I have -- if -- I have no problem continuing

23 week on and week off with the Luceros. Okay?

24 Q Uh-huh.

25 A I have no problem with that.

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1 Q And if the McGrews are granted guardianship of

2 Paisley, based on your observations, will McGrews

3 cooperate in exchanges with the Luceros?

4 A I think Maria would still allow Paisley to see

5 Pamela and Mika, yes.

6 Q And have you observed that she's been

7 cooperative with those visits up to this point?

8 A Yes, she has. Every time Maria would bring

9 Paisley back after she's had her for a week, she would

10 sit there and tell Paisley, Okay, I've had you for a

11 week, and now it's Granny's turn, which is

12 Pamela Lucero. And Paisley gives Maria a great big

13 hug. Maria gives Paisley a hug. And Maria tells

14 Paisley, it's okay to love everybody, you know, not

15 just me, not just Papa. It's okay to love everybody,

16 meaning Granny, her -- I'm sorry, Pamela, Michael,

17 everybody.

18 Q Okay. Do you believe that Pamela --

19 Pamela Lucero has that same attitude toward Maria and

20 the rest of the family?

21 A I would have to say no.

22 MS. AMENS: Objection, Your Honor. You're

23 asking her to kind of speculate.

24 THE COURT: It seems like that's calling for

25 speculation, Mr. Gerber. Objection is sustained.

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1 Q BY MR. GERBER: Based on your observations,

2 have you seen Pamela Lucero act in the same manner of

3 trying to facilitate exchanges and visitations in a

4 loving way?

5 A She would drop the kids off, she would give

6 them a kiss. She has not told them that -- she doesn't

7 say anything. She gives them a kiss, and she leaves.

8 Q Okay. But when --

9 A She doesn't explain things the way Maria does.

10 She just -- she just leaves.

11 Q Okay. And you testified previously there's

12 been times where she's yelling, or angry, or --

13 A Correct.

14 Q -- or threatening to --

15 A Go back to court.

16 Q -- withhold visitations through court?

17 A Yes.

18 Q Okay.

19 A And when she refers to Maria, it is "that

20 woman."

21 Q She doesn't call her by her name?

22 A No.

23 Q Okay. Uhm --

24 MR. GERBER: Okay. All right. Thank you. No

25 further questions.

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1 THE COURT: Cross examination, Ms. Amens.  
2 MS. AMENS: Yes, Your Honor.  
3  
4 CROSS EXAMINATION  
5 BY MS. AMENS:  
6 Q Ms. Ferguson, you've been testifying for a  
7 while here, so one moment.  
8 So I think I heard you testify that you are,  
9 uhm, Kevin's mother; is that right?  
10 A Correct.  
11 Q Okay. Not grandmother; mother?  
12 A I am his mother. We adopted him.  
13 Q Okay. Would you have been his grandmother?  
14 A Originally, yes.  
15 Q Okay. All right. And so you are Carter's  
16 paternal great grandmother; is that correct?  
17 MR. GERBER: Objection, Your Honor. It calls  
18 for a legal conclusion.  
19 MS. AMENS: That's fine. I'll --  
20 Q BY MS. AMENS: How long did you know Kristin  
21 prior to this whole incident of her and the text  
22 messages of her wanting to go to Cali?  
23 A I've known Kristin since the -- I want to say  
24 the year of the -- of 1914 or --  
25 THE COURT: Do you need a break, Ms. Ferguson?

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1 THE WITNESS: No.  
2 It was '14. The year '14.  
3 Q BY MS. AMENS: 2014; is that what you're --  
4 A Yes.  
5 Q And how old was she when you first met her --  
6 well, how old was she when --  
7 A I want to say about 14, 15.  
8 Q She was young?  
9 A Yes.  
10 Q How old was she when she came to -- and asked  
11 you to temporarily take Carter?  
12 A Oh, she was probably 19.  
13 Q Okay. Over the age of 18, but still young?  
14 A Yes.  
15 Q Okay. How much had you been spending -- how  
16 much time had you been spending with Carter before she  
17 said she wanted this temporary help?  
18 A I would go over there when I could.  
19 Q And --  
20 A I was working.  
21 Q Where were you going over?  
22 A To Shawn's.  
23 Q To Shawn's. Okay. Where did Shawn live?  
24 A She lived out in Spring Creek, over by the  
25 Horse Palace. And I can't remember the name of the

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1 road.  
2 Q Okay. So -- so was Kristin living with Shawn  
3 at that time?  
4 A At that time.  
5 Q Okay.  
6 A Kristin had also lived with us.  
7 Q How long did she live with you?  
8 A Uhm, two years.  
9 Q Okay.  
10 A Uhm, because she was pregnant with Carter when  
11 they got in to a fight and they moved out.  
12 Q Uhm, so when Carter was born --  
13 A Shawn and I spent the night at the hospital.  
14 Q Okay. And she was living with you at that  
15 time?  
16 A No. She was living at Shawn's.  
17 Q Okay. When she lived with you, did Paisley  
18 live with you also?  
19 A Yes, she did.  
20 Q And you said she lived with you for two years?  
21 A Yes.  
22 Q Okay. Was your son at the hospital?  
23 A Yes.  
24 Q He was --  
25 A When Carter was born? Yes.

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1 THE COURT: Ma'am, stop it. If you can't stop  
2 it, I'm gonna remove you from this courtroom.  
3 Go ahead, Ms. Amens.  
4 Q BY MS. AMENS: Okay. So how long in your  
5 relationship with Kristin did she -- before she started  
6 using drugs, that you're aware of?  
7 A That, I can't answer.  
8 Q You just didn't know the signs?  
9 A I didn't know that -- I had no clue that  
10 Kristin and Kevin were using meth.  
11 Q Okay.  
12 A Okay. Yes, Pamela Lucero informed me and told  
13 me that they were using.  
14 Q Okay. And it sounds like you're saying that  
15 Kristin, uhm, confirmed to you that she was using?  
16 A Right. And that was after Carter was born. It  
17 was probably --  
18 Q Was Carter born with any meth in his system?  
19 A To our knowledge, no.  
20 Q Okay. So it was after Carter was born is when  
21 you became aware of it. And you became aware of it  
22 through the Luceros?  
23 A Yes. And then Kathy Baptiste had told me about  
24 Kevin. And Kevin and Kristin and Kathy Baptiste all  
25 sat on the front porch.

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1 Q Okay. And --

2 A They were talking. And that was before the

3 guns were stolen.

4 Q Uhm, so what guns are stolen?

5 A That was before Kevin was arrested.

6 Q Okay. Okay. So was that why Kevin was

7 arrested?

8 A That's why Kevin was arrested, and that's why

9 he was put in jail.

10 Q Okay. How long had he been -- he been

11 incarcerated before Kristin asked for help?

12 A Two years.

13 Q He was incarcerated for two years, and then she

14 asked for help. Is that -- so he had already been in

15 for two years?

16 A He had been in for a year.

17 Q For a year?

18 A Yes.

19 Q Okay. Were you aware that the Luceros had

20 guardianship over Kristin when she was a minor?

21 A Yes. Pamela had told me.

22 Q And did you know why -- that she -- did you --

23 did you have any understanding of Kristin's, uhm,

24 mental abilities when she became an adult?

25 A No.

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1 Q Okay. So you -- or disabilities? Did you know

2 of any mental disabilities that Kristin had?

3 A No.

4 Q Okay. Okay. When you -- when she asked to go

5 to California temporarily, did you ask her where she

6 was going?

7 A Yes.

8 Q What did she say?

9 A She said that she was gonna go get help.

10 Q Where was she gonna get help?

11 A She said rehab.

12 Q Did she tell you where she was going to get

13 help?

14 A No.

15 Q You were gonna have Carter, but you didn't --

16 did you know how to get in touch with her?

17 A Through the phone.

18 Q Okay. She didn't tell you the name of the

19 facility?

20 A No.

21 Q Did --

22 A No, she didn't. Excuse me. No, she didn't.

23 Q Did you know what city she was going to in

24 California?

25 A All I knew was Sacramento.

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1 Q Is that where she actually ended up in

2 California? Who bought the ticket? Who bought --

3 A Who bought the ticket?

4 Q Who bought the bus ticket?

5 A Maria and I.

6 Q So what was the destination of the bus?

7 A Sacramento, I believe it was.

8 Q Okay. Not Stockton?

9 A It could have been.

10 Q Okay. But you didn't ask her the name of a

11 facility or anything where she was going?

12 A No, I didn't.

13 Q Okay. Did you know whether or not she had any

14 other funds besides a bus ticket?

15 A No, I didn't -- yes, I did. I believe my

16 husband gave her \$40 that night.

17 Q Okay. So all you knew is she had a bus ticket

18 and \$40.

19 Did she pack any clothes?

20 A Yes.

21 Q What -- did she have a -- a backpack?

22 A She had a suitcase.

23 Q She had a suitcase?

24 A Yes.

25 Q Okay. All right. And, uhm, you didn't call

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1 the Luceros to let her know what the -- to let them

2 know what the plan was?

3 A No, I didn't. I was asked not to inform the

4 Luceros.

5 Q According to the text messages, it says that

6 she trusted Papa. Did you call Ms. Lucero to tell her

7 what you were doing in terms of getting her on a bus to

8 California?

9 A No. She had asked me not to inform her family

10 that she was leaving. And Papa was the only one who

11 could pick Carter up.

12 Q Okay. You said you had just quit your job.

13 You quit the job so that you can take care of Carter?

14 A Yes, ma'am.

15 Q Prior to Kristin leaving, who was taking care

16 of Carter?

17 A Kristin and Shawn had Carter, and then I had

18 Carter. And then Pamela Lucero would have Carter.

19 Q Okay. So just before she left, she was living

20 still with Shawn at that time?

21 A No. She was living with Pamela --

22 Q How long --

23 A -- at that time.

24 The day that I received the phone call saying

25 that I needed to pick Carter up from Maria's, because

PAGE 157 A-A0040

1 Pamela Lucero was throwing her out and all of her stuff  
 2 out in to the yard. I knew nothing about what was  
 3 going on. I didn't call Pamela to find out.  
 4 Q Did you know at that time that, uhm, Kristin  
 5 was using meth?  
 6 A Uhm, yes.  
 7 Q Okay. Did you know how often she was using  
 8 meth?  
 9 A No. And I had told -- I had went in to my  
 10 work, I explained to my boss I need to quit. I'm  
 11 leaving work. I'm leaving now.  
 12 Q Okay. So in your mind you were going to take  
 13 over, uhm, Carter's care full time?  
 14 A No. In my mind, I was going to get my grandson  
 15 from Maria's.  
 16 Q But you quit your job. So --  
 17 A Yes, I quit my job to go get my grandson.  
 18 Q So your view of it was you were going to be  
 19 taking care of Carter full time at that point. You  
 20 were going to get this guardianship in place, and you  
 21 were going to have Carter, and you couldn't work going  
 22 forward?  
 23 A I -- I couldn't work.  
 24 Q Because of Carter?  
 25 A And take care of Carter. And I was still

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1 letting Pamela and Mike see Carter.  
 2 Q After the guardianship was in place?  
 3 A Yes.  
 4 Q Okay. And whose idea was it to go to  
 5 Mr. Gerber's office?  
 6 A That was my idea, because Mr. Gerber was our  
 7 attorney before.  
 8 Q Okay. All right. And, uhm, whose idea was it  
 9 for Maria to go there also? Did you have a  
 10 conversation with them previous to -- to going to  
 11 Mr. Gerber's office, that you were going to do this  
 12 together?  
 13 A No. Maria had contacted Loreman, who was  
 14 Kristin's attorney --  
 15 Q You're --  
 16 A -- and was going to see him. And he had gotten  
 17 ahold of Maria and told him [sic] he couldn't. So I --  
 18 so Maria said that she was going to call Travis. And I  
 19 said, Okay.  
 20 Q Do you -- okay. Do you know why Mr. Loreman  
 21 could not represent --  
 22 A No, I do not.  
 23 MS. RODRIGUEZ: Judge, I object. I don't see  
 24 the relevancy in this.  
 25 THE COURT: Where are we going with all of

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1 this?  
 2 MS. AMENS: I just got concerned about another  
 3 conflict, that we had Mr. Loreman involved here. I  
 4 didn't know. So I'm sorry, I just -- there's a lot of  
 5 innerconnections, and I just wanted to follow the  
 6 thread.  
 7 THE COURT: He's no longer representing  
 8 anybody, so I think we can move on.  
 9 MS. AMENS: Okay. Okay.  
 10 THE COURT: And never actually really did,  
 11 because of Ms. Stone's unwillingness to cooperate. So  
 12 I don't think that that's an issue.  
 13 Q BY MS. AMENS: Okay. Uhm, how old was Carter  
 14 when you started this guardianship?  
 15 A He was just newborn.  
 16 Q So it sounded like you and the Luceros, your  
 17 husband and you and the Luceros, have worked pretty  
 18 well over the past two years --  
 19 A Yes, we have.  
 20 Q -- in regards to Carter?  
 21 A Yes.  
 22 Q Were you aware that, uhm, Carter was seen and  
 23 kind of visited with the Nevada early intervention?  
 24 A Yes, I was.  
 25 Q Okay.

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1 A And this is -- Pamela Lucero had informed me  
 2 that he had been taken up to, uhm, Shriner's  
 3 Hospital --  
 4 Q Okay.  
 5 A -- to be seen for his legs.  
 6 Q Okay. And that recommendation came from the  
 7 Nevada Early Intervention?  
 8 A Yes.  
 9 Q Were you, uhm -- so you guys have been working  
 10 on that issue for Carter's benefit, correct?  
 11 A Yes. She called and said that Carter had an  
 12 appointment, and that she needed to take him. And I  
 13 said, Okay.  
 14 Q Did you get a copy of the Nevada Early --  
 15 A No, I have not.  
 16 Q Okay. Did you ask for that?  
 17 A Pamela said she was going to keep everything.  
 18 Q Okay. Did you ask --  
 19 A I have not received a copy of anything.  
 20 Q Did you ask for it?  
 21 A No, I haven't.  
 22 Q But you -- okay. Was there any issue with him  
 23 being seen at the Shriner's Hospital for his legs?  
 24 A No. I had no issues with it.  
 25 Q Has it been helpful for Carter?

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"q"

1 A Carter has had no problems at our house. He  
2 wears his shoes, he goes outside and plays. I don't  
3 know if he's being treated up there.  
4 Q Okay. Have you -- what kind of medical care  
5 have you provided to Carter?  
6 A I -- I take him in for his doctor appointments.  
7 Q Okay. How is he doing?  
8 A He's doing great.  
9 Q Okay. Any issues in terms of weight gain or --  
10 A No.  
11 Q -- speech?  
12 A No.  
13 Q When was the last time he was seen by the  
14 doctor?  
15 A His 24-month checkup.  
16 Q Is he current with all of that?  
17 A He is current with all of his shots and  
18 everything else.  
19 Q Okay. And do you share that information with  
20 the Luceros?  
21 A I was sharing it with Kristin.  
22 Q Okay.  
23 A As for Michael and Pamela, no, I have not  
24 shared that with them. If they would like copies, I  
25 will get copies of everything.

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"q"

1 Q Okay. So when Carter comes to your house for  
2 these exchanges, uhm, is he upset?  
3 A No.  
4 Q Okay. And when he goes back to the Luceros, is  
5 he upset?  
6 A No.  
7 Q Okay. So all those exchanges have been going  
8 well?  
9 A Yes.  
10 Q And you -- your house was chosen as kind of a  
11 neutral place for these exchanges to occur?  
12 A Yes.  
13 Q In fact, you kind of volunteered, correct?  
14 A Yes.  
15 Q Okay. You had indicated that one of your  
16 neighbors had said something about, it's an exchange  
17 day.  
18 A Yes.  
19 Q So they've recognized that there has been  
20 issues for Paisley, more than just one time, correct?  
21 A No. I think it was just once.  
22 Q Did they --  
23 A But they know when the exchange day is.  
24 Q Okay. It sounded like the way you had  
25 described that was, uhm, that was why they were kind of

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"q"

1 understanding or the exchange that had occurred there?  
2 A My neighbor had noticed that it was -- he said,  
3 She's mad. And I said, Yes. He says, Exchange day?  
4 And I said, Yes.  
5 Q So would that -- did you infer at all that that  
6 meant that he had seen --  
7 MS. RODRIGUEZ: I object, Judge.  
8 MS. AMENS: I'm asking --  
9 THE COURT: On?  
10 MS. RODRIGUEZ: Speculation. She's asking her  
11 to infer what the neighbor --  
12 MS. AMENS: No. I'm asking her to infer what  
13 she took away from that.  
14 MS. RODRIGUEZ: Her state of mind.  
15 THE COURT: Just a moment, ma'am.  
16 It's not relevant.  
17 MS. AMENS: Okay.  
18 THE COURT: And it is somewhat speculative. I  
19 am going to sustain the objection.  
20 Q BY MS. AMENS: So how long would Pamela,  
21 Ms. Lucero, stay at exchange day? It sounds like it's  
22 fairly short.  
23 A Yes, it is.  
24 Q Okay.  
25 A Maybe five minutes.

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"q"

1 Q Okay. And would she usually arrive early,  
2 earlier than --  
3 A Yes. There are days -- there -- here recently,  
4 she had been coming at 3:45, anywhere between 3:45 and  
5 4:00. Uhm, I don't know quite how to put this. Uhm,  
6 when all this first started, Maria -- if Maria was on  
7 my property, Granny would not pull in.  
8 Q Okay.  
9 A If --  
10 Q Let's just talk recently. So what changed?  
11 A I -- I'm not sure what changed, but they both  
12 could be on the property together.  
13 Q Okay. Were they communicating with each other  
14 better?  
15 A Yes, they were.  
16 Q And civil with each other?  
17 A Yes.  
18 Q Okay. Was, uhm -- so if we just go back and  
19 focus on Paisley, when she would get there, right, what  
20 kind of condition would she be in?  
21 A Most of the time she was happy.  
22 Q Okay. So you didn't see any of the -- the  
23 turmoil, except for the one time where it took a number  
24 of people to get her out of the car?  
25 A I didn't even see that. I was in my house, and

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"

1 she was in the driveway screaming.  
 2 Q Okay. And --  
 3 A I did not see it.  
 4 Q Is that typical that you would be in the house?  
 5 A Yes.  
 6 Q Okay. So you wouldn't actually see the  
 7 interaction between Paisley and Ms. Lucero, in terms of  
 8 trying to either get her calmed down or go in? You  
 9 wouldn't know what she said to her prior to her  
 10 dropping her off?  
 11 A Right.  
 12 Q Okay. You had indicated what Maria had said,  
 13 because that's said in front of you?  
 14 A Yes.  
 15 Q But you don't know if the same things are being  
 16 said to Paisley?  
 17 A No, I don't.  
 18 Q Okay. So there's only the one time that you  
 19 saw her where she was crying and upset? Is that what  
 20 your testimony is?  
 21 A The one time that she was that upset, yes.  
 22 Q Did you see her other times where she was not  
 23 crying and happy?  
 24 A Only once, I believe.  
 25 Q One other time?

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"

1 A Yes.  
 2 Q Okay. Carter and Paisley, are they close?  
 3 A Yes, very close.  
 4 Q Does Carter look up to Paisley as his big  
 5 sister?  
 6 A Yes.  
 7 Q Okay. And Paisley is comfortable at your  
 8 house?  
 9 A Yes.  
 10 Q Okay. In regards to Kevin, you've indicated  
 11 that he's taken some parenting classes, and he's been  
 12 employed. And he's staying in touch with his parole  
 13 officer, correct?  
 14 A Yes.  
 15 Q When was the last time he was drug tested?  
 16 A I can't answer that. You would have to ask  
 17 him.  
 18 Q Okay. So you don't know.  
 19 When was the last time that you know that he  
 20 used drugs?  
 21 A The day that he was arrested.  
 22 Q Okay. So Mr. -- Mr. Gerber had asked you if  
 23 you know the signs of when he's under the influence.  
 24 A Yes, I do --  
 25 Q And you indicated that he --

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"

1 A -- now.  
 2 Q You what?  
 3 You had indicated that you didn't know that  
 4 they were doing meth.  
 5 A Right. At the time I didn't know, and now I do  
 6 know the signs.  
 7 Q Okay. Is his new girlfriend -- does she have a  
 8 drug problem?  
 9 A She did. She's clean.  
 10 Q How do you know she's clean?  
 11 A I --  
 12 Q Has she been tested recently, that you know of?  
 13 A I don't know if she has or hasn't.  
 14 Q Okay. When Carter is with you, what's a  
 15 typical day look like?  
 16 A A typical day for Carter and I?  
 17 Q Yeah.  
 18 A We go outside. We are outside at 7 a.m. in the  
 19 morning. We will call Nanny up and say, Can we come  
 20 over. And she'll say, Yes. And we'll go over to  
 21 Maria's. When Paisley was over there, we would have  
 22 lunch at, I would say, probably about 11:30, noon, and  
 23 we would stay over there and play with Paisley and all  
 24 the kids, you know. And then we would come home.  
 25 And he would take his three-hour nap. And then

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"

1 we would be outside for the rest of the afternoon. And  
 2 if I want -- if he wants to go out back he'll say,  
 3 Grandma, go. And he'll go around the house, and I go  
 4 through the house, and I go out the patio door, because  
 5 my oxygen hose will not go all the way around the  
 6 house.  
 7 Q Okay.  
 8 A And that's how I know he wants to play out  
 9 back.  
 10 Q So I know I asked you to describe a typical  
 11 day. So how many times a week, when you have Carter,  
 12 would you go over to the McGrews' house?  
 13 A I believe it was twice a week, we go over  
 14 there.  
 15 Q Okay. And during the time that you have Carter  
 16 in your home, how often is your son there, and what  
 17 kind of care does he provide to your -- to Carter?  
 18 A My son, when he was living there, was there  
 19 24-7.  
 20 Q Okay.  
 21 A And he would get up, he would help with Carter.  
 22 He would make Carter's breakfast and lunch. And then  
 23 he would put him down for a nap, and he would leave for  
 24 work.  
 25 Q Okay. And how long has he been gone? It

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1 sounds like it's pretty recent that he moved out.  
2 A He just moved out Monday.  
3 Q But he had lived elsewhere before.  
4 How often did he come over while you had  
5 Carter?  
6 A If he didn't come over, I would go in to town.  
7 He would still see Carter every day.  
8 Q Okay.  
9 A We even went to Taco Bell and had dinner with  
10 daddy.  
11 Q Okay. All right. At the McGrews, when you  
12 would go over there, did you ever see Paisley get in to  
13 trouble?  
14 A No.  
15 Q Okay. So you never saw, uhm, either of the  
16 McGrews discipline Paisley?  
17 A No. We would be outside playing and having  
18 fun.  
19 Q Were all of the cousins, or the cousins there,  
20 also?  
21 A Not all the time, no.  
22 Q Okay.  
23 A Some days it would just be Paisley and Carter.  
24 Q And their youngest?  
25 A Yeah.

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1 Q Okay. All right. Did you ever -- when the  
2 older boys were there, were they ever kind of, uhm,  
3 bullying the younger kids, or did everyone play  
4 together well?  
5 A No. They all played well together.  
6 Q Okay.  
7 A Maria would make everybody peanut butter and  
8 jelly sandwiches, and they would have a snack.  
9 Q Okay. Good.  
10 You indicated that one time that Ms. Lucero was  
11 very upset, that Paisley had said to you something  
12 about she couldn't see Maria.  
13 A Right.  
14 Q Is that what she told --  
15 A She calls her Nanny.  
16 Q So not Maria -- Maria. She didn't say, I can't  
17 see Maria, she said, I can't see Nanny?  
18 A She said, I can't see Nanny.  
19 Q Okay. Just wanted to -- so in regards to  
20 holidays, how many times did you have Carter over the  
21 Christmas break?  
22 A Over the Christmas break?  
23 Q During this guardianship, yeah. Through the  
24 Christmas --  
25 A I believe Granny and -- or, I'm sorry, Pamela

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1 and Jake have had Carter Christmas Eve and Christmas  
2 Day both Christmases now, or just one. I'm not sure.  
3 Q Okay. How about Thanksgiving?  
4 A Thanksgiving, if that's our day, then we have  
5 Carter. If that's their day, then --  
6 Q You don't actually remember whether or not you  
7 had Carter on any of these -- on any of these holidays?  
8 A We probably did, but Thanksgiving is on a  
9 Thursday, so it's exchange day, also.  
10 Q Okay. All right. But are you sure about  
11 Christmas, whether that was split up?  
12 A Yeah. Because I always let Carter go on my  
13 birthday, and that's Christmas Eve. So they would have  
14 Carter Christmas Eve.  
15 Q Okay.  
16 A And I believe they would bring him back  
17 Christmas morning.  
18 Q Okay. So you shared -- you shared the holiday?  
19 A Yes.  
20 Q Okay. Do you know if that was shared between  
21 the McGrews and the Luceros for Paisley?  
22 A No, I don't know.  
23 Q Okay.  
24 A I know about the one day, the first year, and  
25 that's only because it took place in my living room.

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1 Q Okay. I don't -- do you believe that your son  
2 is sober today?  
3 A Yes, I do. I believe he would pass a drug test  
4 right now if you asked him to.  
5 MS. AMENS: I'd like to ask that he do that.  
6 THE COURT: Kevin, are you willing to provide a  
7 urine sample?  
8 MR. FERGUSON: A urine sample?  
9 THE COURT: Uh-huh.  
10 MR. FERGUSON: Today?  
11 THE COURT: Yes.  
12 MR. FERGUSON: Yes.  
13 THE COURT: Okay. Let's take a recess right  
14 now and do that. I'm going to work on reading this.  
15 Counsel, we're probably going to adjourn for the day at  
16 4:30 so I can get this read and get copies to you  
17 before you leave tonight. Otherwise, we're gonna be  
18 here quite a while. So I'll work on it while we get  
19 this urine sample, and then I'll come back in.  
20 (Recess.)  
21 THE COURT: This is what the test that Kevin  
22 Ferguson took is called, a presumptive test. That's  
23 not a lab confirmed test. He tested -- it looks like  
24 he left. Did he leave?  
25 MR. GERBER: He informed me he was going back

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1 to work.

2 THE COURT: Okay. He tested positive for meth  
3 and marijuana. To get that confirmed by the lab, we  
4 would have to send it off. And he or someone would  
5 have to pay for that cost. He's not here for me to ask  
6 him whether he had been using.

7 Do you know, Ms. Ferguson, whether I was the  
8 one that placed him in Drug Court, or whether his case  
9 was in front of Judge Kacin?

10 THE WITNESS: His case was in front of --

11 THE COURT: Was it a judge in another county?  
12 Was it in front of Judge Kacin across the hall.

13 THE WITNESS: Reno sent him back down here, and  
14 then Judge Kacin was assigned to him.

15 THE COURT: Okay. Did the crime occur in Reno?

16 THE WITNESS: No.

17 THE COURT: It occurred here?

18 THE WITNESS: The crime occurred here.

19 THE COURT: Okay. What I'm trying to find out,  
20 if I was the sentencing judge on the case. Does  
21 anybody know? I would have to look.

22 MS. RODRIGUEZ: It occurred in December of '17,  
23 the theft of the firearms, Judge. I just have a police  
24 report on that. I don't actually have -- let me look.

25 THE COURT: Mercedes, can you look it up on the

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1 S-400 and see if I have the case State versus Kevin  
2 Ferguson, please?

3 THE CLERK: Sure.

4 THE COURT: I can't ask him whether he admits  
5 or denies this.

6 I'm sure this is disappointing to you,  
7 Ms. Ferguson, to hear this news.

8 If you want lab confirmation, how much would  
9 they have to pay, Mr. Bailiff?

10 THE BAILIFF: Well, we don't necessarily have.  
11 the lab paperwork to send it off. He would actually  
12 have to go in and get it through A-1. But he did  
13 clarify with me, he did tell me his test would be --  
14 come back dirty.

15 THE COURT: He admitted to you?

16 THE BAILIFF: Yes.

17 THE COURT: For both those substances?

18 THE BAILIFF: Yes.

19 THE COURT: I don't see any reason to send it  
20 off, then. We'll see if I was the sentencing judge.

21 THE CLERK: If it was the felony in 2018, that  
22 was under Case --

23 THE COURT: Okay. That's what I needed to  
24 know. All right. I was not the judge on the case.

25 THE CLERK: Thank you. I'm not --

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1 THE COURT: Okay. All right. I'm still  
2 working my way through the report from DCFS, and it is  
3 4:25. And we were on your cross examination,  
4 Ms. Amens. How much more do you have?

5 MS. AMENS: I was done, Your Honor.

6 THE COURT: And Kevin has left. And Kristin  
7 left some time ago.

8 So we are to you, Ms. Rodriguez. Any cross  
9 examination?

10 MS. RODRIGUEZ: Yes.

11 THE COURT: Okay. Go ahead.

12

13 CROSS EXAMINATION

14 BY MS. RODRIGUEZ:

15 Q Who is Kevin's girlfriend? Do you know?

16 A Olivia.

17 Q Olivia what?

18 A Olivia Thompson.

19 Q And actually Judge Porter confirmed one of my  
20 other questions, that he is a participant of the Adult  
21 Drug Court, correct?

22 A He was. He graduated.

23 Q When did Kevin graduate from the Adult Drug  
24 Court? Do you know if it's been within the last six  
25 months?

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1 A I would have to look on the certificate. I  
2 can't say yes or no.

3 Q Was it before or after you filed for the  
4 guardianship?

5 A After.

6 Q Was it before or after he returned to Elko  
7 County after treatment in --

8 A After.

9 Q Okay. Was it before or after he did his  
10 positive parenting in May of '19?

11 A After, I believe.

12 Q And, in fact, the positive parenting workshop  
13 is part of the pres -- or Drug Court, correct?

14 A I'm not sure.

15 Q Okay.

16 A I'm not sure if that was done through Drug  
17 Court or not.

18 Q Okay. So we know it was at least after  
19 November of 2018?

20 THE COURT: You need to answer out loud,  
21 please.

22 THE WITNESS: Yes.

23 MS. RODRIGUEZ: Sorry, Judge. I'm trying to  
24 get to the beginning of the testimony.

25 THE COURT: That's all right.

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1 MS. RODRIGUEZ: I'm trying to hurry.  
 2 Q BY MS. RODRIGUEZ: Ms. Ferguson, you  
 3 volunteered to be the exchange place for the children  
 4 between the Luceros and yourself and the McGrews,  
 5 correct?  
 6 A Correct.  
 7 Q Why did you volunteer for that?  
 8 A I just figured it was easier, and I got along  
 9 with everybody.  
 10 Q Okay. Have you been being the exchange  
 11 location for -- for, in particular, for Paisley and the  
 12 Luceros since this underlying action began, the  
 13 guardianships?  
 14 A Yes.  
 15 Q And that occurs every week, correct?  
 16 A Yes.  
 17 Q Who -- who brings the children to your home for  
 18 the exchange?  
 19 A Pamela, Shawn might be with her, or Timmy might  
 20 be with her. Shannon might be with her. It's never --  
 21 it's two or three people. I mean, I don't know who  
 22 else could be in the car, or anything else, you know.  
 23 Q Has Michael ever been the exchange person?  
 24 A Michael has picked up once since the  
 25 guardianship has started, I believe. And that was just

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1 the other day.  
 2 Q Have you been able to observe the -- the  
 3 relationship, at least, between Paisley and Pamela?  
 4 A Yeah, they have a great relationship.  
 5 Q It's -- it's a comfortable relationship,  
 6 correct?  
 7 A What?  
 8 Q Is it a comfortable relationship?  
 9 A Yes.  
 10 Q A bonded relationship?  
 11 A Yes.  
 12 Q Would you also say the relationship between  
 13 Paisley and Michael is a comfortable, bonded  
 14 relationship?  
 15 A Yes.  
 16 Q Okay. And what about Carter? Does he have a  
 17 comfortable, bonded relationship with Pamela?  
 18 A Yes, he does.  
 19 Q And does he have a comfortable, bonded  
 20 relationship with Michael?  
 21 A Yes.  
 22 Q Have you ever seen anything during the exchange  
 23 with the Luceros in either of the children that would  
 24 cause you concern for either of the children?  
 25 A No.

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1 Q So you've also observed the other side,  
 2 correct, with the McGrews --  
 3 A Correct.  
 4 Q -- exchanging?  
 5 Who does that exchange?  
 6 A Maria, because John is at work.  
 7 Q Okay. Has John ever done the exchange, to the  
 8 best of your knowledge?  
 9 A John has done it once, and he forgot something.  
 10 And he was -- I called to let Maria know. And Maria  
 11 got ahold of John and let him know, because she was in  
 12 Salt Lake at the time.  
 13 Q Okay. During the exchanges that you've  
 14 observed with the McGrews, and Paisley, have you ever  
 15 observed anything that would cause you concern for  
 16 Paisley being in their care?  
 17 A No.  
 18 Q We've talked a lot about one exchange, in  
 19 particular, that occurred wherein Paisley had to be  
 20 prompted to come up to your house, correct? Do you  
 21 remember approximately when that was?  
 22 A I want to say a couple of months ago. I'm not  
 23 sure, though.  
 24 Q Do you remember if that was before the pandemic  
 25 started, the shutdown?

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1 A I would -- I can't remember.  
 2 Q Okay. Prior to the one exchange that has been  
 3 talked about, wherein Paisley was very upset, has  
 4 Paisley ever come in to your home upset during the  
 5 exchanges?  
 6 A She's come in once or twice, and she might have  
 7 been upset. She comes in, plays with something, and  
 8 she's fine.  
 9 Q Has Paisley stated anything when she's come in  
 10 upset to your home?  
 11 A No.  
 12 Q Okay. How long does it take Paisley, once she  
 13 comes in to your home if she's upset, these one or two  
 14 times that you've said, to calm down?  
 15 A Oh, a second.  
 16 Q Has she ever come from the McGrews in to your  
 17 home upset?  
 18 A No.  
 19 THE COURT: How much more do you have,  
 20 Ms. Rodriguez?  
 21 MS. RODRIGUEZ: I'm sorry, Judge. I'm trying  
 22 to breeze through.  
 23 THE COURT: Well, we can do it in the morning.  
 24 I don't want to cut you off.  
 25 MS. RODRIGUEZ: I have quite a few more

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1 questions, just directly.

2 I do have a question, Judge, I asked both --  
3 sorry -- I asked both Debra and Travis during the  
4 break, my recollection is that the January hearing,  
5 when we had all the evidence the first time, that the  
6 parties had gone through the petitions with their --  
7 with their clients, or we had gone through the  
8 petitions on the record.

9 I'm unsure if we should redo that at this  
10 point. Or I know Debra indicated that she would be  
11 fine if we could stipulate to the petitions, the  
12 information being correct, to the best of the parties'  
13 knowledge. I just don't know if you want us to go  
14 through all of that.

15 THE COURT: In terms of criminal convictions,  
16 bankruptcies, those kind of things?

17 MS. RODRIGUEZ: Yes. And their fitness as a  
18 guardian.

19 THE COURT: Counsel, are you all willing to  
20 stipulate to that, without going through all of that?

21 MS. AMENS: Yeah. The might help us on time.

22 THE COURT: Mr. Gerber?

23 MR. GERBER: Yes. I put the evidence on with  
24 Vicky on the Petition for the Fergusons, and I believe  
25 I have already done that for the McGrews with Maria

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1 when she was on the stand the first time.

2 As long as we could still ask questions about  
3 the -- the other content of the petitions, I'm okay to  
4 stipulate.

5 THE COURT: Certainly. My understanding is  
6 it's kind of the formal thing required by the statute  
7 that we're talking about here.

8 MS. RODRIGUEZ: Yes. And I was thinking if we  
9 could at least get through that part, we could move a  
10 little bit more.

11 THE COURT: Yeah. That will save us some time.

12 All right. What I'm going to do is recess for  
13 the night. I'm gonna finish reading this. Counsel,  
14 don't leave. I've got to read every word, because I've  
15 got to make sure that the reporting party is not  
16 disclosed to anyone. I also have to determine what, if  
17 any of this, I'm going to give to you.

18 If I give any of this report to the attorneys,  
19 you cannot give a copy to your clients. You can allow  
20 them to read a copy, but they can't walk away with a  
21 copy.

22 You are all ordered, if you get any information  
23 from this report, whether you read it or hear it from  
24 your attorneys, not to disclose this to anyone. This  
25 is confidential. So you cannot disclose it to anyone.

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1 It stays within this proceeding.

2 All right. We're gonna take a recess. I'm  
3 gonna keep working my way through this. It's slow  
4 going.

5 MS. RODRIGUEZ: Is it possible for the parties  
6 to also receive a copy of the NIA, Judge, or the  
7 incident report?

8 THE COURT: I haven't seen it yet. I don't  
9 know if it's even been sent.

10 Do you have it yet, Mercedes?

11 THE CLERK: I'm sorry? What, Judge?

12 THE COURT: Did you get a report from DCFS  
13 regarding this case? Lori Moorehead was supposed to  
14 e-mail that to you.

15 THE CLERK: Yes, Judge, I placed it on your  
16 desk.

17 THE COURT: Oh, that's right. You did put it  
18 on my desk. I'll have to see how long it is and make a  
19 decision. I also have to look at the statute that  
20 specifically addresses who gets to see something like  
21 this in a guardianship case.

22 MS. RODRIGUEZ: Thank you, Judge.

23 MS. AMENS: Your Honor, I understand we're  
24 starting tomorrow at 10:30; is that right?

25 THE COURT: I think our first hearing went off,

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11:59:03 1 didn't it?

11:59:05 2 THE CLERK: Yes, Judge. The hearing prior to  
11:59:11 3 that just came off the calendar. We are  
11:59:33 4 (unintelligible) and therefore we are able to start  
11:59:39 5 at -- we should be able to start at ten o'clock, rather  
11:59:42 6 than 10:30.

11:59:43 7 THE COURT: Okay. We've got another one before  
11:59:46 8 that?

11:59:47 9 THE CLERK: We have two before that, actually,  
11:59:53 10 Judge.

11:59:53 11 THE COURT: All right. We can start at 10:00,  
11:59:57 12 then.

11:59:57 13 MS. AMENS: We had tentatively, assuming we  
12:00:00 14 would be getting the case, scheduled Ms. Goddard at  
12:00:04 15 10:30. And then we had talked about having Ms.  
12:00:11 16 Anderson give a quick report at 11:30.

12:00:15 17 THE COURT: Okay. We will pause Mr. Gerber's  
12:00:19 18 case, if it's not done, at those times so you can get  
12:00:34 19 your witnesses on and keep the costs down the best that  
12:00:37 20 we can.

12:00:38 21 MS. AMENS: Thank you.

12:00:38 22 THE COURT: All right. Everybody, at least the  
12:00:40 23 attorneys, don't go anywhere.

12:00:44 24 (Evening recess.)

12:00:44 25 --ooOoo--

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