IN THE SUPREME COURT OF THE STATE OF NEVADA

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MINH NGUYET LUONG, Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE DAWN THRONE, DISTRICT COURT JUDGE, Respondents, and JAMES W. VAHEY, Real Party in Interest.	S.C. No.: D.C. Case No.: D-18-581444-D

EMERGENCY PETITION FOR WRIT OF MANDAMUS OR

PROHIBITION PER NRAP 21(a)(6) AND NRAP 27(e)

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The Hon. Dawn Throne
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Pursuant to NRAP 21 & 27(e),[1] and NRS 34.160, Petitioner Minh Nguyet Luong ("Minh") submits this *Emergency Petition for Writ of Mandamus or*

[1] NRAP 27(e) requires notice to the opposing counsel and the Clerk of this Court as soon as possible; Mr. Dickerson was advised both verbally and in writing that this writ petition would be filed if the district court failed to reverse its orders at the last hearing, and phone notice was provided to this Court on May 5 that this writ petition would be filed as soon as we could assemble the necessary documents.

Prohibition and Emergency Motion, requesting issuance of a writ of mandate and prohibition directing the district court to rescind its orders restricting the children from their mother and her entire extended family and its unconstitutional and legally improper orders relating to "immersion therapy," and requiring the district court to enforce the current custodial order for joint physical custody.

We are aware that, normally, the order being challenged is to be supplied with a writ petition under NRAP 21. Our opponents know this too, *and* that we are awaiting it to file this writ petition (it was discussed at the hearing), which is presumably why they are slow-playing production of the order while the matters complained of here are ongoing, in violation of EDCR 5.706.[2]

[2] Effective June 1, 2022, replacing EDCR 7.21. We have not even been able to get them to respond to our requests to countersign the order requiring production to both parties of all police, medical and "treatment" records from the Gottlieb

The "order being challenged," however, just denied our motions to stay or overturn the orders complained of in the prior writ petition, so there is no question as to what is actually happening, or why, and we request permission to supplement the Appendix when the order is finally produced. This writ petition follows the district court's refusal to cease doing what was complained of in the prior petition, as the Court of Appeals gave her every opportunity to do.

ROUTING STATEMENT

This appeal is presumptively assigned to the Court of Appeals per NRAP 17(b)(10) as it involves family law matters other than the termination of parental rights or NRS Chapter 432B proceedings.

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program in New York, despite it being agreed to and ordered at the last hearing.

NRAP 26.1 DISCLOSURE

The following persons and entities described in NRAP 26.1(a) must be disclosed. In the course of these proceedings leading up to this appellate filing, Petitioner has been represented by the following attorneys:

a. Neil M. Mullins, Esq., of the Kainen Law Group.

b. Fred Page, Esq., of Page Law Firm.

c. Marshal S. Willick, Esq. of the Willick Law Group.

There are no corporations, entities, or publicly-held companies that own 10% or more of Petitioner's or Respondent's stock, or business interests.

DATED this 23rd day of May, 2022.

Respectfully Submitted By:
WILLICK LAW GROUP

//s// Marshal S. Willick
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I. PROCEDURAL POSTURE AND REASON FOR WRIT PETITION

On April 25, 2022, the Court of Appeals issued and *Order Denying Petition for Writ of Mandamus or Prohibition* in Case No. 84522-COA, noting that the ill-advised "Turning Point" visit in New York had already occurred and was therefore moot, and that it was "unclear" if the follow up "sequestration" period would commence since the program attendance did not go as planned. The Court noted that the district court would have a hearing by May 17, at which time it would "consider the matter."

That hearing actually occurred, on Order Shortening Time, on April 28, as detailed below, and was remarkable for several reasons. It was a non-evidentiary law and motion hearing at which, nevertheless, and unannounced, there was testimony from one of the five therapists involved with the family – the one that supported the disastrous Turning Points program and told the judge what she wanted to hear (that isolating the kids from their mother should continue).

The district court clarified that the current permanent order is for joint legal and physical custody and that neither party had filed a motion to alter physical or legal custody[3]—no such motion is pending—but the district court flatly refused to enforce the current joint custody order, and refused to conduct an evidentiary hearing "since there is no request to change custody pending," but still maintained the full change of custody of all three children to Jim.[4]

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[3] XXII AA 4263-4264. To the extent that the April 25 *Order* from the COA states that "custody motions" were pending, it was incorrect; the only motions pending were to ***undo*** the summary change-of-custody orders entered without an evidentiary hearing by the district court.

[4] The numerous ways this was violative of due process and other requirements is also explored below.

This district court judge has done nothing as of this writing to withdraw her unlawful orders and is not expected to do so; she made it quite clear at the hearing of April 29 that she sees the situation not so much as trying to protect the physical and mental health of the children, but as a contest of wills between her and them.[5]

The untenable, unlawful, and improper situation described in No. 84522-COA remains uncorrected; this Court's caution that a change of custody requires an evidentiary hearing and findings on actual evidence remains ignored; and we think it necessary to follow up on the Court's statement in the April 25 order that "nothing in this order precludes the parties from seeking relief upon further development in the district court."

[5] *See* XXII AAA 4268.

II. STATEMENT OF ISSUES PRESENTED AND OF THE RELIEF SOUGHT

A. Issues

1. Whether a district court is permitted to conclude that there has been a "change of circumstances" justifying a change of custody due to "parental alienation" in the absence of any such diagnosis by anyone qualified to give such an opinion, and without an evidentiary hearing, when the various therapists involved with the parties have not even ever conferred as to what would be best for the children involved.

2. Whether an order totally depriving a parent and that parent's entire extended family of contact with children as was done here

violates the federal Violence Against Women Act and the Constitutional mandate of *Troxall*.

3. Whether Minh's due process rights have been violated.

4. Whether the district court was required to follow the stipulated agreement of the parties and court order that any orders relating to Hannah would only issue after receiving a recommendation of Dr. Michelle Fontenelle-Gilmer, which was neither requested nor received in this case.

5. Whether the district court is required to enforce the orders for joint legal and physical custody when neither party has filed a motion to alter those orders.

B. Relief Sought

1. Immediate set aside of the Immersion Therapy Orders, and enforcement of the joint custody order.

2. Re-Assignment of this Case to Another Department.

C. Damages Caused by Not Granting the Writ

The orders at issue are irresponsible, unlawful, and if uncorrected are quite likely to lead to the injury or death of multiple children.

III. STATEMENT OF FACTS

In the interest of time, we are not going to repeat the entire history of this case, which was before the Court of Appeals in Case No. 84522-COA in the past thirty days, but only recite here events since the denial of the writ petition in the earlier

case.[6] The first 21 volumes of the record were provided in the earlier case; matters since then are in volume 22.

On April 15, 2022, this office associated into the lower court case[7] and moved to stay the "sequestration orders" indefinitely, or at least until the prior writ petition

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[6] We have received at least most of the medical reports from Hannah's hospitalization in New York. The child was involuntarily medicated with Thorazine and Benzodiazapine, and hospitalized for some days, during which staff reported that she was calm, cooperative, and perfectly rational but did not want to be discharged into her father's custody "because he is physically abusive." At one point during the New York trip, he apparently picked Hannah up by one leg and dangled her head-down over the floor before throwing her on a bed, as recited in those medical records.

[7] XXII AA 4160.

was concluded.[8] Mr. Page moved to shorten the time for hearing on his motions to set those orders aside based on the Violence Against Women Act and other authority.[9]

On April 20, the district court sua sponte found it "unnecessary" to have a hearing on Minh's motion to have the children interviewed so their voices could be heard and their version of the events could be known,[10] and ignored the Guardian ad Litem's request to permit Hannah to testify.

On April 22, Jim opposed Minh's motion to set aside the Turning Points/sequestration order, reiterating that all of his problems with the children were "really" Minh's fault, acknowledging that the various therapists involved with members of the family had never conferred but that it did not matter, (incorrectly)

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[8] XXII AA 4163-4183.

[9] XXII AA 4186-4189; see XXI AA 4072-4088, 4089-4152 (underlying motion and exhibits).

[10] XXII AA 4190-4191.

asserting that the writ petition deprived the district court of jurisdiction,[11] telling the district court to disregard the testimony of Hannah's therapist (Fontanelle) that there was no "alienation" involved and that her recommendation was not relevant (despite the stipulated order requiring that recommendation before any custody changes were made), and saying the federal Violence Against Women Act should be ignored because it is not "binding."[12]

On basically the same arguments, Jim opposed our motion for stay of those orders as well, while defending the Gottlieb program in New York and disparaging the courts that had found Gottlieb to be operating a fraudulent for-profit quackery.[13]

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[11] A writ petition has no effect on the jurisdiction of a district court.

[12] XXII AA 4192-4213.

[13] XXII AA 4226-4253.

The exhibits included the messed-up hotel room in New York, including Hannah's distressed scrawl in spilled creamer of "Help" and "He [Jim] won't let me sleep."[14]

The district court entered an order shortening the time for all pending motions to April 28.[15]

Minh filed a *Reply* to Jim's *Opposition*, noting that Keisha Weiford (Minh's therapist, appointed by Judge Throne) had suggested holding off both the New York trip and any "sequestration" for at least a few months, detailing Gottlieb's destructive actions, comments, and violations of her own written protocols during the New York trip, and detailing that in Jim's care the children were "morose, despondent, and angry."[16]

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[14] XXII AA 4245-4253.

[15] XXII AA 4214.

[16] XXII AA 4278-4367, 4281.

That *Reply* noted the district court's inconsistent total delegation of authority to Gottlieb, after the district court refused to even get a *recommendation* from Hannah's therapist (per the stipulated order) on the basis that it would be "delegating authority" to do so, and reciting in depth the national research and multiple studies discrediting "alienation" as a finding and basis for custodial determinations; it noted that the American Professional Society on the Abuse of Children had urged courts to prioritize child safety over "parental rights," while noting multiple court cases in which Gottlieb's testimony and program were derided for being unreasonable and absurd.[17] It reminded the district court that Minh was a fit parent who had never been

[17] Our non-exhaustive research has revealed lots of them, noting that Gottlieb's program is absurd and her demands and program are *per se* "unreasonable." In addition to the cites in the prior writ petition, *see Miller v. Miller* No. 20A-DR-882 (Ind. Ct. App., Oct. 21, 2020) (refusing to follow Gottlieb's recommendation to place

found by anyone, anywhere, to have abused, neglected, or otherwise done anything to harm the children mentally or physically.

Submitted in support of setting aside the "sequestration" orders was the detailed Declaration of Barry Goldstein, a leading authority and expert on the dynamics of family domestic violence, which discussed at length the past 15 years of research and scientific consensus indicating that pervasive gender bias is at the root of many findings of "alienation."[18]

Mr. Goldstein described the "cottage industry" of "diagnosing" parental alienation even though it is not a diagnosable disorder under the DSM, having been twice rejected by the American Psychological Association because "there is no valid research to support it." He identified Gottlieb as "one of the more notorious members

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children in the custody of a sex-abusing step-parent.

[18] XXII AA 4368-4384.

of the cottage industry."[19] He specifically warned about the research showing that children subjected to such scam programs, which he referenced as "threat therapy," are at greatly heightened risk of suicide or becoming run-aways.[20]

Mr. Goldstein referenced the leading national studies in pointing out why the existing order in this case is the *worst* possible alternative:

> The Saunders Study provides the "smoking gun" and certainty that the existing court order is a tragic mistake. Saunders includes a section on what the study called "harmful outcome" cases. These are extreme decisions in which an alleged abuser is given custody and a safe, protective mother who is the primary attachment figure is limited to supervised or no visitation. SAUNDERS FOUND HARMFUL OUTCOME CASES ARE **ALWAYS** WRONG AND CAUSED BY FLAWED PRACTICES. The reason the court's decision is always wrong is that the harm of denying children a normal relationship with their primary attachment figure, a harm that includes

[19] XXII AA 4376.

[20] XXII AA 4378.

increased risk of depression, loss of self-esteem, and suicide is greater than any benefit the court thought it was providing.[21]

Reviewing the history of the parenting relationships in this case and what went on in New York, Mr. Goldstein reported it as typical for cases such as this, where the mother provided most child care prior to marital dissolution, and in retaliation for a claim by the children of abuse by the father, the father makes claims of "alienation" whereas the actual cause of the children's poor relationship with their father is far more likely to be the children's history with the father, including "domestic violence, child abuse, limited parenting, poor parenting, or other bad behavior by the father"; a father's demand for his "rights" and blaming the mother and children for the father's poor relationship with the children, instead of focusing on his behavior, is

[21] XXII AA 4378-4379.

unlikely to ever actually solve the problem, but far more likely to lead to child abuse, child self-harm, or injury or death.[22]

On April 27, the GAL, Valerie Fujii, submitted a status report,[23] which included notice that Matthew, completely cut off from his mother, was now suicidal in his father's care, requiring her to make a report to CPS.

Ms. Fujii's report detailed a multi-hour home visit at Jim's house, following multiple phone contacts with the children and their father. Ms. Fujii reported that Hannah is "articulate and relatable" and that Hannah has explained ***why*** she has such disdain for her father and how "his actions prove he is not listening to her or to what she wants and needs":

> She calls him an "abuser." This is a child that needs to speak about what she has experienced. Her opinions have foundation and she can give numerous

[22] XXII AA 4380-4383.

[23] XXII AA 4385-4388.

> examples as to why she feels the way she does about her father. She has deep [seated] resentment about her Dad that has not been addressed. I believe it is essential she be able to testify and add input as to any future decisions regarding her placement and/or visitation.

Ms. Fujii's report included Hannah's report of what was done to her in New York – including Gottlieb's threats and pushing a table into her, and Ms. Fujii's direct observation of Jim's household including cracks in the walls, rust in the bathtub, a broken window, and mold on the baseboards.[24]

As to Matthew, Ms. Fujii reported that:

> He began threatening that he was going to kill himself if we didn't let him see his Mom. He said "we are going to keep doing this until we get our way." He threatened self harm at least three times so after I left I reported this to CPS Hotline, (reference no. 2014265). I told Dad about the report outside the home and I called Mom. I also documented this to counsel in an email.

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[24] XXII AA 4386. This is not for lack of money; Jim is a surgeon making a high six-figure salary.

> I am really concerned about Matthew. Hannah complains he doesn't come out of his room. He is not talking. He is refusing to speak to his Dad. He is shut down.

The (Bluejeans remote) hearing of April 28 was remarkable in many ways.[25] Present on line was Jim and his attorneys Bob Dickerson and Sabrina Dolson, Minh and her attorneys Fred Page and Marshal Willick, a paralegal from the Willick Law Group to take notes, and—without explanation or advance notice—Dr. Sunshine Collins, the therapist aligned with Jim who had heartily recommended the disastrous

[25] The transcript at XXII AA 4254-4277 was computer-generated; it was the fastest transcript that could be provided. It is not perfect, and contains many typos (*e.g.*, "council" for "counsel," etc.), and incorrectly identifies who was speaking at some points, but it is a fair reflection of the actual words of those involved.

Gottlieb program. Despite the fact that it was a law and motion hearing, she was permitted to testify as to "what should be done."[26]

Counsel objected to her unannounced testimony and protested that Jim's counsel had arranged it in advance without warning. Mr. Dickerson vehemently denied it, disingenuously by omission asserting that he had never "met with or spoken to" Dr. Collins—but leaving out that Dr. Collins had been invited to the hearing and given the hearing link by his associate, Ms. Dolson, which we confirmed after the hearing with Dr. Collins directly.[27]

[26] XXII 4254 et seq.

[27] XXII AA 4257-4258; email from Sunshine Collins of May 12, 2022 at 2:53 p.m., Exhibit 1.

Judge Throne had no problem with Dr. Collin's unannounced appearance and testimony, and indicated that she "was asking for information with her since she was kind enough to attend."[28]

Dr. Collins confirmed that she had *still* never spoken with any of the therapists treating Hannah, or Minh, or anyone else,[29] and acknowledged that "the viewpoints of Hannah's therapist . . . are very important to the case," but she still had no problem unilaterally recommending that the children have no contact with their mother ("that strongly preferred household") until *she* (Collins) thought it would be "a good idea."[30]

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[28] XX AA 4258.

[29] Why her recommendations for "sequestration" in the absence of consulting with the children's therapist is an ethical violation is discussed below.

[30] XXII AA 2456-2458. As noted in the prior writ petition, this delegation of judicial authority is entirely improper. *Bautista v. Picone*, 134 Nev. 334, 419 P.3d 157 (2018) (reversing improper delegation).

When directly asked, Dr. Collins confirmed that she had never made any diagnosis that Minh had ever done anything mentally or physically harmful to the children—but she wanted to eliminate all personal or phone contact between Minh and her children anyway because it would make it "easier" for her to work with the kids and their father.[31]

The Guardian ad Litem, Ms. Fujii, made it clear that she had interviewed both children at length and spoken with their therapists and that their problems with their father long ***predate*** the parties' divorce (as opposed to being based on any alleged post-divorce "alienation" by the mother).[32] Judge Throne refused to entertain any such possibility, or to let the children testify in any way.

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[31] XXII AA 4275.

[32] XXII AA 4263.

Judge Throne was informed that, in addition to the Guardian ad Litem, both Keisha Weiford (Minh's therapist[33]) and Dr. Fontanelle (Hannah's therapist) believed that the mental and physical health of the children required that they resume at least joint custody with their mother.[34] The district court's response was succinct: "That's not going to happen."[35]

Judge Throne claimed to have read everything,[36] but summarily dismissed all information, evidence, and expert reports that did not jibe with her pre-formed

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[33] Judge Throne ordered her appointment as Minh's therapist, not because Minh needed therapy for any deficiency, but to improve ***Jim's*** relationship with the children. XVIII AA 3615.

[34] XXII AA 4260.

[35] XXII AA 4269.

[36] XXII AA 4254.

conclusion that all of Jim's problems with the children "must be" due to Minh's words and actions, even if those actions were "subconscious."[37]

Judge Throne fixated on one line of Ms. Fujii's report indicating that Matthew's statement that his deteriorating physical and mental health while isolated from his mother would continue until that was changed,[38] labeling it a desire to "be rewarded for bad behavior," and elected to treat both children's complaints and threats of self-harm as a contest of wills between her and them. She refused to even discuss Mr. Goldstein's expert opinion of what was far likelier the actual dynamic in Jim's household (that Jim is abusive in one or more ways), and the probable consequences of that dynamic regarding child injury, self-harm, or run-aways.

[37] XXII AA 4266.

[38] XXII AA 4267-4269.

Jim stated his desire that the children have no contact whatsoever with their mother so he can "build his relationship with the children" and not "reward them" for disliking him.[39] Jim appears determined to ignore Matthew's deteriorating physical health.[40]

Judge Throne announced that "if one of these parents is going to be cut out of the relationship with the children, that's harmful to them"—and then, with no

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[39] XXII AA 4257. As discussed below, Jim is using the cut-off of communication to try to persuade the children that Minh has abandoned them.

[40] We are informed that when Matthew complained of stomach pain, Jim insisted it was a virus until his physician said it was stress. Jim insisted Matthew's headaches were due to vison problems until Matthew's opthamologist said it wasn't. The child's multiple and worsening symptoms are obviously from the stress he is enduring with his father.

apparent perception of the irony, announced as the "solution" to completely cut Minh out of the children's lives indefinitely.[41]

Even though Minh has never been found by anyone at any time to have abused or neglected the children, or to be in contempt of any court order, Judge Throne insisted on treating the proceedings like one of "coercive contempt"—stating that Minh had "the keys in her hands" to be permitted to see her children "just" by making the children want to spend time with their father.[42]

The district court dismissed out of hand either a custody evaluation or a custody trial, saying that neither would "solve the problem" and that, if pressed, perhaps she could make time to entertain such a proceeding "after next October."[43] She made clear that she has already made her mind up about the facts, without

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[41] XX AA 4267-4269.

[42] XXII 4270.

[43] XXII AA 4268, 4270.

presentation of evidence, so that if she had to make long-term custody orders Minh "won't like it."[44]

The Court refused to even discuss the prohibition in the Violence Against Women Act of cutting off one parent entirely to attempt to "reunify" children with the other, as she is doing. The district court doubled down on her prior orders, announced that no contact of any of the children with their mother would occur, indefinitely, and reiterated that the prior order truncated all contact between the children and any member of mother's extended family.[45]

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[44] XXII AA 4263.

[45] XXI AA 4024. The relatives in question are lawyers, doctors, and other upstanding citizens against whom no allegations of child abuse or neglect have ever, or could ever, be lodged.

Ultimately, the district court denied the motions to set aside, leaving in place the earlier orders entered on shortened time that transferred all legal and physical custody to Jim without an evidentiary hearing, indefinitely. The order extended to the youngest child, Selena, who has never even been *alleged* by anyone to have been "alienated" from anyone in any way and who is reported to "transfer easily" between the parents.[46]

Despite the existing permanent custodial order being joint legal and physical custody, and there being no pending motion to alter that order, the district court refuses to enforce the current order. Her "temporary" orders have left all three children in the exclusive care of their father indefinitely until a delegated third party (previously Gottlieb directly, now apparently Sunshine Collins) is "convinced" that Minh "truly believes" Jim is beneficial for the children.

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[46] XVII AA 3469.

Since then, matters in the father's home have become even worse. Matthew has remained in Jim's household since Judge Throne left him there last November, adding in February 2022 that he "is going to have zero communication with Mom." Mr. Page told the district court months ago that Matthew was "desperately unhappy" with his father and that "tormenting the children" was "not going to work" but the district court said she would not "reward Matthew" for "deliberately failing" in school, becoming ill, and otherwise suffering while with his father.[47]

Since then, the child has been increasingly depressed, isolated, despondent, and suicidal. We are informed that Matthew has refused to eat with his father. Jim, emboldened by Judge Throne's cutting off Minh's ability to communicate or monitor what is being done, has decided to capitalize on his "authority" by telling Matthew that if the child will not eat with him, he will not eat at all – we actually are watching

[47] XX AA 3949-3951; XXI AA 4061.

an attempt to starve a child into submission. The last word relayed to us was a message from Matthew that "I am going to fucking die here."[48]

While with Jim, both the daughter (Hannah) and son (Matthew) openly discussed self-harm or suicide[49] with Ms. Fujii, who on May 5 wrote to all counsel

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[48] Since Judge Throne is actively forbidding any communications of any kind as to the health and welfare of the children from reaching their mother, we are largely relying on reports by third parties, including Ms. Fujii, for information as to what is going on in Jim's home. This, by itself, is a violation of Minh's fundamental rights to know how her children are being mistreated. Judge Throne told Dr. Collins not to reveal to Minh what the children are reporting, which by itself is a facial violation of NRS 125C.005 which explicitly states that ***all*** records must be provided.

[49] The medical records from New York include a report of one prior suicidal action by Hannah at the father's home during which Hannah held a knife to her own

that Hannah "was not thriving" with Jim and that she was concerned about the child's health and safety with her father. The Guardian ad Litem's report stated flatly, for the second time, that "THIS IS NOT WORKING! . . . IT HAS TO CHANGE"[50] and that the physical and mental health of all three children is in danger. Judge Throne has ignored all such information.

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throat.

[50] See Exhibit 2, email from Valerie Fujii dated May 6, 2022, at 1:46 a.m. (emphasis in original), noting that in her father's care, Hannah was "hysterical, angry, not bathing, not eating and breaks down and yells and then uncontrollably sobs," and that in the GAL's opinion, "this cannot continue. Her behaviors are escalating." The email concludes: "Out of control antics, outbursts daily, outrageous requests, police interventions, threats of self harm. How is this any better? I cannot sit silent."

Later that day, Hannah ran away from school and was missing for a couple of days. Minh, who was out of town, flew back. Hannah showed up in the desert near her mother's home, and was found in the home by Minh when she returned to town Saturday; Hannah has apparently since remained there, at the request of her therapist and the Guardian ad Litem.[51] All of these events are just what Mr. Goldstein said was most likely to occur from the orders Judge Throne put into place.

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[51] See Exhibit 3, email from Valerie Fujii dated May 7, 2022, at 1:35 p.m. Hannah reports that Jim capitalized on Judge Throne's cut-off of communication between the children and Minh to tell all three children that they ***have*** to depend on him because "your mother has abandoned you." The wrongfulness of that conduct, and of the judicial conduct permitting it to occur, presumably requires no further exposition.

This office very recently had a very similar situation with the same judge, and when that child ran away from the father who the child claimed was sexually abusive to her, the district court's reaction was essentially that "no kid is going to tell ***me*** what kind of orders to issue." That child has been missing for months, and her education and future have been imperiled or destroyed; we have no idea if she is alive or dead.[52]

By all appearances, it will take one or more dead children for this judge to even consider re-thinking her approach to making sua sponte custody decisions putting children with parents that the children consider abusive. The only real question at that point will be who should share in the blame.

[52] *Penn v. Kilabarda*, No. D-18-569367-F.

IV. ARGUMENT

A. A Writ of Mandamus or in the Alternative a Writ of Prohibition Is the Appropriate Remedy

A writ of mandamus is available to compel the performance an act which the law requires as a duty resulting from an office, trust or station, or to control a manifest abuse or an arbitrary or capricious exercise of discretion; a writ of prohibition restrains a lower court from actions beyond its authority.[53] A writ is available to control a manifest abuse of discretion,[54] and shall be issued when "no

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[53] *Canarelli v. Eighth Judicial Dist. Court (Canarelli II)*, 138 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 12, Mar. 24, 2022), quoting from *Cote H. v. Eighth Judicial Dist. Court*, 124 Nev. 36, 39, 175 P.3d 906, 907-08 (2008) (internal quotes and alterations omitted).

[54] *Pengilly v. Rancho Santa Fe Homeowners Association*, 116 Nev. 646, 650, 5 P.3d 569, 571 (2000).

plain, speedy and adequate remedy in the ordinary course of law" exists. Writ relief is also expressly available to remedy a "manifest abuse of discretion" in a district court's "temporary child custody decision" because such decisions, while classified as "temporary" may "have far reaching consequences for both the parents and children."[55]

Here, a writ is proper because the district court has made it perfectly clear that she has pre-judged the facts before getting any valid factual or psychological evidence on the questions she has summarily decided, and will not be swayed by any facts at variance for her pre-made conclusions, even though the entire foundation of her conclusions is false.

Specifically, during the February 8 hearing, the district court received the report of Dr. Collins, who, ***without*** doing an appropriate investigation or ever

[55] *Aug H. v. State*, 105 Nev. 41, 444-43, 777 P.2d 901, 902 (1989).

conferring with the children's therapists, opined that Matthew's problems with his father stemmed from Jim's agreeing to, then reneging on, the family relocation to California, which Dr. Collins found impossible to believe could be remembered and acted on by a child from the age of 8 to 11 "without significant encouragement and stoking of negative emotions by some outside source."[56]

Judge Throne immediately seized on that comment, and has repeated ever since that "Well, what outside source is there? The only person stoking this resentment in the children is Mom."[57]

The irony is that Dr. Collins leaped to a false conclusion and the district court's "summary judgment" based on her recommendation are based on sloppy inquiries and ignorance of the facts. Dr. Collins did not know, and never bothered to find out, that

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[56] XVIII AA 3586.

[57] XVIII AA 3597.

the children had ***regularly*** visited Minh's California home and spent time with Minh's extended loving family during her custodial time, for years.[58]

In other words, Matthew "having knowledge of Orange County" was no mystery at all—the children had been visiting regularly with Minh's extended family, and could see with their own eyes the difference between a warm and supportive environment with extended family on the mother's side, compared with isolation, hostility, and ongoing violence with their father, on the other. No conjured boogeyman of "alienation" was or is required to explain the children's opinions.

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[58] The record shows that Orange County has been a big part of the children's lives: "Since the purchase of the Irvine home in November 2017, the parties and their children spent two weekends per month, vacations, holidays, etc." I AA 58, 76 (confirming that the children have spent a great deal of time in the California home, commuting to and vacationing there regularly).

But having leaped to a false conclusion, neither Dr. Collins nor the district court are able or willing to admit that they might have been in error. Dr. Collins has actually been taped admitting that her recommendation was erroneous and based on lack of knowledge, but the district court refused to admit or consider the recording because Dr. Collins did not clearly say she knew she was being taped; Judge Throne has refused to even ask Dr. Collins about the known error of the factual basis for her report.

B. The District Court Acted in Excess of its Jurisdiction by Refusing to Conduct an Evidentiary Hearing to Determine a Change of Circumstances Before Changing Physical Custody of the Children

This issue is unchanged from the prior writ petition, except for its continuing and worsening damage to the children. The district court has changed custody,

"indefinitely," despite there not even being a pending motion to change custody, and has declared her intention to keep it that way.

This is not a "short-term, temporary adjustment to the parties' custody arrangement, on an emergency basis to protect and safeguard a child's welfare and security."[59] The children are in no danger, physical or otherwise, from Minh, who is their primary attachment and source of security; it is only while with their *father* that the children have misery, medical harm, psychological trauma, suicidal ideation, and educational collapse. This is a district court, based on false suppositions and pseudo-science, sua sponte changing custody based on gut feeling and apparent bias.[60]

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[59] *Mack-Manley v. Manley*, 122 Nev. 849, 138 P.3d 525 (2006).

[60] See XXII AA 4218-4225, detailing how just this office has seen orders from this district court in 90 days, all against foreign-born mothers, placing four children in danger by placing them with white men accused of abusing them or denying

A district court is not permitted to conclude that there has been a "change of circumstances" justifying a change of custody due to "parental alienation" in the absence of any such diagnosis by anyone qualified to give such an opinion, and without an evidentiary hearing proving that any such thing has even occurred, as the Court of Appeals has repeatedly stated in analogous cases before and after *Romano*.[61]

But the district court has done so here and refuses to set aside those orders, which is a "manifest abuse or an arbitrary or capricious exercise of discretion."

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children basic support provided to American parties.

[61] *Romano v. Romano,* 138 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 1, Jan. 13, 2022).

C. *Any* Concept of "Best Interest" Starts with Preserving the Life and Physical and Mental Health of a Child

Dr. Fontanelle has reported that, with Minh, Hannah is happy, well-adjusted, thriving, excels academically, and is socially adept,[62] while when forced to live with Jim she is unhappy, depressed, morose, has psychosomatic illnesses, and becomes isolated and suicidal. The same is true for Matthew.

Even the federal government has recognized that child physical health and safety is far more important than any other "best interest" consideration.

A child's "best interest" is the sole consideration in making custodial determinations.[63] That *starts* with keeping the child alive, followed by physical

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[62] We know all parties had and reviewed the report but cannot locate it in the existing Appendix; it is attached as Exhibit 4 (Report from Michelle Fontenelle-Gilmer, MD, MHS, dated February 7, 2022).

[63] NRS 125C.0035(1).

welfare, mental health, educational success, and a host of other considerations, as outlined by Maslow a hundred years ago.[64] All of those needs greatly exceed Jim's desire to "make the kids love him," but the district court simply refuses to prioritize the children's lives and happiness above Jim's.[65]

The district court's orders in this case are therefore definitionally a "manifest abuse or an arbitrary or capricious exercise of discretion" warranting writ relief.

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[64] *See*, *e.g.*, A.H. Maslow, A THEORY OF HUMAN MOTIVATION (1943, Wilder Publications ed. 2018).

[65] *See*, *e.g.*, XXII AA 4268-4269.

D. An Order Totally Depriving a Parent and That Parent's Extended Family of Contact with Children to "Facilitate Reunification" with the Other Parent as Was Done Here Violates the Federal Violence Against Women Act and the Constitutional Mandate of *Troxel* and *J.L.N.*

This was largely set out in the prior writ petition. Both the United States Supreme Court and the Nevada Supreme Court have held that "the parent-child relationship is a fundamental liberty interest" protected by the Due Process Clause of the Fourteenth Amendment.[66]

Parents have a fundamental right to care for and control their children, and statutes that infringe upon this interest are thus subject to strict scrutiny and must be narrowly tailored to serve a compelling interest.[67] The same goes for court orders.

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[66] *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000); *In the Matter of Parental Rights as to J.L.N.*, 118 Nev. 621, 55 P.3d 955 (2002).

[67] *Id*.

Here, the children have a loving and supportive relationship with their mother. Minh has never been found to have abused or neglected them in any way,[68] and even Jim testified that she is an "exceptional mother."[69] Minh has never been diagnosed with any kind of mental infirmity, or even to have "committed alienation" (which is ***not*** a diagnosable "disorder" even if it ***did*** exist). In other words, she is a fit parent, and neither has, nor could be, found to be otherwise.

But Minh has nevertheless been stripped of all custodial rights to all three of her children, summarily and without any evidence ever being presented to justify it, nevertheless an opportunity to refute any such evidence. How and why that is a due

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[68] The district court's offhand comment that ***not*** "actively supporting" their relationship with their father is "mental abuse," XXII AA 4266, could not withstand ***any*** kind of legal or psychological scrutiny, nevertheless "strict scrutiny."

[69] IV AA 490, 799.

process violation was discussed in the prior petition.[70] The district court can order therapy for the father and the kids, but it is wildly outside the authority of the district court to strip the mother of all parental rights because the children loathe their father.

From the record I've reviewed, the opinions of the children regarding their father are not just "deep seated" as found by the Guardian ad Litem, but eminently justified. What kind of a parent dangles a child by one leg face down, and deprives another of food, because he feels he is being "disrespected"? These are the kind of facts that lead to criminal cases in which a court is charged with trying to decide how "justified" the victim was in killing the abuser.

There is a reason the experts putting together the federal Violence Against Women Act[71] flatly prohibited courts from doing what the district court has done

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[70] *See*, *e.g.*, *Anastassatos v. Anastassatos*, 112 Nev. 317, 913 P.2d 652 (1996).

[71] S.3623, 117th Cong. (2021-2022), Violence Against Women Act

here—severing all contact between a supportive parent and children to support "reunification" with the other[72]; it is because it is ill-advised psycho-babble unsupported by any rational measure of scientific validity, and extremely likely to lead to the harm of women and children.[73]

Reauthorization Act of 2022, section 1504, pages 119-121, section 1504(k)(1)(B)(ii)-(v).

[72] "[A] court may not order a reunification treatment that is predicated on reunification cutting off a child from a parent with whom the child is bonded or to whom the child is attached." The concurrent resolution adopting it noted the same studies mentioned by Mr. Goldstein, decried courts entering just the kind of orders made by Judge Throne in this case based on "scientifically unsound theories," and noted 653 child murders by parents "often after access was provided by family courts over the objections of a protective parent."

[73] Whether or not Nevada loses its Title IV-D funding as a result of Judge

The first recital of the "sense of Congress" for that act is the common sense notion that "child safety is the first priority of custody and parenting adjudications, and courts should resolve safety risks and claims of family violence first, as a fundamental consideration, before assessing other best interest factors."

Judge Throne, presented with the studies, the evidence, the research, and that federal statute, refused to examine, consider, or even address any of it, having already made up her mind.

Throne's actions, the federal prohibition is deserving of a lot more attention and deference than the casual dismissal that it is "not binding."

E. The Orders the District Court Refuses to Set Aside Violate Due Process and Minh's Substantive Parental Rights

At every turn, including the latest unannounced appearance and testimony by Dr. Collins, Minh has been faced with a district court willing to indulge any procedures on no functional notice to deprive her of custody of her children. The multiple reasons this violates constitutional due process were set out in the prior writ petition.

The Court of Appeals told the district court in the order of April 25 that it may not alter substantive custodial and other rights without first conducting an evidentiary hearing – and can only do ***that*** if presented with a motion showing "due cause" under *Rooney*[74] to conduct such a hearing.

[74] *Rooney v. Rooney*, 109 Nev. 540, 853 P.2d 123 (1993).

The district court's response was to say that no motion is pending, no hearing is warranted, no custody evaluation would be "helpful," and that she already "knows" what to do and how to do it—deprive the mother of her constitutional rights to raise her children indefinitely and subject the children to misery and possible death to assuage the father's never-established "concerns" that his children hate him *because of* their mother's "parental alienation."

The existing orders are a betrayal of the judicial obligation to look out for the best interest of children and a violation of Minh's substantive and procedural rights to due process ***and*** to raise her children, and an unconscionable overreach of any conceivable limit of judicial discretion.

It is past time for this Court to announce in clear and direct language that the district court may ***not*** summarily cut off contact between children and a parent who has not neglected or abused them. The district court may ***not*** deprive a parent of

custodial rights in the absence of admissible evidence of abuse or neglect.[75] The district court may ***not*** order a parent to "not believe" children who allege that the other parent is abusing them. The district court may ***not*** order a parent, in order to see her own children, to "confess" to things she does not believe are true,[76] or "prove" to a third party that she "truly believes" the other parent is a swell guy and great for the

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[75] *Pearson v. Eighth Judicial District Court of Nevada*, 373 P.3d 949 (Unpublished Disposition, 2011) (parents have a fundamental liberty interest in the care and custody of their children, and are entitled to certain due process rights, citing *Santosky v. Kramer*, 455 U.S. 745, 753-54 (1982); parents involved "in a custody battle have the right to a full and fair hearing concerning the ultimate disposition of a child" citing *Moser v. Moser*, 108 Nev. 572, 576, 836 P.2d 63, 66 (1992)).

[76] *In the Matter of the Parental Rights As to A.D.L. and C.L.B., Jr., Minors*, 133 Nev. 561, 402 P.3d 1280 (2017).

kids.[77] The district court may ***not*** restrict a fit parent from directing those other people with whom the child have relationships and association.[78]

In short, this Court should hold explicitly that Minh has a constitutional right to parent her children, that she has a constitutional right to believe her children when they claim that her ex is an abusive lout, and that she has a constitutional right to

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[77] This absurd requirement of Dr. Collins and Judge Throne of forced speech is a facial violation of the First Amendment of the United States Constitution. *See*, *e.g.*, *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47, 126 S. Ct. 1297, 164 L. Ed. 2d 156 (2006) ("freedom of speech prohibits the government from telling people what they must say"); *Wooley v. Maynard*, 430 U.S. 705, 97 S. Ct. 1428, 51 L. Ed. 2d 752 (1977).

[78] *Troxel*, *supra.*

believe that he is not a good influence on the children, and cannot be compelled to convince Dr. Collins or anyone else that she believes otherwise.

Regardless of constitutional overlay, all of those things appear to be objectively true—just from the things Jim has done to the children in the past ***30 days***[79]—and whether his lengthy alleged pattern of abuse and neglect is true or not, it would be absurd and unlawful to permit the district court to require that Minh publically claim that they are ***not*** true as a precondition to "permitting" her to parent her children.

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[79] By counsel's count, Jim has committed at least seven different kinds of "Psychological Maltreatment" of the children by his words and deeds of the past month, some of which are recounted above. *See* American Professional Society on the Abuse of Children, *Practice Guidelines* (ASPAC Taskforce 2019), attached as Exhibit 5.

F. The Entire Gottlieb "Program" of Isolation and "Sequestration" Is Abusive Unscientific Quackery

This was gone over, in some detail, in the prior writ petition. Stripped of psychobabble, the concept of "immersion therapy" is to strip the child of all support and comfort that the child knows, so that the child of necessity is required to rely upon the person the child thinks of as an abuser for food, clothing, shelter, and any personal contact, to force that child to "bond" with the abuser.[80]

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[80] *See*, *e.g.*, Elena Andreopoulos & Alison Wexler: *The "Solution" to Parental Alienation: A Critique of the Turning Points and Overcoming Barriers Reunification Programs*, Journal of Family Trauma, Child Custody & Child Development, DOI: 10.1080/26904586.2022.2049462 (March 15, 2022), posted at https://doi.org/10.1080/26904586.2022.2049462.

This is what was done to Patty Hearst when she was kidnaped by the "Simbionese Liberation Army" and ultimately made to rob a bank and then suffer a total mental breakdown. It is the methodology employed in Chinese "re-education camps." In other words, it is an attempt to induce "Stockholm Syndrome." It is ***not*** something that the courts of Nevada should condone being done to children.

According the Guardian ad Litem, Matthew—in Jim's custody for half a year—is morose, despondent, failing school, in poor health, and perhaps irreparably damaged, both mentally and physically.[81] Hannah, enormously traumatized, has for the moment escaped.

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[81] As of 2020, suicide was the second-leading cause of death for ages 10-14, and the third leading cause of death for 15 to 19 year olds, per the federal Centers for Disease Control and Prevention. Las Vegas Review Journal, April 18, 2002 at 8B.

The district court ordered that Hannah be placed with Jim, even though she was thriving and excelling academically and in all other ways while with her mother—and after being turned over to her father was in police custody three times, hospitalized, ran away to hide in the desert, was again despondent, and at risk of suffering the same eating disorders, terrible health, and failing school performance she had while previously with her father.

Hannah has run away from Jim at least twice, and attempted suicide while forced to be with Jim at least once. Matthew is morose, despondent, suicidal, tanking in school, and now being starved in an attempt to "improve his attitude." This is not "therapy"—it is child abuse.

No one in their right mind would say that breaking children's spirits, ruining their mental and physical health, throwing away their education, and risking their

death by suicide or otherwise is a worthy trade for the purpose of responding to accusations of "parental alienation." But that is what is happening here.

Gottlieb—who Mr. Goldstein properly labeled "infamous"—is a disciple of the disgraced psychologist Richard Gardner, who coined the term "Parental Alienation Syndrome" to describe mothers who attempt to protect children from sexual abuse by their fathers.[82] Gardner's claim was that the mothers' actions to protect children were unwarranted since pedophilia and incestuous sexual abuse by fathers was "normal" and mothers' attempts to protect children from it was "hysteria" based on "exaggerated Judeo-Christian principles," claiming that such situations are properly addressed not by restricting the fathers' custody rights but by the mothers making

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[82] XXII AA 4356-4362; *see* Rebecca M. Thomas and James T. Richardson, *Parental Alienation Syndrome: 30 Years On and Still Junk Science* (ABA 1 Jul 2015).

themselves more sexually "responsive" to the fathers to avoid the latter's "temptation."[83]

Dr. Collins is actively working for and with Gottlieb to continue her Gardner-inspired "program" with the blessings of the district court judge. Dr. Collins has stated that no matter *what* Jim has done or continues to do to the children, she will not recommend that Minh be "allowed" to see her children until she (Collins) is convinced that Minh "truly believes" that Jim is beneficial for the children.

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[83] In Gardner's words: "Special care must be taken to not alienate the child from the molesting parent . . . . [the mother's] increased sexuality may lessen the need for her husband to return to their daughter for sexual gratification." R. Gardner, *True and False Accusations of Child Sex Abuse* (Cresskill N.J. Creative Therapeutics 1992) at 537, 576-567.

But he isn't good for the children. And it is unlawful, irrational, and absurd, to either demand that Minh "believe" that he is, or to convince Dr. Collins that she "truly believes" he is.

It is worth noting that Dr. Collins' recommendation of the Turning Points program and follow-up "sequestration" without ever conferring with the children's therapists was itself an unethical and improper act, which in other jurisdictions would have resulted in sanctions for unprofessional conduct.[84] Judges elsewhere getting

[84] *See*, *e.g.*, Exhibit 6, *Notice of Proposed Disciplinary Action*, Oregon Case No. 2020-035 (Mar. 25, 2022), noting among other findings that there is no such thing as a diagnosis of "parental alienation" in the DSM-5 and the therapist's recommendation to a court of that "condition" and a four-day "alienation intensive therapy" workshop (essentially identical to the Gottlieb program) without conferring with the children's therapists in advance as to its propriety, violated multiple ethical

such recommendations have been wise enough to reject them, discharge the therapists from further interaction with the family, and report them for misconduct.[85]

But since Dr. Collins is telling Judge Throne what she wants to hear, the district court has expressed no concern with her actions, regardless of the multiple violations of ethical standards and the abusive horror that Gottlieb, Collins, and the rest of the "parental alienation cottage industry" commits and produces psychobabble to cover up.

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standards of the American Psychological Association and created "a danger to the children's emotional health and safety" by forcing them to be pressured to "retract, give up, or overcome their emotional experiences of distance, anger or hurt regarding Parent B."

[85] *Id*.

Regardless of any court's belief as to the truth of the children's opinions, which they formed first hand from their direct observation of their parents over multiple years, those opinions should be recognized as real and valid, and an attempt to program the children to "believe differently" is as wrong-headed as anything done in *One Flew Over the Cuckoo's Nest*. It is simply irrational to destroy a child to serve some "reunification" goal on the part of a parent.

Gottlieb puts on her letterhead just below the title of her program the slogan "A Therapeutic Vacation." That slogan has the same kind of impact on Hannah – now again assaulted[86] injured, hospitalized, and enraged – as "Arbeit macht frei" had for camp survivors in 1945.

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[86] It was Hannah's therapist, Dr. Fontanelle, who made the prior CPS report regarding Jim's abuse of Hannah, after noticing bruising on the child during an appointment.

What has been done to these children over the past multiple months is a horror. It must stop, immediately. Refusal to do so would be state-sanctioned child abuse, and no court should be a willing party to it. The district court has no intention of stopping; it is up to this Court to actually do something to protect these children before one of them is permanently injured or dies.

G. The District Court Is Required to Enforce the Orders for Joint Legal and Physical Custody When Neither Party Has Filed a Motion to Alter Those Orders

As detailed in the prior writ petition, the district court's labeling of her "indefinite" orders as "temporary" is an evasive fraud.[87] A district court is required

[87] The various cases cited in the prior writ petition and this one show that families entrapped in the Gottlieb "program" can and do spend multiple ***years*** with children being kept from their sources of support and comfort, to their life-long

to enforce the existing orders in a case, and a refusal to do so is misfeasance, if not malfeasance. The existing order here is for joint physical and legal custody.

H. The Case Should Be Assigned to a Different Department

A judge who repeatedly enters orders endangering the life and health of children, and who refuses to prioritize their safety to the agenda of one of their parents, has no business deciding child custody.[88]

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psychological detriment and continuing risk of harm both by violence and by self-harm. *See* Declaration of Barry Goldstein, *supra*, XXII AA 4368-4383.

[88] *In re Fine*, 116 Nev. 1001, 13 P.3d 400 (2000). After removal of the judge, it took years for the Nevada appellate and trial courts to undo the damage done to the women and children involved, some of which were scarred, mentally and physically, for life.

At minimum, the record of proceedings in this case is that the district court has leaped to a conclusion admittedly based on a report *known* to be based on false "facts," has refused to entertain evidence proving the matter, and has declared that she has pre-judged the case and knows what she will order going forward regardless of anything presented in court. This is one of those cases in which the remarks of a judge made during court proceedings show "that the judge has closed his or her mind to the presentation of all the evidence"[89] and a change of departments is warranted.

On request of appellate counsel, where the litigation history merited it, this Court has remanded cases with direction that they be heard by a different judge so as to avoid any appearance of impropriety.[90] It is respectfully suggested that this is such

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[89] *Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

[90] *See*, *e.g.*, *Fisher v. Fisher*, 99 Nev. 762, 670 P.2d 572 (1983); *Willmes v. Reno Mun. Court*, 118 Nev. 831, 59 P.3d 1197 (2002).

a case, and upon remand should be assigned to a different department of the family court.

V. CONCLUSION

It has been years since I have been put in the unenviable position of having information that a judge's orders were so irresponsible and out of control that they resulted in active endangerment to the health and life of multiple children. I had to take action at that time based on my ethical and moral duties.[91]

This is not a path I wish to tread again. But like the Guardian ad Litem I am also unwilling to stay silent as a matter of polite deference and have a dead child as a result—and that seems extremely likely to be the result in this case (and the others) if nothing is done.

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[91] *See In re Fine*, 116 Nev. 1001, 13 P.3d 400 (2000).

The district court has refused to require a qualified professional opinion before making a psychological diagnosis herself, ignored the testimony of Hannah's treating therapist because it did not square with the district court's pre-determined outcome, and has left first Matthew (for the past six months), and now Hannah (by order) in the sole custody of a parent both children claim abuses them while cutting off ***all*** contact between the children and the parent in whose custody both children have thrived. All because the district court "just knows" that Minh is the "cause" of Jim's destroyed relationship with the children. This is arbitrariness and capriciousness personified.

We informed the district court that if the orders in this case endangering the health and lives of these children, which have every hallmark of being the result of xenophobia, bias, and outright bigotry, were not reversed it would inevitably become not just a matter of appellate review, but very quickly a matter of media attention and probably a report to judicial discipline. In fact, I have already been contacted by

national media, and I am informed that at least one judicial discipline complaint is or soon will be on file by others.

This Court should reverse the ***never***-appropriate "sequestration" orders and return Matthew, Hannah, and Selena to their mother's custody to prevent further damage, immediately. The case should be immediately re-assigned to another department.

Dated this 23rd day of May, 2022.

Respectfully submitted,
WILLICK LAW GROUP

//s/ Marshal S. Willick
Marshal S. Willick, Esq.
Attorney for Petitioner

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[**X**] This brief has been prepared in a proportionally spaced typeface using Corel WordPerfect Office 2021, Standard Edition in font size 14, and the type style of Times New Roman; or

[ ] This brief has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

[**X**] Proportionately spaced, has a typeface of 14 points or more and contains 9,307 words. This exceeds the type/volume limits; a motion requesting leave to exceed those limits has been filed contemporaneously with the Petition.

[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

[ ] Does not exceed _____ pages.

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

DATED this 23rd day of May, 2022.

WILLICK LAW GROUP

//s//*Marshal S. Willick, Esq.*
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Attorneys for Respondent

VERIFICATION

Marshal S. Willick, Esq., being first duly sworn, deposes and says that:

I am an attorney duly licensed to practice law in the State of Nevada. I am an attorney at the Willick Law Group, and I am the attorney representing Petitioner, Minh Luong. I have read the preceding filing, and it is true to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

DATED this 23rd day of May, 2022.

/s/Marshal. S. Willick
MARSHAL S. WILLICK, ESQ.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Willick Law Group and that on 23rd day of May, 2022, I served a true and correct copy of the Petitioner's *Petition for Writ of Mandamus or Prohibition* by electronically with the Clerk of the Nevada Supreme Court, to the following:

Robert P. Dickerson, Esq.
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The Hon. Dawn Throne
Family Court, Dept. U
601 North Pecos Road
Las Vegas, Nevada 89155

/s/ Justin K. Johnson
Employee of WILLICK LAW GROUP

LIST OF EXHIBITS

Exhibit 1. E-mail from Sunshine Collins of May 12, 2022 at 2:53 p.m.

Exhibit 2. E-mail from Valerie Fujii dated May 6, 2022, at 1:46 a.m.

Exhibit 3. E-mail from Valerie Fujii dated May 7, 2022, at 1:38 p.m.

Exhibit 4. Report from Michelle Fontenelle-Gilmer, MD, MHS, dated February 7, 2022.

Exhibit 5. American Professional Society on the Abuse of Children, *Practice Guidelines* (ASPAC Taskforce 2019)

Exhibit 6. Notice of Proposed Disciplinary Action, Oregon Case No. 2020-035 (Mar. 25, 2022)

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EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”

Marshal Willick

From: Sunshine Collins <drcollins@sunshinecollinsllc.com>
Sent: Thursday, May 12, 2022 2:51 PM
To: Marshal Willick
Cc: sabrina@thedklawgroup.com
Subject: Re: Vahey/Luong matter; your appearance at the 4/28/22 hearing

Greetings,

Sabrina Dolson invited me to the hearing and provided me with the Zoom link to attend.

Sunshine Collins, PsyD
Licensed Psychologist

--

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Nevada Psychological Association

Executive Board Treasurer-in-Training

Continuing Education Committee member

Nevada Psychological Association

On Thu, May 12, 2022 at 11:10 AM Marshal Willick <marshal@willicklawgroup.com> wrote:

Hi Dr. Collins:

I am preparing some further legal filings in this matter, and was reviewing the transcript of the last hearing. You introduced yourself as saying you were "just asked to attend today at 2:00." Immediately afterward, I suggested that Bob Dickerson had brought you into the hearing to give a prepared speech, and he denied it, stating that he had never before even spoken with you.

I am summarizing what actually happened at that hearing, and do not want to make any assumptions – can you please tell me who invited you to the hearing and provided to you the zoom link to attend?

Time is (of course) short, so if you could respond today I would appreciate it.

Marshal

Willick Law Group

A Domestic Relations & Family Law Firm

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QDRO website: www.qdromasters.com

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EXHIBIT “2”

EXHIBIT “2”

EXHIBIT “2”

Marshal Willick

Subject: FW: Vahey - GAL concerns with Hannah 5-5-2022

Begin forwarded message:

From: val@fujiilawlv.com
Date: May 6, 2022 at 1:46:36 AM EDT
To: Marshal Willick <marshal@willicklawgroup.com>, Justin Johnson <justin@willicklawgroup.com>, "Valarie Fujii & Associates" <vip@fujiilawlv.com>
Cc: Bob Dickerson <bob@dickersonlawgroup.com>, Sabrina Dolson <sabrina@thedklawgroup.com>, "fpage@pagelawoffices.com" <fpage@pagelawoffices.com>
Subject: RE: Vahey - GAL concerns with Hannah 5-5-2022

Greetings everyone, sorry for the late email. I have spoken to Hannah several times via face time and continually with text. I have been to the house. She is not thriving. I am concerned. I reached out to Dr. Fontenelle, Dr. Collins and discussed with Linda Gottlieb. THIS IS NOT WORKING FOR HER. She is hysterical, angry, not bathing, not eating and breaks down and yells and then uncontrollably sobs. She understandably misses her mom. She says she needs a break. She is not wanting to speak with Dr. Collins, and in fact she is refusing to do so unless her mom is present. I understand everyone has a plan of what they believe is in her best interest. I am not a licensed LMFT, nor do I have specialized training, but I do work with children. I listen to Hannah for at least 30 minutes at a time until she calms down and every time it is the same. She is talking to me about what she is experiencing and she has no outlet or support to cope. No one to hug her. I know Dad would but she will reject any effort by him. I can only do so much (visit and facetime) and Dr. Fontenelle says she cannot do anything. I speak with this child often and I listen to her and it is my opinion that this cannot continue. Her behaviors are escalating. She is lashing out, instigating conflicts, striking her father, slamming doors, running down the street. Hannah begs for a break, just 10 minutes away from the house to just breath. My fear is that no matter what it is done, it will not improve if we keep doing this. I honestly do not know how Dad, Hannah and Matthew and Selina cannot be deeply affected by all of this.

I know how hard Dad is trying to do what he believes is best. I want only what is best for Hannah. Thus, it is my sincere opinion after countless hours that what we are doing is NOT WORKING. IT HAS TO CHANGE for Hannah. Out of control antics, outbursts daily, outrageous requests, police interventions, threats of self harm. How is this any better? I cannot sit silent. I will forward this email to Dr. Fontenelle, Dr. Collins and Linda Gottlieb. I will also forward to Mom and Dad separately. I will submit an Interim Report to Court within the next few weeks.

I know I don't know all the answers but I hear this child.

Please respond by using vip@fujiilawlv.com, my listed email for e-service.

Valarie I. Fujii, Esq.

EXHIBIT “3”

EXHIBIT “3”

EXHIBIT “3”

Marshal Willick

Subject: FW: Vahey - GAL concerns with Hannah 5-5-2022

From: Valarie I. Fujii <vip@fujiilawlv.com>
Sent: Saturday, May 7, 2022 1:35 PM
To: Marshal Willick <marshal@willicklawgroup.com>
Cc: Justin Johnson <justin@willicklawgroup.com>
Subject: Re: Vahey - GAL concerns with Hannah 5-5-2022

Marshall, Hannah never came out of school yesterday. The police have been notified. Minh flew back - we are besides ourselves - missing person, amber alert- contacted all relatives - dad gives permission for Minh to speak with Hannah. We have all texts and called her without response. Minh asked a friend to search her home I am sick with worry. We just need her located and to know she is safe.
I will keep you posted.

Valarie I. Fujii, Esq.
"Justice for All"
VALARIE I. FUJII & ASSOCIATES
706 S. Eighth St.
Las Vegas, Nevada 89101
Phone: (702) 341-6464
VIP@fujiilawlv.com
FUJIILAWLV .COM

EXHIBIT “4”

EXHIBIT “4”

EXHIBIT “4”

LIFEBRIDGE
9440 W. Sahara Ave #237 Las Vegas NV 89117
Tel 702.765.4965 Fax 702.960.1505

February 7, 2022

Re: **Vahey, Hannah** (DOB: 3-19-2009)
Case No. D-18-581444-D

To Whom It May Concern:

Hannah is currently under my care. She was last seen in my office today, Feb 7th, 2022. Her current diagnosis is **Major depressive disorder, recurrent, in remission** (ICD-10 code F33.41) and **Unspecified anxiety disorder** (F41. 1)

She is doing well at school and socially. Her depression has remitted, but she continues to have anxiety. Some of her anxiety stems from the unknown about what will happen with custody. Her anxiety, additionally seems to, in part, stem from the incident where she was physically forced into the car for a transfer that she was unaware of, as it had been set up under the guise of meeting her mother at Yogurtland. Hannah expresses anxiety about something like this happening again. This fear is affecting her willingness to see her father. She has expressed a willingness to she her father for a limited time if her fear can be allayed. It does continue to be recommended for her and her father to begin to re-build their relationship. This should occur in a setting where she feels this will not possibly occur again.

Please feel free to contact my office for any questions you may have.

Sincerely,

Michelle Fontenelle-Gilmer, MD, MHS
Board Certified in Adult, Adolescent & Child Psychiatry

EXHIBIT “5”

EXHIBIT “5”

EXHIBIT “5”

	rushes him to hospital when sick so this was initially placed under disproving evidence. However, when the pediatrician reviewed the case, this was moved to confirming evidence. The pediatrician stated that there was medical neglect as TA would not have had all of his emergency room visits and hospitalizations if he were taking his medication as prescribed—the number of visits is out of the expected range, taking severity into account. TA missed over two months in the first grade with asthma but has missed 15–20 days in recent years.
Source of Evidence	Maternal interview, teacher interview, medical records, and school records.
Disproving Evidence	Mother states that she makes sure that the kids receive regular medical checkups, and the medical records confirm this. The school reports that the mother has allowed TA and his two younger brothers to be evaluated for special education for learning and/or behavior problems. Both parents have attended IEP meetings. Parents allowed the two older boys to receive social work services at school.
Questions	
Conclusion	Parents address the mental health, physical, and educational needs of their children when the environment demands that they do so, but there is little indication of proactive efforts. TA's asthma is not controlled, and the pediatrician attributes this to poor home management of his condition leading to many repeated hospital visits for a potentially life-threatening condition and missed school days.

Summary Conclusion About Presence of PM:
TA is exposed to long-standing, chronic PM in the forms of spurning, exploiting/corrupting, terrorizing, emotional unresponsiveness, isolating, and medical neglect of asthma.

Spurning: The mother, father, and TA all report that the father frequently uses degrading language to TA and his brothers and singles them out for markedly worse treatment than their sisters receive. He blames them for the poor treatment.
Exploiting/corrupting: The father models a confused, contradictory, and suspicious/fearful view of the world as highly dangerous.

Terrorizing: TA's parents place him in frightening or chaotic circumstances. His mother's realistic threats of suicide (given her previous attempts and current depression) and his father's scary behavior with guns, conflicts with neighbor, and defensive stance in anticipation of threats against the family home are terrorizing to him.

Emotional unresponsiveness: The father is never emotionally responsive or affectionate. The mother is emotionally responsive only when TA is so sick that he might die.

Isolating: Home environment and paternal behavior interfere with social interactions with peers and other adults in the community as TA is too embarrassed to bring his friends to his house.

Mental health, medical, and educational neglect: Parents respond to the mental and physical health needs of TA and his siblings when there are demands from the environment (e.g., medical crisis or school requests), but there is no evidence of proactive efforts to prevent a crisis, such as with TA's asthma and TA's (and his brothers) mental health and behavior problems.

Table 4. Risk Factors for Psychological Maltreatment Worksheet

CHILD FACTORS: high maintenance and demand characteristics, disability, temperament, and behavior.	
Evidence	TA diagnosed with severe asthma, a learning disability (in all subjects as he is currently 2 years behind grade level and was retained in first grade), and most recently ADHD. He is inattentive and appears depressed; his schoolwork is erratic; he makes big mistakes on already mastered work, indicating that his mind is elsewhere.
Source(s) of Evidence	Medical records, school records, and teacher interview.
Disproving Evidence	
Questions	
Conclusion	TA has severe asthma and multiple psychological disabilities, which place increased demands for care on his parents.
CAREGIVER FACTORS: psychological disorders, low self-esteem, low-impulse	

control, depression, low empathy, poor coping, substance abuse, childhood experiences of maltreatment, beliefs and attitudes that depersonalize children, unrealistically high expectations, inadequate knowledge about child development and parenting, lack of awareness, appreciation, and/or responsiveness for child strengths/good qualities; lack of interest or incapacity to express interest in child(ren); high stress and low social support.	
Evidence	Mother has long history of depression and suicidality. She has very low self-esteem. She currently sees a psychiatrist once a week and takes antidepressants and sleeping pills. Father has anger control/interpersonal problems, PTSD from combat experiences and likely maltreatment as child, and may have thinking problems. TA's teacher reported that after a parent–teacher conference he said that he's worried that the streetlights outside his house are bugged, that he's being spied upon. Both parents report a history of child maltreatment. Mother reports neglectful mother and absent father and sexual abuse by neighbor. Father reports a history of distressing foster care prior to adoption after his mother was declared unfit. Mother seems aware of TA's psychological needs, but her own passivity and depression limit her ability to address them. Father shows little empathy or appreciation of TA's psychological needs, little appreciation of TA's good qualities, and no appreciation for how his own behavior impacts TA. Neither parent has friends. Social support is only from the father's parents.
Source(s) of Evidence	Maternal report, teacher interview, father interview, and home visit.
Disproving Evidence	Both parents attend parent–teacher conferences held at night. Mother attends all IEP meetings during the day and participates and follows up on intervention suggestions made by the school and physicians.
Questions	

Conclusion	Both parents have mental health problems. Both parents have a history of maltreatment. However, both parents seem invested in parenting and in their children. The mother seems handicapped in meeting TA's needs, in part, by her depression and the father by his lack of appreciation of TA's needs, good qualities, and how his own behavior impacts TA (and the other children).
FAMILY FACTORS: large ratio of children to adults, young, unprepared and poor coping of parents; father absence; aberrant substitute-father presence; low connection to or support from the community and extended family; high stress, domestic violence, substance abuse, and/or criminal activity in the home and/or neighborhood.	
Evidence	Family has five children all born within 7 years. Mother was age 18 and Dad 20 when they married with Mom pregnant. Family socializes only with the father's family, rarely with the mother's siblings. Mother reports that they attended the Methodist church when TA and his older sister were preschoolers, but Mother thinks the parishioners thought they were weird and rejected them so they stopped going. Neither parent has friends.
Source(s) of Evidence	Maternal report, paternal report, child report, state records check.
Disproving Evidence	Both parents are high school graduates. Father has a good technical job with benefits. Neither parent has a criminal record or previous CPS report.
Questions	
Conclusion	There is a large number of children born close together--a heavy caregiving burden. The family socializes with the father's family and receives some financial and babysitting support but is otherwise socially isolated. However, both parents are high school graduates, formed their family as adults, and are in a position to provide for their children. Ostensibly, the family has been law abiding, and this is the first CPS report.
COMMUNITY FACTORS: low norms and low levels of support for parenting/child care, child development, child health, child well-being and child rights, periodic monitoring of child development and well-being; poor mobilization of observer response; high levels of occurrence and low levels of intervention for substance abuse, violence, and criminal activity; and poverty.	
Evidence	

Source(s) of Evidence	Observation of school and home/neighborhood. Parental report.
Disproving Evidence	Family lives in a middle-class neighborhood with good schools and social services. The father has a good technical job with benefits.
Questions	
Conclusion	No community risk factors.

Summary Conclusion About Risk Factors:

TA has severe asthma and multiple psychiatric disabilities, which place increased demands for care on his parents. Both parents have significant mental health problems and histories of maltreatment. However, both parents seem invested in parenting and in their children. The mother seems handicapped in meeting TA's needs, in part, by her depression and history of emotional neglect and the father by his lack of appreciation of TA's needs, good qualities, and how his own behavior impacts TA (and the other children). There is a large number of children born close together—a heavy caregiving burden. The family socializes with the father's family and receives some financial and babysitting support but is otherwise socially isolated. However, both parents are high school graduates, formed their family as adults, and are in a position to provide for their children. Ostensibly the family has been law abiding, and this is the first CPS report. They live in a well-resourced community with many supports available.

Table 5. Evidence of Harm to Child Worksheet

Refer to Section 3 of this document.

Problems of Intrapersonal Thoughts, Feelings, and Behavior: anxiety, depression, negative self-concept, and negative cognitive styles that increase susceptibility to depression and suicidal thoughts and behaviors (e.g., pessimism, self-criticism, catastrophic thinking, and immature defenses).	
Evidence	The school psychologist reported that when evaluated, TA scored very high on a measure of childhood depression, with items endorsed and follow-up interview indicating very low self-esteem, thoughts of suicide but no plan, and low mood and little pleasure most days but adequate appetite and sleep. His IEP recommended continuing social work services for mood and behavior. Mother says she thinks he is depressed. His mother and teacher independently report that he has very low self-

	esteem. Teacher says he gives up easily on school tasks the minute he makes a mistake or experiences frustration. His mother says he will say that he would be better off dead when he gets in trouble at school or gets a bad report card or if problems erupt at home.
Source(s) of Evidence	Teacher interview, social work progress notes, IEP, school psychologist report of triennial evaluation for special education, and maternal interview.
Disproving Evidence	
Questions	
Conclusions	TA has depressed mood, negative cognitive style, negative self-concept, and low motivation that are impairing his ability to function. The preponderance of the evidence is that multiple forms of PM are contributing significantly to his difficulties.
Emotional Problems and Symptoms: substance abuse and eating disorders, emotional instability, impulse control problems, borderline personality disorder, and more impaired functioning among those diagnosed with bipolar disorder.	
Evidence	TA has been diagnosed with ADHD, and his symptoms include impulsive behavior such as many bike and climbing accidents, blurting out answers, not staying seated when it's expected, and butting into games and conversations.
Source(s) of Evidence	School records, medical records, teacher interview, and parental report.
Disproving Evidence	
Questions	
Conclusions	TA has problems with impulse control consistent with his ADHD diagnosis.
Learning Problems and Behavioral Problems: problems in academic settings, such as impaired learning despite adequate ability and instruction, academic problems and lower achievement test results, decline in IQ over time, lower measured intelligence, school problems due to non-compliance and lack of impulse control, and impaired moral reasoning.	

Evidence	School problems: TA had severe asthma in first grade and missed more than 2 months. His teachers found him immature and silly in his play with peers. He was retained because he had not learned the alphabet, was fidgety, and confused directions. When repeating first grade with better attendance, his learning problems persisted; he was labeled learning disabled and started receiving resource room help. He made some progress but was still behind despite average ability. By age 10, he worked slowly and did not finish assignments. He appeared off task most of the time unless an adult was working with him directly. His mistakes on simple material were so great that it was clear his mind was elsewhere. The school recommended an outside evaluation for ADHD, and he was so diagnosed. Stimulants were recommended but couldn't be taken because of his asthma medication.
Source(s) of Evidence	School records.
Disproving Evidence	
Questions	
Conclusions	TA shows significant learning problems and impaired ability to attend and concentrate despite average ability, attending a good school system, and receiving special educational services addressing learning, mood, and behavior problems. His responses on some learning tasks and behavior in the classroom show that his mind is elsewhere, not on his school work. The preponderance of the evidence is that multiple forms of PM by both parents are contributing to TA's depressed inability to concentrate and therefore inability to learn at school.
Physical Health Problems: high infant mortality rates; delays in almost all areas of physical and behavioral development. Allergies, asthma, and other child maltreatment are also associated with the foregoing effects as well as respiratory ailments; deviant adrenocortical responding and amygdala reactivity; white matter tract abnormalities; hypertension; and somatic complaints.	
Evidence	TA had severe asthma in first grade and missed over 2 months of school. While his asthma is now better

	managed, he still had three emergency hospitalizations in the last calendar year, which is inconsistent with good home management of the condition.
Source(s) of Evidence	Medical records and school record.
Disproving Evidence	
Questions	
Conclusions	TA has severe asthma despite access to good medical care. Pediatrician attributes this to poor home management of the condition. The preponderance of the evidence is that multiple forms of PM by both parents are contributing to TA's ongoing respiratory distress.

Summary Conclusion of Harm to Child:

TA shows significant learning problems (i.e., he is 2 years behind grade level) and impaired ability to attend and concentrate despite average ability, attending a good school system, and receiving special educational services addressing learning, mood, and behavior problems. His response on some learning tasks, making mistakes when he has previously mastered material, shows that his mind is elsewhere and not on his schoolwork. TA has depressed mood, thoughts of suicide, negative cognitive style, very low self-esteem, and low motivation that are impairing his ability to function in normal developmental activities. TA has severe asthma despite access to good medical care. The preponderance of the evidence is that multiple forms of PM and poor home management of his condition are contributing significantly to his difficulties.

8. Nature of Guidelines

These guidelines were designed to be as brief as possible to facilitate their use by front-line professionals. As such, they provide essential information abstracted from the more comprehensive *APSAC Monograph on Psychological Maltreatment* (available online at www.apsac.org; see [14]). Users of these guidelines should find significant added value in the monograph (which includes, for example, a detailed description of the assessment process, case examples, guidance for case- and system-wide interventions, and information useful for testifying in court) and in the chapter on psychological maltreatment of children published in the most recent edition of the *APSAC Handbook on Child Maltreatment* (see [15]).

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[1] Maslow, A. (1970). *Motivation and personality*. New York: Harper & Row.

[2] Sheldon, K. M., Elliot, A. J., Kim, K., & Kasser, T. (2001). What is satisfying about satisfying events? Testing 10 candidates' psychological needs. *Journal of Personality and Social Psychology, 80*(2), 325–339.

[3] Ryan, R. M., & Deci, E. L. (2000). Self-determination theory and the facilitation of intrinsic motivation, social development, and well-being. *American Psychologist, 55*(1), 68–78.

[4] Adler, M. (1981). *Six great ideas.* New York: Macmillan.

[5] Pappas, A. M. (1983). Introduction. In A. M. Pappas (Ed.), *Law and the status of the child: Vol. 1* (pp. xxvii–lv). New York: United Nations Institute for Training and Research.

[6] Hart, S. N., & Pavlovic, Z. (1991). Children's rights in education: An historical perspective. *School Psychology Review, 20*(3), 345–358.

[7] Pinker, S. (2002). *The blank slate: The modern denial of human nature*. New York: Penguin Putnam.

[8] Van der Kolk, B. A. (1988). The biological response to psychological trauma. In F. M. Ochbert (Ed.), *Post-traumatic therapy and victims of violence* (pp. 25–38). New York: Brunner/Mazel.

[9] Shengold, L. (1989). *Soul murder*. New York: Fawcett-Columbine.

[10] Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101 et seq.

[11] Child Abuse Prevention and Treatment Act as amended by PL 11-320, CAPTA reauthorization act of 2010, 42 U.S.C. 5116 et seq. See also 45 CFR 1340.

[12] Baker, A. J. L. (2009). Adult recall of childhood psychological abuse: Definitional strategies and challenges. *Children and Youth Services Review, 31(7),* 703–714.

[13] Hart, S. N., Brassard, M. R., Davidson, H. A., Rivelis, E., Diaz, V., & Binggeli, N. (2011). Psychological maltreatment. In J. Myers (Ed.), *The APSAC handbook on child maltreatment: 3rd edition* (pp. 125–144). London: Sage..

[14] Brassard, M. R., Hart, S. N., Baker, A. J. L., & Chiel, Z. (2017). *APSAC Monograph on Psychological Maltreatment*. Retrieved from www.apsac.org

[15] Hart, S. N., Brassard, M. R., Baker, A. J. L., & Chiel, Z. (in press). Psychological maltreatment of children. In J. R. Conte and J. B. Klika (Eds.), *The APSAC handbook on child maltreatment: 4th edition* (Section 2, Chapter 10). Thousand Oaks, CA: Sage..

[16] Hart, S. N., & Brassard, M. R. (1991). Psychological maltreatment: Progress achieved. *Development and Psychopathology, 3*, 61–70.

[17] Brassard, M. R., & Melmed, L. (in press). Psychological maltreatment. In R. Alexander (Ed.), *Prevention of child maltreatment: Contemporary models in child protection.* Florissant, MO: STM Learning.

[18] Bingelli, N. J., Hart, S. N., & Brassard, M. R. (2001). *Psychological maltreatment of children. The APSAC Study Guides 4*. Thousand Oaks, CA: Sage.

[19] Brassard, M. R., & Donovan, K. M. (2006). Defining psychological maltreatment. In M. Feerick, J. F. Knutson, P. K. Trickett, & S. Flanzer (Eds.), *Child abuse and neglect: Definitions, classifications, and framework for research* (pp. 151–197). Baltimore, MD: Brookes Publishing.

[20] Wright, M. O. (Ed.). (2008). *Childhood emotional abuse: Mediating and moderating processes affecting long-term impact*. Binghamton, NY: Haworth.

[21] Wolfe, D. A., & McIsaac, C. (2011). Distinguishing between poor/dysfunctional parenting and child emotional maltreatment. *Child Abuse & Neglect, 35*, 802–813.

EXHIBIT “6”

EXHIBIT “6”

EXHIBIT “6”

BEFORE THE

BOARD OF PSYCHOLOGY

STATE OF OREGON

In the Matter of	) Agency Case No. 2020-035
JACQUELINE J. HEAD, Psy.D. LICENSE NO. 1328	) NOTICE OF PROPOSED DISCIPLINARY) ACTION

1.

The Board of Psychology (Board) is the state agency responsible for licensing and disciplining psychologists, and for regulating the practice of psychology in the State of Oregon. Jacqueline J. Head, Psy.D., (Licensee) is licensed by the Board to practice psychology in the State of Oregon.

2.

The Board proposes to take disciplinary action pursuant to ORS 675.070(2) by; requiring Licensee to practice under supervision for a minimum of one year by a supervisor that is pre-approved by the Board's Executive Director, with quarterly written reports to the Board[1] and assessing a civil penalty of $5,000 for violating ORS 675.070(2)(d)(A) unprofessional conduct or gross negligence in the practice of psychology; and the following professional ethical standards (ES) adopted by the Board pursuant to ORS 675.110(13) and under OAR 858-010-0075: ES 2.04 Bases for Scientific and Professional Judgements; ES 3.04 Avoiding Harm; ES 3.09 Cooperation with Other Professionals; and ES 9.01 Bases for Assessment.

3.

The Board's proposal to impose terms of discipline is based on the following alleged facts that violated ORS 675.070 and the specified ethical standards:

[1] Costs of supervision are to be borne by Licensee.

3.1 In 2010, Parent A and Parent B, a married couple, filed for divorce. During their marriage, the parents had had two children, who were both under the age of 5 when Parent A and Parent B filed for divorce. The divorce proceedings were highly contentious. After the divorce had been finalized, the custodial arrangements for the children remained a significant point of contention between Parent A and Parent B. By 2019, these matters had been actively disputed between the parents for approximately three years. There were concerns that the children's relationship with Parent B had been disrupted during the course of the disputes about custody, parenting time and co-parenting matters.

3.2 In April 2019, by stipulation accepted by the court, Parent A and Parent B agreed to joint custody and evenly divided parenting time. As part of the stipulation, Parent A and Parent B agreed to participate in family therapy with each other and the children, referred to variously in the court documents as family reunification therapy, reunification therapy, or reunification counseling.

3.3 In April 2019, Licensee was retained to provide the family reunification therapy for Parent A, Parent B, and the two children, as called for in the stipulation. In this capacity, Licensee testified and provided written reports to the court regarding the progress of the family reunification therapy.

3.4 At this point, each child had a pre-existing, on-going, personal therapeutic relationship with a licensed therapist, Therapist C. The children's personal therapy with Therapist C continued throughout the period of Licensee's work as a family reunification therapist.

3.5 The Diagnostic and Statistical Manual, Fifth Edition (DSM-5) is the diagnostic standard used within the profession of psychology. The DSM-5 does not list "parental alienation" as a diagnosis.

3.6 In a letter dated October 16, 2020, to one of the parents' attorneys in the course of the custody dispute, Licensee described "parental alienation" as "a mental condition" and listed criteria under the heading "Diagnosis of Alienated Children." Moreover, the court made

findings regarding the children's "alienation," indicating that the court had relied on representations by Licensee about alienation as a condition which had effects on children.

3.7 In her role as family reunification therapist, Licensee recommended to the court that the Parent B and the children attend a "parental alienation" workshop which was to be held over the course of four days at a facility located out-of-state in California. Licensee further recommended that the court issue an order placing the children in the sole custody of Parent B for a period of 6 months following the workshop, in order to facilitate the children ceasing to be alienated from Parent B.

3.8 On its website, the workshop provider describes the program as "a structured four-day education experience to help alienated children and a rejected parent begin restoring a positive relationship in a relaxed setting." The provider represents that it offers the workshop to families "in which a child's view of a parent... is unrealistic, the child refuses contact with a parent or shows extreme reluctance to spend time with that parent" or when "the child's negative attitudes and behavior are not a reasonable and proportionate response to that parent's behavior toward the child."

3.9 Licensee did not contact Therapist C to confer regarding this appropriateness of the "parental alienation" workshop for the children until after making the recommendation to the court. When Therapist C spoke with Licensee (sometime after March 2, 2020), the therapist expressed concerns about whether the "parental alienation" workshop would be advisable for the children but Licensee did not communicate that to the court or otherwise modify her recommendation to incorporate Therapist C's professional concerns.

3.10 In August 2021, the court rejected Licensee's recommendation as to the "parental alienation" workshop and discharged Licensee from her role as the family reunification therapist.

4.

The Board alleges that the acts and conduct of Licensee described above constitute violations of the following statutes, rules, and Ethical Standards (ES's), as adopted by the

Board,[2] as explained below:

4.1 ES 3.04 Avoiding Harm in that Licensee failed to take the reasonable step of conferring with Therapist C prior to making her recommendation to the court that the family attend the "parental alienation" workshop which would have ensured Licensee avoided harm to the children by making sure they were not obligated to participate a program which could have been harmful to them based on their unique therapeutic histories and needs.

4.2 ES 3.09 Cooperation with Other Professionals in that Licensee recommended to the court that the family attend the "parental alienation" workshop before consulting with Therapist C regarding whether the workshop would be beneficial to the children. Consultation with the children's therapist prior to the recommendation to the court was necessary for Licensee to provide effective and appropriate services to the children because the post-facto consultation rendered the professional perspective of the children's therapist essentially irrelevant, despite the therapist's longer professional experience with the children and the therapist's greater knowledge of their personal needs.

4.3 ES 2.04 Bases for Scientific and Professional Judgements in that in her communications to the court and the parent's attorney, Licensee referred to "parental alienation" as if it were a diagnosis, a representation which is not established scientific or professional knowledge within the discipline of psychology, as it is not listed in the DSM-5.

4.4 ES 9.01 Bases for Assessment in that Licensee did not base her recommendations to the court or her evaluative statements to the court on information sufficient to substantiate her representation that the children suffered from "parental alienation" when that condition is not listed in the DSM-5 and it is therefore not possible to diagnose individuals with that condition.

4.5 ORS 675.070(2)(d)(A) unprofessional conduct in that Licensee practiced contrary to the ethics standards listed above, and in that Licensee's recommendation that the family attend the "parental alienation" workshop constituted a danger to the children's emotional health or

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[2] The Board adopted the American Psychological Association's (APA) "Ethical Principles of Psychologists and Code of Conduct," effective January 1, 2010, with amendments as of January 1, 2017. OAR 858-010-0075.

safety because it would have resulted in them being forced to attend a four-day workshop held at a distant location where they would experience pressure to retract, give up, or overcome their emotional experiences of distance, anger or hurt regarding Parent B, which could result in emotional harm to them.

5.

The Board has authority to investigate complaints and alleged violations under ORS 675.110(9). The Board has authority to impose a term of supervision as well as a civil penalty pursuant to ORS 675.070(1)(e), and (g) and (2)(d)(A) and (h); ORS 675.110(4), (5) and (11); and OAR 858-010-0075. The Board reserves the right to amend this Notice and impose additional sanctions as allowed under the Board's authority.

6.

NOTICE OF RIGHT TO REQUEST HEARING

Licensee has the right, if Licensee requests, to have a formal contested case hearing before an Administrative Law Judge to contest the matter set out above, as provided by Oregon Revised Statutes 183.310 to 183.550. At the hearing, Licensee may be represented by an attorney and subpoena and cross-examine witnesses. If Licensee requests a hearing, the request must be made in writing to the Board, must be received by the Board within thirty (30) days from the mailing of this notice. Before commencement of the hearing, Licensee will be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing as required under ORS 183.413-415. Hearing requests may be mailed to:

Oregon Board of Psychology
3218 Pringle Road SE, Suite 130
Salem, OR 97302-6312

7.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active Duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For

more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil. The Oregon Military Department does not have a toll-free telephone number.

8.

NOTICE OF CONSEQUENCES OF FAILURE TO REQUEST HEARING

If Licensee fails to request a hearing within 30 days, withdraws a timely request for a hearing, notifies the Board or the Administrative Law Judge assigned to this matter that Licensee does not intend to appear for the hearing, or fails to appear at the hearing as scheduled, the Board may issue a final order by default and impose the proposed sanctions and terms of supervision against Licensee. Licensee's submissions to the Board to date regarding the subject of this disciplinary case and all information in the Board's files relevant to the subject of this case automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a *prima facie* case. ORS 183.417(4).

DATED this 25th day of March, 2022.

BOARD OF PSYCHOLOGY
State of Oregon

[redacted]

Charles Hill
Executive Director